



Transitional Justice 3001G

Studies in Transitional Justice and Post-Conflict Reconstruction

Term: Winter 2017

Lecture Schedule: Wed., 2:30 PM – 5:30 PM

Lecture Location: HSB 236

Instructor: Dr. David Hoogenboom

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Office Location: TBA

Office Hours: Wed. 1:00 PM – 2:00 PM
or by appointment

Course Description:

This course explores issues inherent to regions facing the aftermath of large-scale events of social violence, including war, genocide, and authoritarian rule, with an emphasis on questions of justice and post-conflict reconstruction. Students will examine specific cases of recent attempts to establish just responses to conflict within affected communities.

Objectives and Content for TJ 3001G:

The core learning objective of TJ 3001F/G is to help students understand what it means to engage in practices of seeking justice in post-conflict contexts. Students will be required to grapple with questions over how one may productively confront and assess approaches to and debates over the introduction of mechanisms of justice and efforts to form just social orders and processes. In this regard, a fundamental focus in the course is to critically analyse justice, at both the level of idea and social experience, in such ways that the full complexity of the term, and the practices that lend it significance, may be better understood.

The course will require students to spend time studying specific theories of and debates over justice, on a philosophical register. A core aim is that students come out of this course with a basic fluency and literacy over contemporary terms of discourse over justice. However, studies of the theories of justice will be contextualised and deployed in direct relation with case studies of recent and contemporary efforts to engage in post-conflict reconstruction where justice is a fundamental goal. In fact, the course will be organised around the study of several such cases that allow students to consider

problems of justice in post-conflict reconstruction across a variety of contexts. And the variance in these cases itself will be employed as a device by which to build the richness and complexity of students' critical engagement with concepts and theories of justice.

The cases that students will examine will present to them problems of social, political, legal, and economic reconstruction in relation to conflicts oriented around race, gender, ethnicity, class, territory, resources, religion, and culture. In studying these cases, the course will not focus on mechanisms of reconstruction and the institution of justice as mere responses to problems of conflict. Acts of reconstruction and attempts to introduce justice will not be considered only as solutions to the problems and supposed facts of any given conflict. Rather, engagement with these cases will give much greater focus to the problems in acts of reconstruction and justice themselves. In this regard, the case studies will involve specific attention to how the goals and practices instituted in post-conflict reconstruction projects are formed in relation to conditions that far exceed the terms of conflict per se but, rather, involve often broader social, political, economic, and cultural relations in which the conflict in question is already caught or, perhaps, even provoked. With this latter point in mind, students in the course will have the opportunity to examine how acts of reconstruction and movements for justice are not necessarily divorced from the conflictual and violence.

Course Requirements:

Participation	20%
Critical Commentary Paper	10%
Essay	40%
Exam	30%

Participation

Participation grades are based on participation in class and tutorial discussions and activities. Students are expected to attend class and tutorial having completed all of the required readings (please consult page 11 for more information regarding participation).

Critical Commentary Papers

Students are required to write one **critical** commentary paper. The paper should be 1800-2000 words, double spaced, 12 pt. times new roman. The purpose of the paper is to encourage students to familiarize themselves with academic writing and argumentation. The purpose of the assignment is to summarize AND critique the arguments of the assigned readings. The assignment requires students to accomplish the following:

1. Provide a **brief summary** (i.e. around 1 page) of the main arguments of the paper.

2. Identify the important questions or issues identified by the author(s).
3. Highlight any assumptions the author(s) makes and the facts they use to support their claims.
4. Discuss whether or not the article is compelling and any gaps in the author(s) argument.
5. Provide your own thoughts on the issues covered and provide one theoretical or empirical question that arises from the article.

The article you will respond to will be posted to the class OWL site in the first few weeks of the course.

*****DUE DATE FOR CRITICAL COMMENTARY PAPERS:**

A hard copy of your Critical Commentary Paper is due at the beginning of class on **February 15, 2017**.

Essay

Students are required to write a research paper of 12-14 pages, double spaced, 12 pt. times new roman). Due date: **March 29, 2017**. The late penalty is automatically **10% per week**. Please note that a hard copy of the assignment must be submitted at the beginning of class on March 29.

For the research essay, students will choose from a list of topics/questions that will be provided on OWL. Students must put forth a clear argument, backed by coherent reasoning and high-quality research. Students should make mention of important counter-arguments to their own claims, though this need not be a major aspect of your analysis.

The essays should rely on independent research outside of the assigned course material. Greater weight should be given to resources such as books, academic/research journals and government documents. Good quality newspapers and Internet resources will also be acceptable if you have made use of a few quality books and academic/research journals. It is highly recommended that you do not cite your textbook. Students are encouraged to make use of the Western and Brescia Libraries' resources. Besides the course instructor, librarians could be consulted for help.

*****Important Notes Regarding the Essay:**

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.chicagomanualofstyle.org/tools_citationguide.html

Turnitin

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

Final Exam

The final exam for this course will be administered during the scheduled exam period in April and will cover material from the beginning of the course. Exam details will be provided in class and available through the OWL site.

Additional Important Information (PLEASE READ)

Registration in the course constitutes your agreement to the following terms:

Late Penalties and Academic Accommodation

- Students must submit a hard copy of their assignments and all assignments are due at the beginning of class. Please do not email your assignments. 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://www.uwo.ca/univsec/pdf/academic_policies/appeals/accommodation_medical.pdf
- Access to the STUDENT MEDICAL CERTIFICATE (SMC) is at:
https://www.uwo.ca/univsec/pdf/academic_policies/appeals/medicalform_15JUN.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

- Students who are in emotional/mental distress should refer to Mental Health@Western <http://www.uwo.ca/uwocom/mentalhealth/> for a complete list of options about how to obtain help.

