

Course Outline

COURSE:	LAWS 4603C – Transitional Justice
TERM:	Winter 2024
PREREQUISITES:	LAWS 2908 or PAPM 3000 and fourth-year Honours standing.
CLASS:	Day & Time: Fridays, 14:35 to 17:35 Room: Please check Carleton Central for current class schedule.
INSTRUCTOR:	Dr. Elham Gharji
CONTACT:	Office Hrs: By appointment Email: ElhamGharji@cunet.carleton.ca

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 the 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 ethical and functional assumption in transitional justice theory is that there will be no peace without justice and 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 accountability, healing and reconciliation. Students will learn about historical and philosophical origins of transitional justice, truth and reconciliation, reparation, amnesty and prosecution of war criminals as well as institutional reforms as part of the process and politics of transitional justice, while discussing case studies from around the world.

REQUIRED TEXTS

Reading materials will be provided electronically on the Brightspace platform.

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:

Attendance & participation: 30%

Group Presentation: 30%

Case study report: 40%

- 1. Attendance and participation:** This course will be delivered in the format of a seminar; therefore, attendance and participation are key to the students' success in this course. 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 to share during the class discussions.
- 2. Group Presentation:** Students will be graded for delivering a group presentation covering the weekly reading materials. On the second week of the term, the students will choose a theme/topic of their choice from the course calendar and form a group of 2-3 persons. They will work together and prepare a 30-minutes presentation highlighting key points and arguments of the reading materials, and provide a brief commentary on the readings. The commentary can include a critical reflection or an important takeaway from the reading materials, and must include a few questions to facilitate class discussion.
- 3. Case study report:** As your term assignment, each student will be required to identify and select (in consultation with the instructor) a transitional justice country case by **March 1st**, and compile a case study report describing:
 - The historical background and nature of conflict or violation (civil war, ethnic cleansing, genocide, sectarian violence, crimes committed as a result of settler colonialism, etc);
 - Documentation of abuse and parties involved;

- The transitional justice processes and mechanisms pursued or being pursued
- Key challenges affecting transitional justice process;
- Your analysis of the case explaining how your findings tie to the academic debates in transitional justice literature - the reading materials for the course.

Case study report submission guideline:

The case study report must follow a word limit of **3500 to 4000 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 April 10th** by 12:00 midnight. A final paper workshop will take place in class on March 15th.

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/wp-content/uploads/self-declaration.pdf>.

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>

SCHEDULE**Session 1 (January 12): Introduction**

The instructor will introduce the course outline and course 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.

Session 2 (January 19): What is Transitional Justice?

Required readings:

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

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

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

Session 3 (January 26): Transitional Justice: International legal dimension

Required readings:

Iverson, J. (2013). Transitional Justice, *Jus Post Bellum* and International Criminal Law: Differentiating the Usages, History and Dynamics, *International Journal of Transitional Justice*, 7, 413–33.

Obiora Chinedu O. and Uchechukwu N. (2015). The International Criminal Court as a ‘Transitional Justice’ Mechanism in Africa: Some Critical Reflections, *International Journal of Transitional Justice*, 9, 90–108.

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

Session 4 (February 2): Addressing 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.

Pugh, Jeffery D. (2019) Eroding the Barrier between Peace and Justice: Transitional Justice Mechanisms and Sustainable Peace. *International Journal of Peace Studies*, vol. 24, no. 1, pp. 1-

Session 5 (February 9): Truth and Reconciliation

Required readings:

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

Moon, C. (2006). Narrating Political Reconciliation: Truth and Reconciliation in South Africa. *Social and Legal Studies*, 15, 257–275.

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.

Session 6: (February 16) 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.

Session 7 (February 23): Winter Break – No Class

Session 8 (March 1): 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.

Affolter, Friedrich W., et al. (2020). Transitional Justice and Children, *Handbook of Political Violence and Children*, Oxford University Press.

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

Session 9 (March 8): Preventing Atrocities: Institutional Reform

Required readings:

Basil F. (2014). Institutional Reforms as an Integral Part of a Comprehensive Approach to Transitional Justice. *The International Journal of Transitional Justice*, vol. 8(2): 187

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
<http://www.jstor.org/stable/j.ctv6zdc0t.4>.

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.

Session 10 (March 15): The War on Terror and Transitional Justice: Lessons learned from Afghanistan

This week, we will have a guest speaker to talk about the War on Terror and Transitional Justice in Afghanistan in the first half of the session.

In the second half of the session, we will workshop students' case study reports.

Background reading:

Saeed, H. and Parmentier, S. (2017). When Rabbits Are in Charge of Carrots: Land Grabbing, Transitional Justice and Economic-State Crime in Afghanistan. *State Crime Journal* 6(1), 13–36.

Session 11 (March 22): 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

Session 12 (March 29) Statuary Holiday – University Closed.**Session 13 (April 5): Never again: The politics of memory and 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.

<http://www.jstor.org/stable/26177897>.

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.

<http://www.jstor.org/stable/43823427>.

Session 14 (April 10):

This date follows a Friday schedule.

Diaspora activism and transnational accountability in Transitional Justice processes*Required Readings*

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

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

University and Departmental Policies

DEPARTMENT POLICIES AND REGULATIONS

Please review the following webpage to ensure that your practices meet our Department's expectations, particularly regarding standard departmental protocols and academic integrity requirements: <https://carleton.ca/law/student-experience-resources/>.

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.

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://students.carleton.ca/services/empower-me-counselling-services>
- Good2Talk: 1-866-925-5454, <https://good2talk.ca/>
- The Walk-In Counselling Clinic: <https://walkincounselling.com>

ACADEMIC ACCOMMODATIONS

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

Pregnancy 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 accommodation

regarding a formally-scheduled final exam, you must complete the Pregnancy Accommodation Form that can be found at:

<https://carleton.ca/equity/contact/form-pregnancy-accommodation/>

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/>.