

2020 Online International Summer School in Comparative Conflict Studies

June 22 – 27, 2020

Justice After Mass Atrocities: Truth-Seeking, Retribution, Reparation

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COURSE DESCRIPTION

What happens to societies after genocide and mass atrocities? How do survivors pick up their lives in the aftermath of mass killings and war crimes? Can one come to terms with mass atrocities committed against one's family and ethnic/racial group? Can one forgive and reconcile?

This course will introduce students to the field of transitional justice which is an interdisciplinary field of study focusing on processes of dealing with past human rights violations and the transition to more peaceful and democratic states. The course deals with questions that arise in countries emerging from armed conflict or from periods of authoritarian or repressive rule. It will focus on strategies available to societies in the aftermath of massive violations of human rights to re-establish the rule of law and build sustainable peace.

The course will introduce students to the evolution of transitional justice theory and practice, including truth commissions, trials and traditional practices, in such contexts as post-apartheid South Africa and post-genocide Bosnia, Cambodia, Germany and Rwanda. The course will raise a series of thought-provoking questions such as how mass atrocities affect states and their neighbours? What lessons did the UN learn from its experiences in dealing with mass atrocities? What are the pros and cons of prosecuting individuals for mass atrocities? Can multi-million international courts bring justice to survivors of war crimes?

Note: Students should be aware that the subject matter is emotive and divides opinion. The materials and texts we use in this course can be disturbing at times.

AIMS AND OUTCOMES

It is expected that students in this course will:

- develop an awareness of the evolution of transitional justice theory and practice, with particular reference to truth commissions, criminal tribunals and traditional indigenous approaches.
- learn to analyse the complexities and apparent contradictions sometimes involved in the pursuit of transitional justice, including the challenges of balancing peace with justice.

- develop skills in critically assessing the design and impact of transitional justice mechanisms and approaches with reference to both theory and practice.
- develop an understanding of how transitional justice can contribute to reconciliation and sustainable peace.

USEFUL JOURNALS

- *International Journal of Transitional Justice*
- *Transitional Justice Review*
- *Journal of International Criminal Justice*
- *Human Rights Quarterly*

In general, any human rights, international law, international relations or peace and conflict studies journal may include relevant articles.

USEFUL WEBSITES

- International Center for Transitional Justice
- Transitional Justice Institute (University of Ulster)
- The Institute for Justice and Reconciliation (IJR)
- Institute for Justice and Reconciliation
- African Transitional Justice Research Network
- Centre for the Study of Violence and Reconciliation
- Oxford Transitional Justice Research
- Project on International Courts and Tribunals
- Reconciliation Resource Network
- United States Institute of Peace
- The Essex Transitional Justice Network
- The Transitional Justice Data Base Project
- The Dialogues on Historical Justice and Memory Research Network

COURSE STRUCTURE

In this course we will examine the field of transitional justice through:

- *Theory: 'Thinking Transitional Justice'* introduces core concepts and themes in a transitional justice scholarship.

- *Practice: 'Practising Transitional Justice'* critically analysis the major legal and non-judicial strategies deployed by the transitional justice actors, such as truth and reconciliation commissions, amnesty, vetting and lustration.
- *Context: 'Contextualising Transitional Justice'* focuses on the impact and effect of transitional justice mechanisms on social and symbolic repair, gender, memorialisation and reconciliation. We will consider the ways in which transitional justice can be used as a tool for restoring broken social relationships and reconciliation in various settings.

BACKGROUND READINGS

- Ruti Teitel, 'Transitional Justice Genealogy' (2003) 16, *Harvard Human Rights Journal*, pp 69-94.
- United Nations Security Council, 'The rule of law and transitional justice in conflict and post-conflict societies' Report of the Secretary General (2004).

Background watching – to be viewed before classes begin

- Why Transitional Justice?
- Understanding Transitional Justice

Textbook:

- Olivera Simic (ed.), *An Introduction to Transitional Justice* (Routledge, 2017).

