

2014 Summer School in Comparative Conflict Studies

June 30 – July 7, 2014

Center for Comparative Conflict Studies (CFCCS)
at the Faculty of Media and Communications (FMK)

Rethinking Transitional Justice: Lessons from the Balkans and Beyond

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Course description

Transitional justice is a rapidly emerging interdisciplinary field of study focusing on processes dealing with past human rights violations and the transition to a more peaceful and democratic state. This course deals with questions that arise in countries emerging from armed conflict or from periods of authoritarian or repressive rule. It focuses on strategies available to new democratic governments in the aftermath of a situation of massive violations of human rights. The course examines 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 and Rwanda. Issues discussed include the various types of justice, accountability, truth, reconciliation, material and symbolic reparations, and the challenges of balancing justice and peace. Drawing on film and literature, as well as accounts by victims and arguments by victim movements, the course will examine the main strategies that have emerged for an engagement with the past.

❖ *Aims and Outcomes*

It is expected that students 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
Ethics and International Affairs

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
<http://ictj.org>

Transitional Justice Institute (University of Ulster) <http://www.transitionaljustice.ulster.ac.uk/>

Institute for Justice and Reconciliation <http://www.ijr.org.za/>

African Transitional Justice Research Network <http://www.transitionaljustice.org.za/>

Centre for the Study of Violence and Reconciliation <http://www.csvr.org.za>

Oxford Transitional Justice Research <http://www.csls.ox.ac.uk/otjr.php>

Project on International Courts and Tribunals <http://www.pict-pcti.org/index.html>

Reconciliation Resource Network <http://www.idea.int/rtn/>

United States Institute of Peace <http://www.usip.org>

The Essex Transitional Justice Network <http://www.essex.ac.uk/tjn/>

The Transitional Justice Data Base Project

<https://sites.google.com/site/transitionaljusticedatabase/>

The Dialogues on Historical Justice and Memory Research Network

<http://historicaldialogues.org/about/>

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.

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Case studies include:

We will devote our time to 2 main case studies:

- South Africa
- Bosnia and Herzegovina

As much as time will allow us we may also draw on other cases such as:

Serbia, Cambodia, Rwanda.

Background readings:

- Ruti Teitel, 'Transitional Justice Genealogy' (2003) 16, *Harvard Human Rights Journal*, pp 69-94.
- Rachel Kerr & Eirin Mobekk 'Peace and Justice: An Introduction' in *Peace and Justice: Seeking Accountability After War*. (Cambridge, UK: Polity Press, 2007), pp. 1-17.
- United Nations Security Council, 'The rule of law and transitional justice in conflict and post-conflict societies' Report of the Secretary General (2004).

- Course Outline by Day -

Tuesday July 1 (day 1)

Introducing transitional justice studies: the key concepts and evolution

Morning class:

10:00-12:30

This session addresses the key concepts and evolution of TJ field. It looks at legal, moral, social, and political questions that arise in countries emerging from massive conflict or periods of authoritarian or repressive rule, focusing on the strategies available to societies pursuing accountability for past mass atrocity or human rights abuse.

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.

Afternoon class:

14:00-16:00

- Film: *Death and the Maiden* (110 min)

Additional Readings:

- Naomi Roht-Arriaza, 'The New Landscape of Transitional Justice' in Naomi Roht-Arriaza and Javier Mariezcurrena, (eds.), *Transitional Justice in the Twenty-First Century, Beyond Truth versus Justice*. (Cambridge, New York: Cambridge University Press, 2006), pp. 1-16.
- Wendy Lambourne "Transformative Justice, Reconciliation and Peacebuilding" in Susanne Buckley-Zistel, Teresa Koloma Beck, Christian Braun, Friederike Mieth (eds.) *Transitional Justice Theories* (Routledge, 2014) 19-39.
- Wendy Lambourne 'Transitional Justice and Peacebuilding After Mass Violence', (2009) 3 (1), *International Journal of Transitional Justice*, pp. 28-48.
- Kora Andrieu, 'Transitional Justice: A New Field in Human Rights' (2010), *Online Encyclopaedia of Mass Violence*.
- Katherine Franke, "Gendered subjects of transitional justice". *Columbia Journal of Gender and Law* (2006) 15 (3), 813-28.

Wednesday July 2 (day 2)

Legal accountability: From Nuremberg to The Hague

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.

Morning class:

10:00-12.30

Readings:

- Peter Dixon and Chris Tenove, “International Criminal Justice as a Transnational Field: Rules, Authority and Victims”, *The International Journal of Transitional Justice*, (2013) 7, 393–412.
- Rachel Kerr & Eirin Mobekk, ‘The Nuremberg Legacy’ and ‘Ad hoc International Criminal Tribunals’ in *Peace and Justice: Seeking Accountability After War*. (Cambridge, UK: Polity Press, 2007), pp. 18-57.
- Rachel Kerr, “Lost in translation? The ICTY and the legacy of war crimes in the Western Balkans”, *CIPS Policy Brief* No. 19, July 2012, pp.1-5.

Afternoon class:

14:00-16:00

- Film: *Calling the Ghosts A Story about Rape, War and Women* (63min)

Readings:

- Nicola Henry, “The Fixation on Wartime Rape: Feminist Critique and International Criminal Law”, (2014) 23 (1) *Social & Legal Studies*, p. 93-111.

