



**Western**  
Centre for Transitional Justice  
and Post-Conflict Reconstruction

TJ 9501B

## **Transitional Justice and Post-Conflict Reconstruction**

Term: Winter 2015

Class Time: Friday 9:00 AM – 12:00 PM

Class Location: TBA

Instructor: Dr. David Hoogenboom

Office Location: SSC 4134

Office Hours: TBA

Email: dhoogen2@uwo.ca

### **Course Description**

The aim of this course is to gain an understanding of transitional justice, as a means for addressing mass violence and systematic injustice that has been committed against a people. We will pursue this understanding through a critical, historical analysis of the development of transitional justice, both in theory and in practice. In doing so, we will try to address four basic questions: What is justice? When is justice pursued? Through what mechanisms can justice be achieved? What are the effects of justice (or the perceived lack of justice)?

### **Required Texts**

Readings will either be available through the Western Library or will be put on reserve for the course in the library.

### **Course Requirements**

|                      |     |
|----------------------|-----|
| Participation        | 25% |
| Seminar Presentation | 25% |
| Essay                | 50% |

### ***Participation***

This assessment will be based on regular contribution to the class discussion, reflecting some grasp of the relevant material and some analytical abilities in applying those materials in the discussion. Students should consult the page “Student Participation” at the bottom of this document for criteria.

### ***Seminar Presentation***

Each week, one or two students will present the main points and arguments pertaining to that week's case study or main theme, to the class. Each presentation should be approximately 20 minutes in length, and must include a one-page, single-sided handout for students in the class as well as questions for discussion. As the presentation is expected to be a joint project between the students involved, all students in the group will receive the same grade. Student presenters are expected to refer to material beyond that assigned to the class.

### ***Essay***

Students will be required to write one term essay of 20-25 typed, double-spaced pages, or between 5000-6250 words. It is recommended that students briefly consult with the instructor about their topic and central argument prior to beginning the assignment. More information will be provided on the first day of class.

### **\*\*\*Additional Essay Information:**

#### Citations

You must identify all quotations, references, and other people's ideas in the notes/footnotes. If you do not use any footnotes/endnotes, a penalty of -10% will be imposed.

#### Bibliography or Works Cited

You must attach a Bibliography or Works Cited. Another -10% penalty will be imposed if you do not do so. You must have a minimum of four academic sources (consult a librarian for clarification on what counts as an academic source (e.g. newspapers, magazines, encyclopedias, do not count). Failure to include at least four academic sources will result in a grade of "F". The highest grades in this course typically go to students that consult a large number of high-quality source materials. The use of more than eight sources is highly recommended.

#### Spelling and Typing Errors

If there are excessive spelling errors or typos in the essay (i.e. more than 15), a penalty of (-) 10% will be applied.

#### Style Guide

Students are required to use Chicago Style formatting for all assignments, and marks will be deducted for improper formatting. Please consult a writer's handbook when composing your essays in order to see how to format things like bibliography and footnotes. One such excellent handbook is Kate L. Turabian, *A Manual for Writers of Research Papers, Theses, and Dissertations*, 7th ed. (Chicago: University of Chicago Press, 2007). A useful link may be found at the following url:  
<http://www.wisc.edu/writing/Handbook/DocChicago.html>.

## Turnitin

Students will be required to submit papers to Turnitin via a link on OWL.

### **Important Information (PLEASE READ)**

#### ***Late Penalties and Academic Accommodation***

- Papers handed in after that day will be considered late. The late penalty is automatically **10% per week**. Extensions must be granted by academic accommodation. Generally speaking, extensions will only be granted when there is proof of a severe medical or other emergency in the form of a signed medical note, etc. that explains why you are unable to complete the assignment on time.
- If you feel that you have a medical or personal problem that is interfering with your performance in the course, you should contact your instructor and Social Science Academic Counselling (SSC 2105) as soon as possible. Problems may then be documented and possible arrangements to assist you can be discussed at the time rather than on a retroactive basis.
- For further information on academic accommodation please consult the Policy on Accommodation for Medical Illness:  
<https://studentservices.uwo.ca/secure/index.cfm>
- Access to the STUDENT MEDICAL CERTIFICATE (SMC) is at:  
<http://www.uwo.ca/univsec/handbook/appeals/medicalform.pdf>
- For conflicts with religious observances, the appropriate accommodation will be made. Please inform me within the first two weeks of classes whether there is a conflict, and to make appropriate arrangements with me.
- Non-medical absences: Students are expected to attend each class and attendance and participation will be documented every week. Given the limited number of classes and the total number of students in the class, missed presentations will be given a mark of zero. It is up to you to ensure that you have the correct date, however, to help facilitate this process, I will provide a schedule of the presentations on Sakai.
- Failure to complete any evaluation component may result in a failing grade in the course.