COURSE OUTLINE BY DAY

DAY 1 - MONDAY, JUNE 22 - Introducing transitional justice studies: the key concepts and evolution

Synchronous Session 1:

- Group introduction & introduction to the course
- In this first session we will explore the key concepts and evolution of TJ field which looks at legal, moral, social, and political questions that arise in countries emerging from massive conflict or periods of authoritarian or repressive rule. We will then discuss the strategies available to societies pursuing accountability for past mass atrocity or human rights abuse.

Required readings:

1. Anja Mihr, 'An Introduction to Transitional Justice' in Olivera Simic (ed.), *An Introduction to Transitional Justice* (Routledge, 2017).

2. Andrew Reiter, 'The Development of Transitional Justice' in Olivera Simic (ed.), *An Introduction to Transitional Justice* (Routledge, 2017).

Recommended readings:

- Christine Bell, 'Transitional Justice: Interdisciplinarity and the State of the Field or Non-Field', *International Journal of Transitional Justice*, (2009) 3 (1), pp. 5-27.
- Christine Bell and Catherine O'Rourke, "Does Feminism needs a theory of Transitional Justice? An Introductory Essay", (2007) 1 (1) *International Journal of Transitional Justice*, pp. 23-34.
- Ruti Teitel, "Editorial Note-Transitional Justice Globalized", (2008) 2 (1), *International Journal of Transitional Justice*, pp. 1-4.

Synchronous Session 2:

Students will be expected to discuss tutorial questions at the end of Mihr's and Reiter's chapters (please see required readings).

Asynchronous Session

This asynchronous session is meant to prepare you for the Day 2 course materials. Watch:

1. The Prosecutor
2. International Criminal Court
3. Barbora Hola "Offender Rehabilitation at ICC"
4. The Unforgiven: A War Criminal's Remorse

Contribute to discussion forum on Moodle:

After reading class materials and watching clips and movies, please reply to Discussion forum Qs. We will look together at your thoughts (discussion forum) in the next day session (Day 2).

1. What were some of the aspirations when the ICC was established?
2. What are some of the main challenges it faces?
3. What are your thoughts about Hola's criticism of lack of offenders' rehabilitation in tribunals?
4. What do you think of Landzo's remorse? Do you think his remorse should/could play role in reconciliation processes in Bosnia? Discuss.

DAY 2 - TUESDAY, JUNE 23 - Legal accountability: From Nuremberg to The Hague

Synchronous Session 1

Criminal prosecutions are directed at individuals who bear personal responsibility for criminal offences committed during a period of conflict or abuse. Prosecuting perpetrators of mass crimes is an international legal obligation, and is often seen as a moral good as well as sending a strong social message that criminal acts will not be tolerated in the future. Prosecutions also help to avoid lawless revenge and retaliation, and to maintain or restore the rule of law.

Required readings:

1. Rachel Kerr, 'International Criminal Justice', in Olivera Simic (ed.), *An Introduction to Transitional Justice* (Routledge, 2017)
2. Agata Fijalkowski, 'Amnesty' in Olivera Simic (ed.), *An Introduction to Transitional Justice* (Routledge, 2017).
3. Nicola Henry, "The Fixation on Wartime Rape: Feminist Critique and International Criminal Law", (2014) 23 (1) *Social & Legal Studies*, p. 93-111.

Synchronous Session 2

Students will be expected to discuss tutorial questions at the end of *Kerr's* and *Fijalkowski's* chapters (please see required readings). We will also discuss the key points you took away from watching Hola's lecture and *The Unforgiven*.

Asynchronous Session

Watch

- ICAN's Gendered TJ
- Gender inclusive transitional justice
- 'I am not who they think I am'
- 'Still on the Frontline'

Contribute to discussion forum on Moodle:

1. Why is gender important in TJ?
2. What is the role of women in TJ processes?
3. In what ways do practitioners and policy makers should mainstream gender in transitional justice processes?

