

Politics 327: Transitional Justice

W 1:30-4:20, Skinner 210

Spring 2019

Professor: Andy Reiter

Office Hours: Skinner 107

Tuesday 3:00-4:30, Thursday 10:30-12:00, or by appointment

Course Description

As societies emerge from periods of authoritarian rule or civil war, they face the daunting task of engaging past human rights violations. States have a myriad of options at their disposal, ranging from granting blanket amnesties to hosting complex trials and truth commissions. In making these decisions, new leaders face pressures from former authoritarian actors, victims' groups, and international organizations. The process of settling accounts with the past is sometimes decades long and rife with political controversy. This course analyzes the problems facing societies with past human rights violations, the numerous options they have at their disposal to engage these abuses, and the political, legal, economic, and moral ramifications of each choice.

Course Readings

All readings for the course are available electronically on Moodle. Readings should be read in the order they are listed each week on the syllabus. While most of the readings are academic in nature, this is a course on how societies recover from authoritarianism and violence, and as such, you will, at times, be exposed to descriptions of violent acts (including mass killings and sexual crimes), confessions of perpetrators, testimony of victims, and difficult moral and ethical questions. Some of you may also have experienced violence or are from a country in which mass violence occurred. Some of you may have direct experience with transitional justice mechanisms and debates. So if at any point you anticipate that particular readings or discussions will be difficult for you, please contact me ahead of time. Similarly, if after readings or a discussion, you feel unsettled or troubled in anyway, please contact me. It is also important to respect the views of each other during discussions. For many of the questions we will engage, there is no right answer. For example, the debate on who is guilty in a crime as large as the Holocaust will never be settled. So we will strive to take a step back and analyze these questions analytically. Rather than weigh the merits of different views on a question like this, we will instead seek to understand the reasons why those different views exist and what implications each has for the study of the events.

Course Requirements

Your grade is based on class participation and three assignments. The major project for this course is for you to become an expert on a contemporary case of human rights violations (of your choosing, with approval). You will write a policy brief describing the violations and transitional justice response to date, and providing recommendations for policymakers moving forward. The second part of the project will be for you to select one of those policy recommendations and design it yourself. You may choose a trial and select the venue, defendants, and charges. You can paint

or sculpt a model of a memorial. You can design lessons for children to use in schools. For this part of the project, you are encouraged to be creative and are free to pursue the aspect of the transitional justice that interests you most. You will present your final project to the class at the end of the semester. More details on each of these assignments are at the end of the syllabus and examples of past student work are provided on Moodle.

All writing must follow the parenthetical citation/reference list format from the American Political Science Association's Style Manual which is provided on Moodle. The grade breakdown is below. Assignments are graded on a 4.0 scale corresponding to the College's GPA scale and an Excel sheet to calculate your grades is on Moodle. Failure to complete any of the assignments will result in an F for the course.

Participation	20%
Policy Brief	30%
Final Presentation	20%
Final Project	30%

Course Guidelines

Any cheating or plagiarism is a serious violation of the College's Honor Code and any instance will result in a zero for the assignment, and potentially for the course. You are required to complete the College's Tutorial on the proper use of sources. If you have any questions on what constitutes plagiarism, please ask; claiming that you did not know or understand the rules is not an excuse. Papers must follow the American Political Science Association's style guide for citations; a guide is provided on Moodle. Late papers are not accepted for credit unless there are extenuating circumstances and you obtain *prior* approval from me. If a class is canceled for any reason, such as weather; I will email modifications to this syllabus accordingly.

To encourage active engagement and academic inquiry in the classroom, as well as to safeguard the privacy of students and faculty, no form of audio or visual recording in the classroom is permitted without explicit permission from the professor/instructor or without a letter from AccessAbility Services, signed by the faculty member, authorizing the recording as an accommodation. Authorized recordings may only be used by a student who has obtained permission and may not be shared or distributed for any reason. Violation of this policy is an infraction of the Mount Holyoke Honor Code and academic regulations and will result in disciplinary action.