### ***Support Services***

As part of a successful graduate student experience at Western, we encourage students to make their health and wellness a priority. Western provides several on campus health-related services to help you achieve optimum health and engage in healthy living while pursuing your graduate degree. For example, to support physical activity, all students, as part of their registration, receive membership in Western's Campus Recreation Centre. Numerous cultural events are offered throughout the year. For example, please check out the Faculty of Music web page <http://www.music.uwo.ca/>, and our own McIntosh Gallery <http://www.mcintoshgallery.ca/>. Information regarding health- and wellness-related services available to students may be found at <http://www.health.uwo.ca/>. Students seeking help regarding mental health concerns are advised to speak to someone they feel comfortable confiding in, such as their faculty supervisor, their program director (graduate chair), or other relevant administrators in their unit. Campus mental health resources may be found at [http://www.health.uwo.ca/mental\\_health/resources.html](http://www.health.uwo.ca/mental_health/resources.html).

### **Students with Disabilities**

- Any student with a disability is advised to contact the Coordinator for Services for Students with Disabilities in order that arrangements can be made through them to accommodate that student. Services for Students with Disabilities is located in The Student Development Centre in Western Student Services Building, Suite 4100; they can be reached by telephone at 519-661-3031, or on the web at <http://www.sdc.uwo.ca>. The university's policy on the accommodation of students with disabilities can be found at: [http://www.uwo.ca/univsec/handbook/appeals/accommodation\\_disabilities.pdf](http://www.uwo.ca/univsec/handbook/appeals/accommodation_disabilities.pdf)

### **Other Resources**

- There are many resources at UWO designed to assist you in your learning. You are strongly advised to utilize these services. The Student Development Centre offers many services, including Effective Writing Programs and Learning Skills Services. The Student Development Centre is located in Western Student Services Building, Suite 4100; they can be reached by telephone at 519-661-3031, or on the web at <http://www.sdc.uwo.ca>. You should also become familiar with the services offered by the University Library System. The D.B. Weldon Library may be contacted by telephone at 519-661-3162, or on the web at <http://www.lib.uwo.ca/weldon>

### ***Academic Offences***

- Scholastic offences are taken seriously and students are directed to read the appropriate policy, specifically, the definition of what constitutes a Scholastic Offence, at the following Web site: [http://www.uwo.ca/univsec/handbook/appeals/scholastic\\_discipline\\_undergrad.pdf](http://www.uwo.ca/univsec/handbook/appeals/scholastic_discipline_undergrad.pdf)

- All required papers may be subject to submission for textual similarity review to the commercial plagiarism detection software under license to the University for the detection of plagiarism. All papers submitted for such checking will be included as source documents in the reference database for the purpose of detecting plagiarism of papers subsequently submitted to the system. Use of the service is subject to the licensing agreement, currently between The University of Western Ontario and Turnitin.com <http://www.turnitin.com>.
- If you object to using Turnitin.com, please see the course Instructor to set up alternative arrangements for submission of your written assignments. Such arrangements could include some or all of the following: submission of drafts, rough work and notes; submission of photocopies of sources along with call numbers and web site addresses of sources cited in the paper.

### ***Etiquette***

- Discussion and debate is an important component in an online course. However, at times, the course deals with sensitive and controversial topics. Therefore, our interactions in each forum must be guided by an ethic of respect.

### ***Electronics***

- Electronics are increasingly an important component in learning. Therefore, laptop use is permitted as long as it does not disrupt the learning experience of other students. Disruptive behavior will be dealt with on a case-by-case basis and may result in the suspension of laptop privileges.

