

Course Outline Template

COURSE:	LAWS 4603 A – Transitional Justice
TERM:	Fall 2024
PREREQUISITES:	LAWS 2908 or PAPM 3000 and fourth-year Honours standing.
CLASS:	Day & Time: Friday 2:35 PM - 5:25 PM
	Room: Please check Carleton Central for current Class Schedule
INSTRUCTOR:	Dr. Elham Gharji
CONTACT:	Office Hrs: By appointment
	Email: ElhamGharji@cunet.carleton.ca
BRIGHTSPACE:	https://brightspace.carleton.ca/d2l/home/290285

CALENDAR COURSE DESCRIPTION

Legal and ethical responses to human rights violations in the transition to democracy. Dilemmas of the rule of law; truth and reconciliation; prosecution and punishment; amnesty; retribution and revenge; restorative justice; administrative remedy; reparations; International case studies. Theoretical arguments about justice in context of country.

COURSE DESCRIPTION

This course introduces students to the theory and politics of transitional justice and its place in international human rights law and international humanitarian law. Transitional justice consists of mechanisms aimed at addressing past mass atrocities and gross violation of human rights in societies that are overcoming war and conflict and transitioning to peace and democracy. The underlying assumption in transitional justice theory is that successful transition to a peaceful, just and democratic future will only be possible when/if past injustices, collective sufferings and grievances are addressed in ways that support and facilitate both accountability, healing and reconciliation as well as peace and stability. However, the ensuring balance between peace and

justice remains a constant challenge in conflict affected societies. Using cases from around the world, students will learn about these dynamics as well as the historical and philosophical origins of transitional justice and its various elements such as criminal justice, amnesty, truth and reconciliation, reparation, as institutional reforms, etc. as part of the process and politics of transitional justice.

LEARNING OUTCOMES

By the end of this course, students will be able to:

- Demonstrate knowledge of fundamental concepts and elements of transitional justice such as criminal justice, amnesty, truth and reconciliation, reparation, institutional reform, memorialization, etc.
- Demonstrate knowledge of international legal and political dimensions of transitional justice
- Demonstrate critical understanding of relationship between peace, justice and democracy
- Apply this understanding to analyze local and international responses to atrocity crimes in conflict affected societies
- Identify the existing conceptual and practical limits of transitional justice theory mechanisms

REQUIRED TEXTS

Weekly reading materials will be provided electronically on the Brightspace platform.

SUPPLEMENTARY TEXTS

Simić, O. (Ed.). (2020). *An introduction to transitional justice*. Taylor & Francis Group.

Teitel, R. G. (2002). *Transitional justice* (1st pbk. ed.). Oxford University Press.

Brodsky, R., Godole, J., Hoeres, P., Knabe, H., Merwe, H. van der, Metekia, T. S., Strassner, V., & Viebach, J. (2023). *After Dictatorship : Instruments of Transitional Justice in Post-Authoritarian Systems* (P. Hoeres & H. Knabe, Eds.). De Gruyter Oldenbourg.

<https://doi.org/10.1515/9783110796629>

EVALUATION

Standing in a course is determined by the course instructor, subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

Students' performance in this course will be evaluated based on the following criteria:

- 1. Attendance and participation: (30%)** - Students will be marked against their weekly attendance and active participation in the class discussions. It is expected that students complete the reading materials every week and come to class prepared with questions or comments on the readings done to share during the class discussions.
- 2. Short reflection papers: (25%)** - Throughout the term, each student is required to submit a total of 5 short reflection pieces (max 1000 words each) on the weekly readings of their choice. One of the reflection papers can be on the topic of their seminar presentation (discussed below). The reflection papers should outline major argument(s)/points of the reading completed, followed by a personal commentary on, or critique of, the reading e.g. your opinion on the reading and whether you agree or disagree with the author's points and why.
- 3. Seminar Presentation: (20%)** - Students will be graded for delivering a presentation covering a weekly reading of their choice, starting from the second week of the term. A presentation sign-up sheet is posted on the course' Brightspace page, where students can choose a theme/topic from the course calendar to prepare a 30-minutes in-class presentation, highlighting key points and arguments of the reading materials as well as a few questions about the reading to facilitate class discussions. Students can work in teams or prepare individual presentations, but they will need to coordinate with other presenters to decide who will be presenting which reading material for the week. In the case of group presentation, every member of the team should equally contribute to the preparation and presentation of materials.
- 4. Case study report: (25%)** - As your term assignment, each student will be required to identify and select (in consultation with the instructor) a transitional justice country case

by **November 1st**, and compile a case study report consisting of the following information:

