

Course Outline

COURSE:	LAWS 4603A — Transitional Justice
TERM:	Summer 2024
PREREQUISITES:	LAWS 2908 or PAPM 3000 and fourth-year honours standing
CLASS:	Day/Time: Tuesday and Thursday, 11:35 am — 2:25 pm Online Synchronous
INSTRUCTOR:	Prof. Umut Özsü
CONTACT:	Office Thursday, 10:35 pm— 11:25 am (drop-in online office Hours: hours) Email: Umut.Ozsü@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

The subject of a large and varied body of academic and policy-oriented writing, “transitional justice” is the set of norms, practices, and mechanisms with which states that have shifted from one mode of political administration to another attempt to take stock of legacies of violence, repression, or systemic discrimination. The “justice” that is devised for such periods of “transition” typically relies upon both domestic and international law, and is premised upon some combination of the following elements: institutional reforms, reparations initiatives, large-scale criminal prosecutions, investigations into pervasive human rights violations, and the establishment of commissions for the ascertainment of “truth” and the facilitation of societal “reconciliation”.

This course provides an interdisciplinary introduction to key debates concerning transitional justice. We will grapple with the theoretical content and political significance of transitional justice, examine its domestic and international legal dimensions, and study its operation in a variety of different national and regional contexts.

REQUIRED TEXT

All required readings are available online, via the Carleton University Library, or will be made available on Brightspace. As a result, you do not need to purchase any text for this course.

EVALUATION

There are four formal evaluation components to this course:

Research paper: 40% (due midnight on Tuesday, 18 June 2024)

Response note: 20% (due midnight on Tuesday, 28 May 2024)

Presentation: 20%

Class participation: 20%

These formal evaluation components are structured as follows:

1. Research paper: The research paper must be between 3500 and 4000 words in total (including notes). It must have a clear thesis, be driven by a structured argument, and provide a sustained analysis of at least one of the issues or debates that we have examined in the course. While you must engage with some of the literature that we have studied, you will be expected to conduct independent research. For detailed guidelines, please consult the “Advice on Writing Assignments” document with which you have been provided alongside this syllabus. (This document is also available on Brightspace.)

Do not submit the research paper late. A grade reduction of 5% will apply for every 24 hours that the paper is late. (This includes weekends.) Extensions will be accorded only under appropriate circumstances, such as illness or death of a family member. Whenever applicable, appropriate documentation must accompany requests for extensions.

2. Response note: The response note must be 1500 words in total (including notes). It is intended to give you an opportunity to analyze—carefully but concisely—one of the required pieces of assigned reading that appears on this syllabus. You are not expected to recapitulate the author’s various points at great length. Indeed, limiting yourself to such recapitulation will almost certainly result in a grade reduction. Rather, you are expected to engage critically with the author’s theoretical approach and central argument in light of the materials that we have studied, and to do so with a view to evaluating their strengths and weaknesses. For detailed guidelines, please consult the “Advice on Writing Assignments” document with which you have been provided alongside this syllabus. (This document is also available on Brightspace.)

Do not submit the response note late. A grade reduction of 5% will apply for every 24 hours that the note is late. (This includes weekends.) Extensions will be accorded only under appropriate circumstances, such as illness or death of a family member. Whenever applicable, appropriate documentation must accompany requests for extensions.

3. Presentation: You are required to prepare and deliver a twenty-minute-long presentation. Your presentation must relate to one of the required pieces of assigned reading that we will be discussing. (You will choose the piece of assigned reading that you will be presenting during our first or second session.) You will be expected to outline the article’s central argument and theoretical orientation, discuss its various strengths and weaknesses, and pose questions for general class discussion.

4. Class participation: Class participation will be assessed on the basis of your attendance in class and demonstrated familiarity with assigned readings, as manifested through the frequency with which you engage in serious and sustained discussion.