### **Important Notice Re: Prerequisites/Antirequisites**

You are responsible for ensuring that you have successfully completed all course prerequisites, and that you have not taken an antirequisite course. Lack of prerequisites may not be used as a basis for appeal. If you are found to be ineligible for a course, you may be removed from it at any time and you will receive no adjustment to your fees. This decision cannot be appealed. If you find that you do not have the course requisites, it is in your best interest to drop the course well before the end of the add/drop period. Your prompt attention to this matter will not only help protect your academic record, but will ensure that spaces become available for students who require the course in question for graduation.

Office of the Dean, Faculty of Social Science

## Course Outline

### January 8 Introduction to Transitional Justice

- Martha Minow, "Chapter 3 – Trials," "Chapter 4 – Truth Commissions," and "Chapter 5 – Reparations," in *Between Vengeance and Forgiveness* (Boston: Beacon Press, 1998), 25-117.
- Neil Kritz, "The Dilemmas of Transitional Justice," in *Transitional Justice: How Emerging Democracies Reckon with Former Regimes*, edited by Neil Kritz (Washington DC: United States Institute of Peace Press, 1995), xix-xxx.
- United Nations Secretary General. S/2004/616. *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, 2004.

### January 15 The Teleology of Transitional Justice

**Guiding Question:** What are the end goals of transitional justice?

- Ruti Teitel, *Transitional Justice* (Oxford: Oxford University Press, 2000), 213-230.
- Ruti Teitel, *Humanity's Law* (Oxford: Oxford University Press, 2011), 3-13 and 19-72.
- Ruti Teitel, "Bringing the Messiah Through the Law," in *Human Rights in Political Transitions: Gettysburg to Bosnia*, eds. Carla Hesse and Robert Post (New York: Zone Books, 1999), 177-194.

### *Three Phases of Transitional Justice*

### January 22 Phase I: Postwar Transitional Justice

**Guiding Questions:** (1) Why Retribution? (2) What meaning has the field of transitional justice attached to Nuremberg? (3) What is the importance of International Law?

- Norbert Ehrenfreund, *The Nuremberg Legacy: How the Nazi War Crimes Trials Changed the Course of History* (Basingstoke: Palgrave Macmillan, 2007), 3-18.
- David Cohen, "Transitional Justice in Divided Germany after 1945," in *Retribution and Reparation in the Transition to Democracy*, ed. Jon Elster (New York: Cambridge University Press, 2006), 59-88.
- Jon Elster, "Chapter 3: Retribution," in *Retribution and Reparation in the Transition to Democracy*, edited by Jon Elster, (New York: Cambridge University Press, 2006), 33-58.

### *Additional Readings*

- Linda S. Bishai, "Leaving Nuremberg: America's love/hate relationship with international law," *Review of International Studies* 34, no. 3 (2008): 425-443.
- Rachel Kerr and Eirin Mobekk, *Peace & Justice: Seeking Accountability After War* (Cambridge: Polity Press, 2007), 18-29. (just skim through this chapter)

### **January 29 Phase II: Post–Cold War Transitional Justice – South Africa**

**Guiding Question:** How does the approach to justice in Phase II differ from justice in Phase I?

- Andre du Toit, "The Moral Foundations of the South African TRC: Truth as Acknowledgement and Justice as Recognition," in *Truth v. Justice: The Morality of Truth Commissions*, edited by Robert I. Rotberg and Dennis Thompson (Princeton: Princeton University Press, 2000), 122-140.
- Alex Boraine, "Truth and Reconciliation in South Africa: The Third Way," in *Truth v. Justice: The Morality of Truth Commissions*, eds. Robert I. Rotberg and Dennis Thompson (Princeton: Princeton University Press, 2000), 141-157.

### **February 05 Phase III: Steady-State Transitional Justice - The Historical Context**

**Guiding Question:** Why did transitional justice "re-emerge" in the 1990s?

- Kathryn Sikkink, "Chapter 4: The Streams of the Justice Cascade," in *The Justice Cascade* (New York: W. W. Norton & Company, 2011), 96-125
- Aryeh Neier, *The International Human Rights Movement: A History* (Princeton: Princeton University Press, 1-25 and 258-284.
- Paige Arthur "How 'Transitions' Reshaped Human Rights: A Conceptual History of Transitional Justice." *Human Rights Quarterly* 31, no. 2 (2009): 321-367.