- Historical Background: *What happened? Who was responsible for the atrocity crimes and who were affected by them?*
- The transitional justice processes: *Which transitional mechanism(s) were pursued or are being pursued to address the atrocities?*
- Key challenges affecting transitional justice process: *what are/have been some of the main challenges facing transitional justice process in your selected case?*
- Analysis: Link the case to theories or debates in transitional justice literature - *how do the findings from the case tie to the academic debates in transitional justice?*

Case study report submission guideline:

The case study report must follow a word limit of **3000 to 3500 words**, use 12 point Times New Roman font, be double spaced, and adhere to the McGill citation rules found at <https://library.carleton.ca/guides/help/uniform-legal-citation-style-mcgill-guide>. Final assignment must be submitted electronically via Brightspace on **December 6th by 11:59 PM**.

All components must be successfully completed in order to get a passing grade.

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

The granting of extensions is determined by the instructor, who will confirm whether an extension is granted and the length of the extension. For requests for short-term extensions, please complete the form at the following link and submit it to the instructor prior to the assignment due date: <https://carleton.ca/registrar/academic-consideration-coursework-form/>.

For more information regarding academic consideration for short-term incapacitation (illness, injury, or extraordinary circumstances beyond a student's control), please visit the following link: <https://students.carleton.ca/course-outline/#academic-consideration-for-short-term-incapacitation>

CLASS SCHEDULE**Week 1 (September 6): Introduction**

The instructor will introduce the course outline and requirements, including assigning group presentations in the first half of the class. In the second half of the class, the instructor will deliver an introductory lecture on the theory and politics of Transitional Justice.

Students are encouraged to review the following online resource to familiarize themselves with the concept and basic elements of transitional justice:

International Center for Transitional Justice, "What is Transitional Justice?", available at: www.ictj.org/what-transitional-justice

Week 2 (September 13): What is Transitional Justice?*Required readings:*

Mihr, A. (2020) An introduction to transitional justice. In Simić, O. (Ed.). *An introduction to transitional justice* (2nd ed., pp.1-28). Taylor & Francis Group.

Reiter, G. A. (2020) Chapter 2: The development of transitional justice. In Simić, O. (Ed.), *An introduction to transitional justice* (2nd ed., pp.29-48). Taylor & Francis Group.

Paige A. (2009) How 'Transitions' Reshaped Human Rights: A Conceptual History of Transitional Justice. *Human Rights Quarterly*, 31, 321–67.

Week 3 (September 20): Transitional Justice: origins, debates, and practice*Required readings:*

Ruti G. Teitel, (2003). Transitional Justice Genealogy, *Harvard Human Rights Journal*, 16, 69–94.

Evans, M. (Ed.). (2019). "Transitional and transformative justice: Critical and international perspectives". In Evans, M. (Ed.). (2019). *Transitional and transformative justice : critical and international perspectives*. Routledge. <https://doi.org/10.4324/9781351068321>

Gissel, Line E. (2022) The Standardisation of Transitional Justice. *European Journal of International Relations*, 28, 859–84.

Week 4 (September 27): Addressing past atrocities – Restorative Justice and Retributive Justice

Required readings:

Clark, Janine N. (2008). The Three Rs in Transitional Justice: Retributive justice, restorative justice, and reconciliation, *Contemporary Justice Review*, 11(4), 331–350

Allais, L. (2011). Restorative Justice, Retributive Justice, and the South African Truth and Reconciliation Commission. *Philosophy & Public Affairs* 39(4), 331–63.