AccessAbility

If you would like to request accommodations, please contact AccessAbility Services, located in Wilder Hall B4, at 413-538-2634 or accessability-services@mtholyoke.edu. If you are eligible, they will give you an accommodation letter which you should bring to me as soon as possible

Course Schedule

Wednesday January 23 Introduction to the Course

- ❖ Film: *Death and the Maiden*.

Wednesday January 30 Transitional Justice Choices and Outcomes

- ❖ Andrew G. Reiter, "The Development of Transitional Justice," in *An Introduction to Transitional Justice*, edited by Olivera Simic (London: Routledge Press, 2016), 29-46.
- ❖ Tricia Olsen, Leigh Payne, and Andrew Reiter, *Transitional Justice in Balance: Comparing Processes, Weighing Efficacy* (Washington, DC: United States Institute of Peace Press, 2010), 9-28.
- ❖ James McAdams, "Transitional Justice: The Issue that Won't Go Away," *International Journal of Transitional Justice* 5:2 (2011): 304-12.

Tuesday February 5 ****Case Selections Must Be Approved by this Date****

Wednesday February 6 Nuremberg and the Origins of International Justice

- ❖ Film: *Nuremberg* (Turner Home Entertainment, 2000).
- ❖ Summary of Verdicts at Nuremberg
- ❖ Richard Overy, "The Nuremberg Trials: International Law in the Making," in *From Nuremberg to The Hague: The Future of International Criminal Justice*, edited by Philippe Sands (New York, NY: Cambridge University Press, 2003), 1-29.
- ❖ Sandra Wilson, Robert Cribb, and Beatrice Trefalt, *Japanese War Criminals: The Politics of Justice After the Second World War* (New York, NY: Columbia University Press, 2017), 12-40 and 270-79.
- ❖ Stephen J. Massey, "Individual Responsibility for Assisting the Nazis in Persecuting Civilians," *Minnesota Law Review* 71 (1986): 131-49.

Wednesday February 13 Trials: Global vs. Local

- ❖ David Bosco, *Rough Justice: The International Criminal Court in a World of Power Politics* (New York, NY: Oxford University Press, 2014), 11-51.
- ❖ Stuart Reid, "The International Criminal Court on Trial: A Conversation with Fatou Bensouda," *Foreign Affairs* 96:1 (2017): 48-53.
- ❖ Phil Clark, "Gacaca: Rwanda's Experiment in Community-Based Justice for Genocide Crimes Comes to a Close," *Foreign Policy Digest*, April 2010.
- ❖ Naomi Roht-Arriaza, "The Multiple Prosecutions of Augusto Pinochet," in *Prosecuting Heads of State*, edited by Ellen L. Lutz and Caitlin Reiger (Cambridge, UK: Cambridge University Press, 2009), 77-94.
- ❖ Henry Kissinger, "The Pitfalls of Universal Jurisdiction," *Foreign Affairs* 80:4 (2001): 86-98.
- ❖ Diane F. Orentlicher, "Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime," *Yale Law Journal* 100:8 (1991): excerpts.

Wednesday February 20

Amnesties and DDR Programs

- ❖ Carlos S. Nino, “Response: The Duty to Punish Past Abuses of Human Rights Put into Context – The Case of Argentina,” *Yale Law Journal* 100:8 (1991): excerpts.
- ❖ Renée Jeffery, *Amnesties, Accountability, and Human Rights* (Philadelphia, PA: University of Pennsylvania Press, 2014), 21-49.
- ❖ Jack L. Snyder and Leslie Vinjamuri, “Trials and Errors: Principle and Pragmatism in Strategies of International Justice,” *International Security* 28:3 (2003): 5-44.
- ❖ Abel Escribà-Folch and Daniel Krmaric, “Dictators in Exile: Explaining the Destinations of Ex-Rulers,” *Journal of Politics* 79:2 (2017): 560-75.
- ❖ “DDR in Peace Operations: A Retrospective,” United Nations Department of Peacekeeping Operations, Office of Rule of Law and Security Institutions, Disarmament, Demobilization and Reintegration (DDR) Section, 2010.
- ❖ Mark Freeman, “Amnesties and DDR Programs,” International Center for Transitional Justice Research Brief, February 2010.