### **February 12 Phase III: Steady-State Transitional Justice – The Emergence of the Liberal Peacebuilding Framework**

**Guiding Questions:** What are the central tenets of liberal peacebuilding and how does this relate to transitional justice?

- Roland Paris, "Chapter 1: The Origins of Peacebuilding," and "Chapter 2: The Liberal Peace Thesis," in *At War's End: Building Peace after Civil Conflict* (New York: Cambridge University Press, 2004), 13-51.
- Adam Quinn and Michael Cox, "For Better, For Worse: How America's Foreign

Policy became Wedded to Liberal Universalism,” *Global Society* 21, no. 4 (2007): 499-519.

- Chandra Sriram, “Justice as Peace? Liberal Peacebuilding and Strategies of Transitional Justice,” *Global Society* 21, no. 4 (2007): 579-591.

*Recommended Reading (especially for non-political science students)*

- John M. Owens, “How Liberalism Produces Democratic Peace.” *International Security* 19, no. 2 (1994): 87-125.
- Geis, Anna and Wolfgang Wagner. “From Democratic Peace to Democratic Distinctiveness: A Critique of Democratic Exceptionalism in Peace and Conflict Studies.” *CLPE Research Paper* 4, no. 8 (2008). (available from: [http://www.ipw.ovgu.de/ipw\\_media/Downloads/Geis/SSRN\\_id1313700-p-82.pdf](http://www.ipw.ovgu.de/ipw_media/Downloads/Geis/SSRN_id1313700-p-82.pdf))

**February 19 No class – Reading Break**

**February 26 Phase III: Steady-State Transitional Justice – Democratization and Transitional Justice in Bosnia and Herzegovina**

**Guiding Question:** How did US President Bill Clinton’s foreign policy influence the practice (and theory?) of transitional justice

- Laurel E. Fletcher and Harvey M. Weinstein, “A world unto itself? The application of international justice in the Former Yugoslavia,” in *My Neighbour, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, eds. Eric Stover and Harvey M. Weinstein (Cambridge: Cambridge University Press, 2004), 29-48.
- Mark Peceny, *Democracy at the Point of Bayonets* (University Park, PA: The Pennsylvania State University Press, 1999, 149-182 (please skim or ignore sections on Haiti).
- Roland Kostić, “Transitional justice and reconciliation in Bosnia-Herzegovina: Whose memories, whose justice?” *Sociologija* 54, no. 4 (2012): 649-666.

*Additional Reading (especially for students not familiar with US President Bill Clinton’s Foreign Policy)*

- Anthony Lake, “From Containment to Enlargement: Address at the School of Advanced International Studies, Johns Hopkins University, Washington, D.C., September 21, 1993,” *U.S. Department of State Dispatch* 4, no. 39 (1993).



**March 05 Transitional Justice in Non-Transitional Societies: Beyond Post-Conflict Justice**

**Guiding Questions:** Should Canada be considered a state in transition?

- Brian Rice and Anna Snyder, "Reconciliation in the Context of a Settler Society: Healing the Legacy of Colonialism in Canada," in *From Truth to Reconciliation: Transforming the Legacy of Residential Schools*, eds. Marlene Brant-Castellano, Linda Archibald, and Mike DeGagné (Ottawa: Aboriginal Healing Foundation, 2008), 43-63. (available from: <http://www.ahf.ca/publications/research-series>)
- Jennifer Llewellyn, "Bridging the Gap between Truth and Reconciliation: Restorative Justice and the Indian Residential Schools Truth and Reconciliation Commission," in *From Truth to Reconciliation: Transforming the Legacy of Residential Schools*, eds. Marlene Brant-Castellano, Linda Archibald, and Mike DeGagné (Ottawa: Aboriginal Healing Foundation, 2008), 183-204. (available from: <http://www.ahf.ca/publications/research-series>)
- Rosemary Nagy, "Truth, Reconciliation and Settler Denial: Specifying the Canada–South Africa Analogy," *Human Rights Review* 13, no. 3 (2012): 349-367.