Archibald, B. and Llewellyn, J. (2006). The Challenges of Institutionalizing Comprehensive Restorative Justice: Theory and Practice in Nova Scotia. *Dalhousie Law Journal* 29, 297-343. Available at SSRN: <https://ssrn.com/abstract=2120718>

Week 5 (October 4): Criminal Justice

Kerr, R. (2020) Chapter 3: international criminal justice. In Simić, O. (Ed.), *An introduction to transitional justice* (2nd ed., pp.49-72). Taylor & Francis Group.

Campbell, K. (2014). Reassembling international justice: The making of “the social” in international criminal law and transitional justice. *The International Journal of Transitional Justice*, 8(1), 53–74. <https://doi.org/10.1093/ijtj/ijt024>

Gutiérrez-Rodríguez, C. (2023). International Criminal Court Standards in a Context of Transitional Justice. *Journal of International Criminal Justice*, 21(3), 579–601. <https://doi.org/10.1093/jici/mgad033>

Week 6 (October 11): Transnational accountability for international crimes

Sriram, C. L. (2004). Globalising Justice: From Universal Jurisdiction to Mixed Tribunals. *Netherlands Quarterly of Human Rights*, 22(1), 7-32.

Langer, M. (2015). Universal jurisdiction is not disappearing. *Journal of International Criminal Justice*, 13(2), 245-256.

Wiebelhaus-Brahm, E. (2016). Exploring Variation in Diasporas' Engagement with Transitional Justice Processes. *Journal of Peacebuilding & Development*, 11(3), 23-36.

Week 7 (October 18): Truth and Reconciliation

Required readings:

Fijalkowski, A. (2020). Truth and reconciliation commissions. In Simić, O. (Ed.), *An introduction to transitional justice* (2nd ed., pp.97-122). Taylor & Francis Group.

Mamdani, M. (2002). Amnesty or Impunity? A Preliminary Critique of the Report of the Truth and Reconciliation Commission of South Africa (TRC). *Diacritics*, 32, 33–59.

Lawry-White, M. (2015). The Reparative Effect of Truth Seeking in Transitional Justice. *International & Comparative Law Quarterly*, 64(1), 141-177

Week 8 (October 25): FALL BREAK. NO CLASS

Week 9 (November 1): Reparation

Required readings:

Gilmore, Sunneva, and Moffett, L. (2021). Finding a Way to Live with the Past: 'Self-repair', 'Informal Repair', and Reparations in Transitional Justice. *Journal of Law and Society*, vol. 48(3), 455–480.

Collins, C. (2017). Truth-justice-reparations interaction effects in transitional justice practice: The case of the 'Valech Commission' in Chile. *Journal of Latin American Studies*, 49(1), 55-82.

Moffett, L. (2016). Reparations for 'guilty victims': Navigating Complex Identities of Victim-Perpetrators in Reparation Mechanisms. *International Journal of Transitional Justice*, 10(1), 146-167.

Week 10 (November 8): Memorialization

Required readings:

Villalón, R.(2016). The Resilience of Memory, Truth, and Justice Processes: Culture, Politics, and Social Mobilizations. *Latin American Perspectives*, 43(6), 3–7.

Orange, J. (2018). The Work That Remains: Continuing the Reconciliation Work of Legal Tribunals through Museums. *Canadian review of comparative literature*, 45(4), 597–613.

Karl, S. (2014). Rehumanizing the Disappeared: Spaces of Memory in Mexico and the Liminality of Transitional Justice. *American Quarterly*, 66(3), 727–748.

Week 11 (November 15): Institutional reform

Required readings:

Mayer-Rieckh, A. (2013). 'The Relationship Between Security Sector Reform and Transitional Justice' In *Dealing with the Past in Security Sector Reform*, 10, 8–21. Ubiquity Press

Dáire McGill. (2017). Different Violence, Different Justice? Taking Structural Violence Seriously in Post-Conflict and Transitional Justice Processes. *State Crime Journal*, 6(1), 79–101.