Tuesday February 26

****First Half of Policy Brief Due by 1:30 PM on Moodle****

Wednesday February 27

Lustration and Vetting

****Mid-Term Participation Grades****

****In-Class Simulation****

- ❖ Roger Duthie, “Introduction,” in *Justice as Prevention: Vetting Public Employees in Transitional Societies*, edited by A. Mayer-Rieckh and P. De Greiff (New York, NY: Social Science Research Council, 2007): 17-37.
- ❖ Roman David, “From Prague to Baghdad: Lustration Systems and their Political Effects,” *Government and Opposition* 41:3 (2006), 347-72.
- ❖ James P. Pfiffner, “US Blunders in Iraq: De-Baathification and Disbanding the Army,” *Intelligence and National Security* 25:1 (2010): 76-85.

Wednesday March 6

Truth Commissions

- ❖ Priscilla Hayner, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (New York, NY: Routledge, 2011), 215-33.
- ❖ Erin Daly, “Truth Skepticism: An Inquiry into the Value of Truth in Times of Transition,” *International Journal of Transitional Justice* 2:1 (2008): 23-41.
- ❖ Leigh A. Payne, *Unsettling Accounts: Neither Truth nor Reconciliation in Confessions of State Violence* (Durham, NC: Duke University Press, 2008): 107-40.
- ❖ Ronald C. Slye, *The Kenyan TJRC: An Outsider’s View from The Inside* (New York, NY: Cambridge University Press, 2018), 49-196.
- ❖ “Beyond the Mandate: Continuing the Conversation,” Report of the Maine Wabanaki-State Child Welfare Truth & Reconciliation Commission, June 2015.
- ❖ Sandra Rubli and Briony Jones, “Archives for a Peaceful Future,” *swisspeace Essential*, January 2013.

Wednesday March 13 **No Class – Spring Break**

Tuesday March 19 ****Second Half of Policy Brief and Final Project Proposals Due by 1:30 PM via Moodle****

Wednesday March 20 **Monuments and Memorialization**

- ❖ Judy Barsalou and Victoria Baxter, “The Urge to Remember: The Role of Memorials in Social Reconstruction and Transitional Justice,” *Stabilization and Reconstruction Series No. 5.*, United States Institute of Peace, 2007.
- ❖ Elizabeth Jelin, “Public Memorialization in Perspective: Truth, Justice and Memory of Past Repression in the Southern Cone of South America,” *International Journal of Transitional Justice* 1:1 (2007): 138-56.
- ❖ Ksenija Bilbija and Leigh Payne, “Introduction—Time is Money: The Memory Market in Latin America,” in *Accounting for Violence: Marketing Memory in Latin America*, edited by Ksenija Bilbija and Leigh Payne (Durham, NC: Duke University Press, 2011): 1-58.
- ❖ Andrew Higgins, “Sarajevo Dispatch: No Bed, No Breakfast, but 4-Star Gunfire. Welcome to a War Hostel,” *New York Times*, November 28, 2018.

Wednesday March 27 **Art Museum and MakerSpace Visits**
****Individual Meetings on Final Projects****

- ❖ John J. Zwisler, “South Hadley’s Civil War Monument,” *Town Reminder*, June 22, 2007.