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:

https://www.uwo.ca/univsec/pdf/academic_policies/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:
https://www.uwo.ca/univsec/pdf/academic_policies/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.

Course Outline by Topic

January 11 Introduction to the Course

January 18 What is Transitional Justice and Post-Conflict Reconstruction?

- 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.
- 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.

Additional Readings

- United Nations Secretary General. S/2004/616. *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, 2004. Available online from: <https://www.un.org/ruleoflaw/blog/document/the-rule-of-law-and-transitional-justice-in-conflict-and-post-conflict-societies-report-of-the-secretary-general/>

I. Approaching Retributive Justice

January 25 Understanding the Theory of Retributive Justice

- Hampton, Jean. "The retributive idea." In *Forgiveness and Mercy*, edited by Jeffrie Murphy and Jean Hampton, (New York: Cambridge University Press, 1988), 111-161.
- Martha Minow, "Chapter 3: Trials," in *Between Vengeance and Forgiveness* (Boston: Beacon Press, 1998), 25-51.

Additional Readings

- The Rome Statute of the International Criminal Court, (1998), Articles 1-33. Available online from: https://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf

February 01 Modern Foundations of International Justice

- Kathryn Sikkink, "Chapter 4: The Streams of the Justice Cascade," in *The Justice Cascade* (New York: W. W. Norton & Company, 2011), 96-125.
- 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.

Case Study – The International Criminal Tribunal in the former Yugoslavia

- James Meernik, "Justice and Peace? How the International Criminal Tribunal affects Societal Peace in Bosnia," *Journal of Peace Research* 42, no. 3 (2005): 271-289.

II. Approaching Restorative Justice

February 08 Understanding the Theory of Restorative Justice

- Priscilla Hayner, "Chapter 7: Truth vs. Justice: Is it a Trade-Off?" in *Unspeakable Truths* (London: Routledge, 2002), 86-106.
- Jennifer J. Llewellyn and Robert Howse, "Institutions for Restorative Justice: The South African Truth and Reconciliation Commission," *The University of Toronto Law Journal* 49, no. 3 (1999): 355-88.

Case Study – South Africa

- 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.

III. Approaching Reparative Justice

February 15 Understanding the Theory of Reparative Justice

- Pablo de Greiff, "Justice and Reparations," in *The Handbook of Reparations*, ed. Pablo de Greiff (Oxford: Oxford University Press, 2006), 451-477.

Case Study – South Africa continued

- David Backer, "Watching a Bargain Unravel? A Panel Study of Victims' Attitudes about Transitional Justice in Cape Town, South Africa," *International Journal of Transitional Justice* 4, no. 3 (2010): 443-456.
- Christopher J. Colvin, "Overview of the Reparations Program in South Africa," in *The Handbook of Reparations*, ed. Pablo de Greiff (Oxford: Oxford University Press, 2006), 176-214.

February 22 No class – Reading Break

IV. Key Debates in Transitional Justice

March 01 Gender and Transitional Justice

- Elisabeth Porter, "Gendered Narratives: Stories and Silences in Transitional Justice," *Human Rights Review* 17, no. 1 (2016): 35-50.

- Julie Mertus, “Shouting from the Bottom of the Well: The Impact of International Trials for Wartime Rape on Women’s Agency,” *International Feminist Journal of Politics* 6, no. 1 (2004): 110-128.

March 08 Local Versus International

- 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.
- 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.

March 15 Politics and the Abuse of Justice – A look at Transitional Justice in Rwanda

- Susan Thomson, “The Darker Side of Transitional Justice: The Power Dynamics Behind Rwanda’s Gacaca Courts,” *Africa* 81, no. 3 (2011): 373-390.
- Max Rettig, “Gacaca: Truth, Justice, and Reconciliation in Postconflict Rwanda?” *African Studies Review* 51, no. 3 (2008): 25-50.

March 22 Transitional Justice in Settler Societies – Examining Canada’s Experience with Justice

- 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://speakingmytruth.ca/?page_id=686)
- 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.
- Rosemary Nagy, “Truth, Reconciliation and Settler Denial: Specifying the Canada–South Africa Analogy,” *Human Rights Review* 13, no. 3 (2012): 349-367.

March 29 Evaluating Transitional Justice

- Hugo van der Merwe, “Delivering Justice During Transition: Research Challenges,” in *Assessing the Impact of Transitional Justice: Challenges for*

- Empirical Research*, ed. Hugo van der Merwe, Victoria Baxter, and Audrey R. Chapman (Washington: United States Institute of Peace Press, 2009): 115-142.
- 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.

April 05 Searching for Justice

- Stuart Hampshire, *Justice is Conflict* (Princeton: Princeton University Press, 2000), 1-48.
- John D. Caputo, *Deconstruction in a Nutshell: A Conversation with Jacques Derrida*, (New York: Fordham University Press, 1997): 125-150.

PARTICIPATION

Participation is key for making the most of your experience in this course. The table below provides some general expectations for participation in this class. Critical to all of this, of course, is attendance—you can't participate if you're not here!!

Participation Grading Guide

Grade	Attendance	Discussion	Reading
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	