Blackstock, C. (2016). The Complainant: The Canadian Human Rights Case on First Nations Child Welfare. *McGill Law Journal / Revue de droit de McGill*, 62(2), 285–328.
<https://doi.org/10.7202/1040049a>

Week 12 (November 22): Gender Women and Children in Transitional Justice

Required readings:

Lambourne and Carreon (2016). Engendering Transitional Justice: a Transformative Approach to Building Peace and Attaining Human Rights for Women, *Human Rights Review*, 17 (1) 71-93.

Aoláin, F. N. (2009). Women, Security, and the Patriarchy of Internationalized Transitional Justice. *Human Rights Quarterly*, 31(4), 1055–1085.

Luoma, C. (2021). Closing the cultural rights gap in transitional justice: Developments from Canada's National Inquiry into Missing and Murdered Indigenous Women and Girls. *Netherlands Quarterly of Human Rights*, 39(1), 30-52.
<https://doi.org/10.1177/0924051921992747>

Week 13 (November 29): Truth and Reconciliation in non-transitional contexts

Required readings:

Honoring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada. Introduction (2015): 1-25.

Nagy, R. (2014). The Truth and Reconciliation Commission of Canada: Genesis and Design, *Canadian Journal of Law and Society*, 29, 199–217.

Vanthuyne, K. (2021). "I Want to Move Forward. You Can Move Forward Too" Articulating Indigenous Self-determination at the Truth and Reconciliation Commission of Canada. *Human Rights Quarterly*, 43, 355-377

Week 14 (December 6): End of the term wrap-up discussion

University and Departmental Policies

DEPARTMENT POLICIES AND REGULATIONS

ACADEMIC INTEGRITY

It is expected that, as members of Carleton University, students fully comply with and respect Carleton's *Academic Integrity Policy* (Available here: www.carleton.ca/senate/senate-policies/) in conducting their academic work, including in their written assignments. In that regard, the following practices are prohibited in this class:

- a. Permissibility of submitting substantially the same piece of work more than once for academic credit.
 - Although this is not a violation of the Academic Integrity Policy, students are prohibited from re-using their own work from a different course/assignment to fulfill the requirement for this course. However, students are allowed to use any arguments or findings from of such assignments provided that they are acknowledged and properly cited.
 - If you are planning to use segments from your previous assignments and have questions about what constitutes 'substantially the same piece of work', please seek the instructor's advice.
- b. Permissibility of group or collaborative work.
 - Students may work in teams to produce a collaborative content e.g. seminar presentation. In such cases, each student should demonstrate that they have equally contributed to the production and presentation of such assignment as evidenced through peer-evaluation (the instructor will provide the evaluation form to those choosing to work in teams).
- c. Permissibility of the use of generative artificial intelligence tools (e.g. ChatGPT).
 - Any use of generative AI tools to produce assessed assignment in this course is considered a violation of academic integrity standards. Assignments suspected to have been produced by generative AI will be investigated according to Carleton's Academic Integrity Policy on plagiarism, and the assignment will an F grade if found to have been generated by AI (e.g. ChatGPT and other such instruments).
 - Please seek the instructor's advice if you are in doubt about using AI tools as writing aid e.g. editing, visualization, etc.

PLAGIARISM

The University Academic Integrity Policy defines plagiarism as “*presenting, whether intentionally or not, the ideas, expression of ideas or work of others as one’s own.*” This includes reproducing or paraphrasing portions of someone else’s published or unpublished material, regardless of the source, and presenting these as one’s own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, artworks, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, material on the internet and/or conversations.

Examples of plagiarism include, but are not limited to:

- any submission prepared in whole or in part, by someone else, including the unauthorized use of generative AI tools (e.g., ChatGPT);
- using ideas or direct, verbatim quotations, paraphrased material, algorithms, formulae, scientific or mathematical concepts, or ideas without appropriate acknowledgment in any academic assignment;
- using another’s data or research findings without appropriate acknowledgement;
- submitting a computer program developed in whole or in part by someone else, with or without modifications, as one’s own; and
- failing to acknowledge sources through the use of proper citations when using another’s work and/or failing to use quotations marks.