**Critical Issues in Transitional Justice**

**March 12 Local Versus International**

- Kieran McEvoy, "Letting Go of Legalism: Developing a 'Thicker' Version of Transitional Justice," in *Transitional Justice from Below: Grassroots Activism and the Struggle for Change* eds. Kieran McEvoy and Lorna McGregor (Oxford: Hart Publishing, 2008), 15-47.
- Moses Chrispus Okello, "Afterword: Elevating Transitional Local Justice or Crystallizing Global Governance?" in *Localizing Transitional Justice: Interventions and Priorities After Mass Violence*, edited by Rosalind Shaw and Lars Waldorf, with Pierre Hazan (Stanford: Stanford University Press, 2010): 275-284.
- Linda S. Bishai, "Liberal internationalism and the law vs. liberty paradox," *Journal of International Relations and Development* 15, no. 2 (2012): 201-223.

**March 19 Politics, Economics and Transitional Justice**

- Lars Waldorf, "Anticipating the past: Transitional Justice and Socio-Economic Wrongs," *Social & Legal Studies* 21, no. 2 (2012): 171-86.
- Simon Robins, "Transitional Justice as an Elite Discourse: Human Rights Practice Where the Global Meets the Local in Post-conflict Nepal," *Critical Asian Studies* 44, no. 1 (2012): 3-30.

- Dustin N. Sharp, "Addressing Economic Violence in Times of Transition: Toward Positive-Peace Paradigm for Transitional Justice," *Fordham International Law Journal* 35, no. 3 (2012): 780-814.

#### *Recommended Reading*

- Tony Addison, "The Political Economy of the Transition from Authoritarianism," in *Justice and Development: making connections*, edited by Pablo de Greiff and Roger Duthie (New York: SSRIC, 2009), 110-141.

### **March 26      Evaluating Transitional Justice**

- Tricia D. Olsen, Leigh A. Payne, and Andrew G. Reiter. *Transitional Justice in Balance: Comparing processes, weighing efficacy*. (Washington: USIP, 2010), 131-161.
- Tricia D. Olsen, Leigh A. Payne, and Andrew G. Reiter, "The Justice Balance: When Transitional Justice Improves Human Rights and Democracy," *Human Rights Quarterly* 32, no. 4 (Nov 2010): 981-1007.
- Kim, Hunjoon and Kathryn Sikkink, "Explaining the Deterrence Effect of Human Rights Prosecutions for Transitional Countries," *International Studies Quarterly* 54, no.4 (2010): 939-963.

### **April 02      Critical Theory and Transitional Justice**

- Jacques Derrida, "Forces of Law," in *Acts of Religion* ed. Gil Anidjar (New York: Routledge, 2002), 228-298.
- Ben Golder, "Foucault, Rights and Freedom," *International Journal for the Semiotics of Law* 26, no. 1 (2013): 5-21.

## STUDENT PARTICIPATION

Participation may take many forms. Throughout this course, you will be asked to participate in a number of different ways, including participation in discussions, simulations, and debates. Critical to all of this, of course, is attendance—you can't participate if you're not here!!

### Participation Grading Guide

| <b>Grade</b> | <b>Attendance</b> | <b>Discussion</b>   | <b>Reading</b>   |
|--------------|-------------------|---|--|
| 10           | Always            | Excellent: leads debate; offers analysis and comments; always has ideas on theme of reading; takes care not to dominate; asks questions   | Clearly has done and prepared questions on virtually all readings; intelligently uses this understanding and these questions in discussion |
| 8            | Almost always     | Very Good: thoughtful comments and questions for the most part; willing, able and frequent contributor  | Has done most readings; provides competent analysis of reading when prompted by others   |
| 6            | Frequent          | Good: has basic grasp of key concepts and occasional ideas on the main theme of the reading; arguments are sporadic and at times incomplete or poorly supported; unwilling to ask questions | Displays familiarity with most readings, but tends not to analyze them or to relate them to the course material                            |
| 4            | Occasional        | Somewhat Poor: remarks in class marred by misunderstandings of key concepts; seldom contributes effectively to discussion of the main theme; often digresses in unhelpful ways; sporadic    | Actual knowledge of material is outweighed by improvised comments and remarks  |
| 0-2          | Rare              | Poor: rarely speaks; parrots text or comments of others   | Little or no apparent familiarity with assigned material   |

## FINAL ESSAY

|                                 |  |
|---------------------------------|--|
| Argument                        |  |
| Organization of the Essay       |  |
| Quality of Evidence             |  |
| Communication Skills            |  |
| Use of Quotations and Footnotes |  |
| Other Comments                  |  |

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