Wednesday April 3 **Reparations**

- ❖ De Greiff, Pablo, “Repairing the Past: Compensation for Victims of Human Rights Violations,” in *The Handbook of Reparations*, edited by Pablo De Greiff (New York, NY: Oxford, 2006), 1-18.
- ❖ Ta-Nehisi Coates, “The Case for Reparations,” *The Atlantic Monthly*, June 2014.
- ❖ Horowitz, David “The Latest Civil Rights Disaster: Ten Reasons Why Reparations are a Bad Idea, and Racist, Too,” *Salon*, May 30, 2000.
- ❖ Ernest Allen, Jr. and Robert Chrisman, “Ten Reasons: A Response to David Horowitz,” *The Black Scholar* 31:2 (2000): 49-55.
- ❖ Jon Elster, “On Doing What One Can: An Argument against Post-Communist Restitution and Retribution and a Means of Overcoming the Communist Legacy,” *East European Constitutional Review* (1992): 15-17.

Tuesday April 9 ****Final Policy Briefs Due by 1:30 PM via Moodle****

Wednesday April 10

Apology and Reconciliation

- ❖ Elizabeth A. Cole and Karen Murphy, “History Education Reform, Transitional Justice, and the Transformation of Identities,” in *Identities in Transition: Challenges for Transitional Justice in Divided Societies*, edited by Paige Arthur, (New York, NY: Cambridge University Press, 2010), 334-68.
- ❖ Jennifer Lind, “Sorry I’m Not Sorry: The Perils of Apology in International Relations,” *Foreign Affairs* November 21, 2013.
- ❖ Andrew Higgins, “In Bosnia, Entrenched Ethnic Divisions Are a Warning to the World,” *New York Times*, November 19, 2018.
- ❖ Phil Clark, “Rwanda’s Recovery: When Remembrance Is Official Policy,” *Foreign Affairs* 97:1 (2018): 35-41.
- ❖ Philip Gourevitch, “The Life After,” *The New Yorker*, May 4, 2009
- ❖ Jelena Subotic, “No Escape from Ethnicity? Confessions of an Accidental CNN Pundit,” *PS: Political Science & Politics* 43:1 (2010): 115-20.
- ❖ Scott Straus, “Scholarly Book Attacked by Rwanda Regime,” *North Hall News*, Spring 2012.
- ❖ Brandon Friedman, “The End of War Stories,” *New York Times*, March 21, 2013.

Wednesday April 17

Final Presentations

Wednesday April 24

Final Presentations

Friday May 3

****Final Projects Due by 1:30 PM via Moodle or, for physical projects, to my office in person****

Class Participation Grading Rubric

A (4.0)

An A is reserved for the few students who have done exceptionally well in discussion. Besides encapsulating everything described below for an A- student, these students are the ones that I have leaned on throughout the year. I never had any doubts that they had read and were prepared; when discussion stalled I could turn to them to get it started again; and when a particularly difficult question led to silence I could count on them to attempt to think it through and offer an answer.

A- (3.67)

Students who receive a grade of A- have gone above and beyond the description of a B+ student. Not only have they been present regularly and contributed often to discussion, they do so in a constructive manner and help aid the flow of discussion by bringing questions with them and offering answers and opinions when prompted. They always come to class prepared, having done the readings and ready to participate.

B+ (3.33)

Students who receive a grade of B+ have been present regularly and they have made solid contributions to discussion throughout the year. A grade of B+ is an excellent grade for this course.

B (3.0)

Students who receive a grade of B have been present regularly and have also contributed to discussion from time to time.

B- (2.67)

Students who receive a grade of B- have been present regularly, but have been quiet and have rarely contributed to discussion.

C (2.0)

Students who receive a grade of C have been absent numerous times and when present rarely contribute to discussion.

D (1.0)

Students who receive a grade of D have been habitually absent from class and have not taken this component of the course seriously.

F (0.0)

Students who receive a grade of F are rare. An F is only given if the student has missed many classes in a row, not contacted me, and has clearly decided not to engage this component of the course.