Plagiarism is a serious offence that cannot be resolved directly by the course’s instructor. The Associate Dean of the Faculty conducts a rigorous investigation, including an interview with the student, when an instructor suspects a piece of work has been plagiarized. Penalties are not trivial. They can include a final grade of “F” for the course.

STATEMENT ON STUDENT MENTAL HEALTH

As a University student you may experience a range of mental health challenges that significantly impact your academic success and overall well-being. If you need help, please speak to someone. There are numerous resources available both on- and off-campus to support you.

For more information, please consult <https://wellness.carleton.ca/>

Emergency Resources (on and off campus):

- <https://carleton.ca/health/emergencies-and-crisis/emergency-numbers/>

Carleton Resources:

- Mental Health and Wellbeing: <https://carleton.ca/wellness/>
- Health & Counselling Services: <https://carleton.ca/health/>
- Paul Menton Centre: <https://carleton.ca/pmc/>
- Academic Advising Centre (AAC): <https://carleton.ca/academicadvising/>
- Centre for Student Academic Support (CSAS): <https://carleton.ca/csas/>
- Equity & Inclusivity Communities: <https://carleton.ca/equity/>

Off Campus Resources:

- Distress Centre of Ottawa and Region: (613) 238-3311 or TEXT: 343-306-5550, <https://www.dcottawa.on.ca/>
- Mental Health Crisis Service: (613) 722-6914, 1-866-996-0991, <http://www.crisisline.ca/>
- Empower Me: 1-844-741-6389
- https://studentcare.ca/rte/en/IHaveAPlan_CarletonUniversityUndergraduateStudentsCUS_A_EmpowerMe_EmpowerMe
- Good2Talk: 1-866-925-5454, <https://good2talk.ca/>
- The Walk-In Counselling Clinic: <https://walkincounselling.com>

ACADEMIC ACCOMMODATIONS

Carleton is committed to providing academic accessibility for all individuals. You may need special arrangements to meet your academic obligations during the term. The accommodation request processes, including information about the Academic Consideration Policy for Students in Medical and Other Extenuating Circumstances, are outlined on the Academic Accommodations website (students.carleton.ca/course-outline).

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows.

Pregnancy Obligation and Family-Status Related Accommodations

Write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details about the accommodation policy, visit the [Equity and Inclusive Communities \(EIC\)](#) website.

Religious Obligation

Write to me with any requests for academic accommodation during the first two weeks of class,

or as soon as possible after the need for accommodation is known to exist. For more details, please go to: <https://carleton.ca/equity/focus/discrimination-harassment/religious-spiritual-observances/>.

Academic Accommodations for Students with Disabilities

The Paul Menton Centre for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or pmc@carleton.ca for a formal evaluation. You can find the Paul Menton Centre online at: <https://carleton.ca/pmc/>

If you are already registered with the PMC, contact your PMC coordinator to send me your Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (if applicable).

Survivors of Sexual Violence

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and where survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: <https://carleton.ca/equity/sexual-assault-support-services>

Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. Read more here: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>.

For more information on academic accommodation, please visit: <https://students.carleton.ca/services/accommodation/>.

Academic Consideration for Medical and Other Extenuating Circumstances

Due to medical and other extenuating circumstances, students may occasionally be unable to fulfill the academic requirements of their course(s) in a timely manner. The University supports the academic development of students and aims to provide a fair environment for students to succeed academically. Medical and/or other extenuating circumstances are circumstances that are beyond a student's control, have a significant impact on the student's capacity to meet their academic obligations, and could not have reasonably been prevented.

Students must contact the instructor(s) as soon as possible, and normally no later than 24 hours after the submission deadline for course deliverables. If not satisfied with the instructor's decision, students can conduct an "informal appeal" to the Chair of the department within three (3) working days of an instructor's decision. We have created a webform specifically for appeals to the Chair, which can be found here: <https://carleton.ca/law/application-for-review-of-refusal-to-provide-academic-consideration/>. *Note: This form only applies to LAWS courses and is not the same as a formal appeal of grade.* More information about the academic consideration can be found [here](#).