Additional Readings:

- Alisson Des Forges & Timothy Longman, ‘Legal Responses to Genocide in Rwanda’ in Eric Stover & Harvey M. Weinstein, (eds.), *My Neighbour, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*. (Cambridge, UK: Cambridge University Press, 2004) pp. 49-68.
- Wendy Lambourne, ‘Transitional Justice After Mass Violence: Reconciling Retributive and Restorative Justice’ in Helen Irving, Jacqueline Mowbray & Kevin Walton, (eds.), *Julius Stone: A Study in Influence*. (Sydney: Federation Press, 2010) pp. 214-237.
- Laurel Fletcher & Harvey M. Weinstein ‘A World Unto Itself? The Application of International Justice in the Former Yugoslavia’ in Eric Stover & Harvey M. Weinstein, (eds.) *My Neighbour, My Enemy: Justice and Community in the Aftermath of Mass Atrocity* (Cambridge, UK: Cambridge University Press, 2004) pp. 29-48.

- James Gow, Milena Michalski and Rachel Kerr, 'Space Capsule Justice: The ICTY and Bosnia – Image, Distance and Disconnection', *Slavonic and East European Review* 91, 4 (October 2013).

Thursday July 3 (day 3)

Truth commissions and other forms of truth-seeking

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.

Morning class:

10:00-12:30

Readings:

- Rachel Kerr & Eirin Mobekk, 'Truth Commissions' in *Peace and Justice: Seeking Accountability After War*. (Cambridge, UK: Polity Press, 2007) pp. 128-150.
 - Priscilla B. Hayner, "In Pursuit of Justice and Reconciliation: Contributions of Truth Telling" in Priscilla B. Hayner, *Unspeakable Truth: Transitional Justice and Challenge of Truth Commissions* (Routledge, 2011), pp. 1-26.
 - Vasuki Nesiah, 'Addressing Gender in a Truth Commission's Work' in Vasuki Nesiah (eds.), *Truth Commissions and Gender: Principles, Policies and Procedures*. (The International Center for Transitional Justice, 2006), pp. 6-36.
- Film: *Long Night's Journey into the Day* (20min)

Afternoon class:

14:00-16:00

- Film: *Gacaca, Living together again in Rwanda* (55 minutes)

Readings:

- Rachel Kerr & Eirin Mobekk, 'Traditional Informal Justice Mechanisms' in *Peace and Justice: Seeking Accountability After War*. (Cambridge, UK: Polity Press, 2007), pp. 151-172.
- Judith Hermann, 'A critical analysis of the transitional justice measures incorporated by Rwandan gacaca and their effectiveness' (2012) 19, *James Cook University Law Review*, pp. 90-112.

Additional Readings

- Alex Boraine, "South Africa's Truth and Reconciliation Commission from a Global Perspective" in Chandra. L. Sriram & Suren Pillay (eds.), *Peace versus Justice? The Dilemma of Transitional Justice in Africa*. (Scottsville, South Africa: University of KwaZulu-Natal Press, 2009) pp. 137-153.

- Mark Freeman and Priscilla B. Hayner, “Truth – Telling” In David Bloomfield, Lucien Huyse, (eds.), *Reconciliation After Violent Conflict: A Handbook*, (Stockholm: International IDEA, 2003), pp. 122-144.

Friday July 4 (day 4)

Civil society and the role of arts in Transitional Justice

Morning class:

10:00-12:30

This seminar 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.

Readings:

- 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.
- 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.

Afternoon class:

14:00-16:00

- Film: *Madres de la Playa de Mayo* (65 min)

Readings:

- 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.
- Fayen d’Eve, “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.
- 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.

Additional Readings:

- Jo-Marie Burt, Gabriela Fried Amilivia, and Francesca Lessa, “Civil Society and the Resurgent Struggle against Impunity in Uruguay (1986–2012)”, *International Journal of Transitional Justice* (2013) 7 (2), p. 306-327.
- Olivera Simic and Kathleen Daly, “”One pair of Shoes, One Life”: Steps towards Accountability for Genocide in Srebrenica”, *International Journal of Transitional Justice* (2011) 5(3), 477-491.
- Orli Fridman, ““It was like fighting a war with our own people”: anti-war activism in Serbia during the 1990s”, *Nationalities Paper* 39 (4), p. 507-522.
- Martina Fischer (2006). ‘Confronting the Past and Involving War Veterans for Peace: Activities by the Centre for Nonviolent Action, Sarajevo, Belgrade’ in Martina Fischer (Ed.) *Peacebuilding and Civil Society in Bosnia-Herzegovina. Ten Years after Dayton*. (Münster: Lit Verlag. 2006), pp. 387-417.

Saturday July 5 (day 5)

Memory and Memorialization in Transitional Justice

Morning class:

10:00-12:30

This seminar 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.

Readings:

- 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.
- 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.
- 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.

Afternoon class:

14:00-16:00

Readings:

- 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.
- 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.

Additional Readings:

- Brandon Hamber, 'Public Memorials and Reconciliation Processes in Northern Ireland', Paper presented at the 'Trauma and Transitional Justice in Divided Societies Conference' Airlie House, Warrington, Virginia, USA, March 1-8, 2004.
- Orli Fridman, "Alternative calendars and memory work in Serbia: anti-war activism after Milošević" (Memory Studies, forthcoming, 2015).
- Janine Natalya Clark, "Reconciliation through Remembrance? War Memorials and the Victims of Vukovar" in *International Journal of Transitional Justice* 7 (1) 2013, p. 116-135.
- Christiane Wilke, "Remembering Complexity? Memorials for Nazi Victims in Berlin" in *International Journal of Transitional Justice* 7 (1) 2013, p. 1-21.

Sunday July 6 (day 6)

Designing a Transitional Justice Process

Morning Session:

- Simulation Exercise
- Reflection and Discussion

Afternoon Session:

Final Session, Closure and Evaluation