Guide for Writing Assignments and Final Presentations

The main research and writing project for the course is for you to analyze the transitional justice dynamics in one case of ongoing or recent human rights violations in the world. The transitional justice process should be in its incipient stages or perhaps not yet begun in the case. We need to agree on your selection. I will entertain the possibility of you investigating an older case of human rights violations only if transitional justice is still largely absent and you have a compelling reason (e.g., relates to a senior thesis or internship project). The due date for you to select a case and get it approved is Tuesday, February 5, by 1:30 PM via email. Once your case is selected, you should set about becoming an expert on it. Read and research widely. You should aim to bring this knowledge of your case into the class discussions throughout the remainder of the semester. There are two large assignments associated with your case.

The first assignment is a policy brief providing recommendations for transitional justice in your case. Your policy brief should contain three parts. First, what is the nature, extent, and origin of the human rights violations? In other words, what crimes were committed, how many, why, who are the perpetrators and who are the victims?

Second, what has been the transitional justice response so far? You should look locally, nationally, and internationally. How well have these efforts worked?

These first two parts should be approximately 2,000 words combined and are due Tuesday, February 26, by 1:30 PM via Moodle.

Third, based on your understanding of transitional justice gained in the course, and your knowledge of the case, including the political and economic constraints, what do you think the response should be? These should be concrete policy recommendations with clear goals.

This portion of the policy brief should also be approximately 2,000 words and is due Tuesday, March 19, by 1:30 PM via Moodle.

The above word-counts are approximations, they will vary considerably by case. There is no maximum word limit, but the goal is to be thorough but concise, and so I will instruct you to cut words where necessary.

You are required to combine both sections above into one policy brief, with an introduction and conclusion, that is formatted professionally (see examples on Moodle from past courses). This is due Tuesday, April 9, by 1:30 PM via Moodle.

You may submit multiple drafts of any of your work for comments at any point during the semester. Students often need to workshop 2-3 drafts to produce a refined final product. In addition, I will give you a grade on both components of the writing project as you complete them, but you may continue to improve them, and I will give each component a new final grade when you submit your final policy brief in April.

The second assignment builds on your policy brief. You must select one of your proposed transitional justice mechanisms to design yourself (selecting two mechanisms is allowable if they are closely related). The possibilities for this assignment are extensive. You may choose a trial and select the venue, defendants, and charges. You can paint or sculpt a model of a memorial. You can design lessons for children to use in schools. For this part of the project, you are encouraged to be creative and are free to pursue the aspect of the transitional justice that interests you most.

The project has three components. First, the actual physical project itself. This may be a piece of art, a book, a website, a legal brief, a song, etc. or a combination of many of those. You will be graded on how much effort you have put into the project and how well designed the project is for your particular case. It must be clear that you have thought about the nuances of the crimes, victims, perpetrators, and local politics of your case in the creation of your project.

Second, each project must be accompanied by a five-page memo detailing the thought process underlying the project. It should describe why you chose this mechanism, why this mechanism is important to your case, who will participate or experience it in your country, who will build it or operate it, how much it will cost, and what it aims to achieve, etc. For projects that are more textual in nature, this memo can be incorporated into the project itself.

Third, you present and defend your proposed project during the final two weeks of the course to our class and a panel of outside faculty. Each presentation will be 10 minutes, with a PowerPoint, followed by 7 minutes of questions from the audience. This will be a mock presentation to an NGO or government agency where you must convince a group of policymakers to support and implement your proposal. Signups for slots will take place later in the semester. In addition, each of you are required to meet with me individually in office hours prior to your presentation; I will hold extended office hours in the days prior to the presentations.

A 1-page proposal for your final project is due on Tuesday, March 19 as an additional page attached to your policy brief. It should identify the particular mechanism you want to focus on for your project and outline what type of project you want to pursue. Each of you must meet with me individually for a 30-minute planning session during the week of March 25-29 to discuss your project. Sign-ups for presentation slots will be held later in the semester. Your final project and memo will be due by 1:30 PM on Friday, May 3. The presentation accounts for 20% of your course grade. The project (with accompanying memo) accounts for 30%.