DAY 3 - WEDNESDAY, JUNE 24 - Truth commissions and other forms of truth-seeking

Synchronous Session 1

Truth commissions are official investigative bodies comprised of independent experts that are responsible for investigating and reporting on patterns of human rights abuses over a certain period of time in a particular country or in relation to a particular conflict. Truth commissions allow victims, their relatives and perpetrators to give evidence of human rights abuses, providing an official forum for their accounts.

Required readings:

1. Annika Björkdahl and Johanna Mannegren Selimovic, 'Gender and Transitional Justice' in Olivera Simic (ed.), *An Introduction to Transitional Justice* (Routledge, 2017)
2. Agata Fijalkowski, 'Truth and Reconciliation Commissions' in Olivera Simic (ed.), *An Introduction to Transitional Justice* (Routledge, 2017)

Asynchronous Session

Here are some of the links to get you started with preparation for presentation.

South Africa TRC:

- 'Truth and reconciliation commissions'
- 'Tutu and TRC'
- 'TRC Victim confronting Perpetrator'

Peru TRC:

Interview with Sofía Macher on the Peruvian Truth Commission

Preparing for discussion: <https://www.ictj.org/our-work/regions-and-countries/peru>

Women's Court Sarajevo, Nepal TRC.

Synchronous Session 2

1. Students will be expected to discuss tutorial questions at the end of *Björkdahl's* and *Mannegren Selimovic's* chapters (please see required readings).
2. Each group of students will be asked to do research into assigned TRC and lead 10min discussion on the South African TRC (Group 1), Peru's TRC (Group 2), Nepal TRC (Group 3) and Women's Court Sarajevo 2015 (Group 4). You will be expected to provide some background information about conflict, context, violations, establishment of the TRC and its working, its implication, recommendations etc and also the most recent updates about the current state of affairs in the countries you have been asked to present about. Have these TRC's been successful? What are their legacies?

DAY 4 - THURSDAY, JUNE 25 - Civil society and the role of arts in Transitional Justice

Synchronous Session 1

This session will focus on the significance of civil society organizations in the process of transitional justice and conflict transformation. Civil society organizations have often played important roles in promoting and supporting transitional justice experiments around the world. This session provides an overview of the contribution of NGOs and civil society more broadly to efforts to achieve transitional justice around the world. It will also discuss an important topic of reparations in TJ.

Required readings:

1. Olivera Simić, 'Arts and Transitional Justice' in Olivera Simic (ed.), *An Introduction to Transitional Justice* (Routledge, 2017)
2. Jemima Garcia-Godos, 'Reparations' in Olivera Simic (ed.), *An Introduction to Transitional Justice* (Routledge, 2017)

Asynchronous Session

Watch:

- Yuyachkani - Theater Artists and Coexistence Workers

Do some research and choose an NGO that has been working on human rights and transitional justice that has used some form of art in their activities to promote justice and reconciliation.

Synchronous Session 2

Students will be expected to discuss tutorial questions at the end of *Simic's and Garcia-Godos*, chapters (please see required readings). Students will also be asked to talk (3min each) about the NGO of their choice that they studied during the asynchronous session (tell to the class briefly about the country, conflict, NGO, particular exhibition/performance they organised and its significance).

Recommended Readings:

1. Pablo de Greiff, "On Making the Invisible Visible: The Role of Cultural Interventions in Transitional Justice Processes" in *Transitional Justice, Culture and Society: Beyond Outreach* Clara Ramierz-Barat (ed.) (International Center for Transitional Justice, 2014) p. 11-26.
2. Olivera Simić and Dijana Milošević, "Enacting Justice: The Role of Dah Theatre Company in Transitional Justice Processes in Serbia and Beyond", Olivera Simić, Peter Rush (eds.), *The Arts of Transitional Justice: Culture, Activism and Memory After Atrocity*, (Springer, New York, 2013), pp. 99-113.