Pedagogical Reasoning

The majority of the students in the class have some interest in working on issues of human rights, law, or peace and security in their careers, either from a non-profit/NGO position or from within government. The assignments are thus geared towards helping students begin to think about what a career in this field might be like, and to help juniors think about potential internships for the crucial summer before their senior year. Moreover, they aim to help students gain the skills necessary to succeed in a job or internship that involves researching and analyzing contemporary issues of related to responding to human rights violations, and presenting and writing policy-relevant recommendations based on that analysis.

The assignments serve a key pedagogical purpose of requiring students to apply to a particular case the many theories in political science on how to respond to human rights violations learned throughout the semester in the course. But beyond that they target the development of several job-relevant skills.

First, they force students to think about policy, something that too few assignments in our courses do. Each student must generate specific policy recommendations for how to respond to the human rights violations they are examining and prevent it from recurring. In doing so, students must understand the risk and trade-offs of particular policies and contemplate the likelihood or willingness of actors to enact them. The focus of the assignment is on realistic policy recommendations. In other words, the student cannot just say that the UN should create a special tribunal to examine crimes committed in Syria. They must realize that currently such a proposal would never pass the UN Security Council. In the assignment, students have to examine the interests of a variety of actors and contemplate the cost (political and economic) of any potential action in order to generate realistic policy prescriptions.

Second, the assignments aim to improve job-relevant writing skills. While learning to write academic research papers is vital, students also need to learn how to make writing accessible to a policy-oriented audience. To that end, the first assignment is meant to represent a policy brief, position statement, or internal research memo. It is short (12-15 pages) and concise. Students must be able to summarize the case in just 2-3 pages; highlighting the key events and actors. They are encouraged to use summary tables and bullet points throughout. Moreover, the final page of the brief must be able to stand alone as a one-page action plan to stop the violence that could be circulated to an audience or posted online. Students read these types of reports regularly when doing their research, but often have no experience writing this type of document. This assignment aims to give them such an experience. Likewise, the final project is many to reflect the actual work a student may do for an NGO or government, and they should include specific timelines, maps, and budgets.

Third, the assignments aim to improve job-relevant oral presentation skills. Rather than just present their research or their findings at the end of the semester, the second assignment requires students to convince the audience to support their policy recommendations. They must make a formal presentation using PowerPoint to an audience with little to no knowledge about their case that succeeds in teaching the audience the important aspects of the case and then “sells” the audience on their particular proposal. Students come to understand that a failure to do well on the early portions of the presentation will weaken its prescriptive components—the audience needs to believe the student has diagnosed the problem correctly before it will be willing to support their recommendations.

Following the presentation, students will be forced to handle a lengthy question and answer session from the audience and defend their arguments. Each student will be required to meet with me individually prior to the class presentation to practice the delivery and refine the PowerPoint.

Finally, the assignments also aim to improve the emotional preparation of students for work beyond Mount Holyoke. In the types of jobs that many of these students aspire to hold analysts submit and present their findings to superiors. These superiors—whether in the form of

government bureaucrats, politicians, or boards of trustees or directors—may or may not be familiar with the particular issue or case being presented. To mirror this, students for this assignment must present to a classroom full of individuals who are well trained in the general topic of transitional justice but not in their specific case (the other students in the course), one individual who will be knowledgeable about the topic and case (me), and a panel of individuals who are well trained in critical thinking and analysis but largely unfamiliar with the issues and cases involved (an outside panel of professors and academic staff). In particular, by bringing in outsiders, students are forced to present to people of rank and authority they respect but who they may not know. This will raise the pressure of the talk and better prepare students for future presentations in their careers.

The goals of the assignment are detailed in this assignment guide, will be articulated orally by myself in class, and reinforced in further detail to students in comments on drafts and in one-on-one sessions throughout the semester. In particular, I will be working with individual students to tailor their projects to any potential career or internship goals they may have. In the end, papers and presentations will take different forms, with some geared towards specific governments and others specific organizations.