3. María Lis Baiocchi, "Women In Black: Mobilization into anti-nationalist, anti-militarist, feminist activism in Serbia", (2009) 4 (4), *CEU Political Science Journal*, pp. 469-501.
4. Fayen d'Evie, "Dispersed Truths and Displaced Memories: Extraterritorial Witnessing and Memorialising by Diaspora through Public Art", *The Arts of Transitional Justice: Culture, Activism and Memory After Atrocity*, (Springer, New York, 2013), pp. 63-78.
5. Carolyn Patty Blum, "Visions of Justice and Accountability: Transitional Justice and Film" in *Transitional Justice, Culture and Society: Beyond Outreach* Clara Ramierz-Barat (ed.) (International Center for Transitional Justice, 2014) p. 461-491.

DAY 5 - FRIDAY, JUNE 26 - Memory and Memorialization in Transitional Justice

Synchronous Session 1

This session will focus on the building of memorials and recapturing public spaces to create social dialogue. Victims of human rights abuses cannot forget, and states have a duty to preserve the memory of such crimes. Architectural memorials, museums and commemorative activities are indispensable educational initiatives to establish the record beyond denial and prevent repetition. In many cases, by launching commemoration activities, civil society has been the catalyst for states to assume their duties.

Required readings:

1. Annika Björkdahl and Susanne Buckley-Zistel, 'Memorials and Transitional Justice' in Olivera Simic (ed.), *An Introduction to Transitional Justice* (Routledge, 2017).
2. Judy Barsalou and Victoria Baxter, "The Urge to Remember: The Role of Memorials in Social Reconstruction and Transitional Justice" (The United States Institute of Peace, 2007), pp. 1-24.
3. Olivera Simic, "Memorial Culture in the former Yugoslavia: Mothers of Srebrenica and the destruction of artifacts by the ICTY" in Peter Rush and Olivera Simic (eds.), *The Art of Transitional Justice: Culture, Activism and Memory after Atrocity* (Springer, 2013), pp.155-173.
4. Orli Fridman, "'Hashtag Memory Activism': Online Commemorations and Online Memory Activism", *Observing Memories* (2019).

Recommended Readings:

1. Louis Bickford, "Memoryworks/Memory Works" in *Transitional Justice, Culture and Society: Beyond Outreach* Clara Ramierz-Barat (ed.) (International Center for Transitional Justice, 2014) pp. 491-529.
2. Olivera Simić, "'Pillar of Shame': Civil Society, UN Accountability and Genocide in Srebrenica", in Olivera Simić, Zala Volčić, (eds.), *Transitional Justice and Civil Society in the Balkans*, (Springer, New York, 2013), pp. 181-199.

3. Despina Angelovska, '(Mis)representations of Transitional Justice: Contradictions in Displaying History, Memory and Art in the Skopje 2014', in Olivera Simić, Peter Rush (eds.), *The Arts of Transitional Justice: Culture, Activism and Memory After Atrocity*, (Springer, New York, 2013), pp. 173-195.

Asynchronous Session

- Watch: Memorialization and non-recurrence in TJ

Read:

1. Orli Fridman, "'Hashtag Memory Activism': Online Commemorations and Online Memory Activism", *Observing Memories* (2019).
2. Orli Fridman, 'Conflict, Memory and Memory Activism: Dealing with Difficult Pasts' *The Palgrave Encyclopedia of Peace and Conflict Studies* (2020).

Synchronous Session 2

Students will be asked to come prepared for discussing tutorial questions at the end of *Björkdahl's* and *Buckley-Zistel's* chapter (please see required readings). Students will be divided in 4 groups and each will be asked to prepare short presentation (5-7min each) with the key points they took away from Fridman's and Simic's papers. Each group will be asked to finish their presentation by raising a pertinent question that would lead to class discussion.

DAY 6 - SATURDAY, JUNE 27 - The Future of Transitional Justice

Synchronous Session 1

- Discussion of implications from the readings.
- Be prepared to deliver brief summary of key learning points for you

Required readings:

1. Measuring the Success (or Failure) of Transitional Justice, *Andy Reiter in Olivera Simic (ed.), An Introduction to Transitional Justice* (Routledge, 2017)

Synchronous Session 2 (course closure)

- Final Session, Closure and Evaluation.