IMPORTANT DATES

For your reference, the Academic Year (Graduate and Undergraduate Studies) Calendar can be found [here](#).

SUPPLEMENTARY NOTE

Please note that there will be *no* make-up assignments or “grade-booster” assignments under any circumstances. Failure to complete *all* assignments in the course will result in a failing grade for the course. Deferrals are granted by the Registrar’s Office.

Please also note that standing in a course is determined by the course instructor subject to the approval of the Department of Law and Legal Studies and the Dean of the Faculty of Public Affairs. 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 dean.

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

SCHEDULE

Session I [Tuesday, 7 May 2024]—Introductory session

[No assigned readings.]

Session II [Thursday, 9 May 2024]—What (and when) is “transitional justice”?

International Center for Transitional Justice, “What is Transitional Justice?”, available [here](#).

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

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

Hannah Franzki and Maria Carolina Olarte, “Understanding the Political Economy of Transitional Justice: A Critical Theory Perspective” in *Transitional Justice Theories*, ed. Susanne Buckley-Zistel, Teresa Koloma Beck, Christian Braun, and Friederike Mieth (Abingdon: Routledge, 2014), 201–21.

Session III [Tuesday, 14 May 2024]—International legal dimensions of transitional justice

Rome Statute of the International Criminal Court, UN Doc. A/CONF.183/9 (1998), available [here](#).

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

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

Session IV [Thursday, 16 May 2024]—After the Second World War

Gary Jonathan Bass, *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals* (Princeton: Princeton University Press, 2000), ch. 5.

B. V. A. Röling, *The Tokyo Trial and Beyond: Reflections on a Peacemonger*, ed. Antonio Cassese (Cambridge: Polity Press, 1993) at 1–6, 19–91.

Session V [Tuesday, 21 May 2024]—After *apartheid*

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

Claire Moon, “Narrating Political Reconciliation: Truth and Reconciliation in South Africa” 15 (2006) *Social and Legal Studies* 257–75.

Matthew Evans, “Land and the Limits of Liberal Legalism: Property, Transitional Justice and Non-Reformist Reforms in Post-Apartheid South Africa” 48 (2021) *Review of African Political Economy* 646–55.

Session VI [Thursday, 23 May 2024]—Case studies: Morocco, Rwanda, Tunisia

Susan Thomson, “The Darker Side of Transitional Justice: The Power Dynamics Behind Rwanda’s *Gacaca* Courts” 81 (2011) *Africa* 373–90.

Susan Slyomovics, “The Moroccan Equity and Reconciliation Commission: The Promises of a Human Rights Archive” 24 (2016) *Arab Studies Journal* 10–41.

Corinna Mullin, Nada Trigui, and Azadeh Shahshahani, “Decolonizing Justice in Tunisia: From Transitional Justice to a People’s Tribunal” 71 (2019) *Monthly Review*, available [here](#).

Session VII [Tuesday, 28 May 2024]—Latin America

Cath Collins, “Human Rights Trials in Chile During and After the ‘Pinochet Years’” 4 (2010) *International Journal of Transitional Justice* 67–86.

Greg Grandin, “The Instruction of Great Catastrophe: Truth Commissions, National History, and State Formation in Argentina, Chile, and Guatemala” 110 (2005) *American Historical Review* 46–67.

Ari Edward Gandsman, “Retributive Justice, Public Intimacies and the Micropolitics of the Restitution of Kidnapped Children of the Disappeared in Argentina” 6 (2012) *International Journal of Transitional Justice* 423–43.

Session VIII [Thursday, 30 May 2024]—The “post-communist world”

Kora Andrieu, “An Unfinished Business: Transitional Justice and Democratization in Post-Soviet Russia” 5 (2011) *International Journal of Transitional Justice* 198–220.

Władysław Bułhak, “In Search of Political Justice, 1939–2000: From the Main Commission for the Investigation of German Crimes in Poland to the Institute of National Remembrance” in *Political and Transitional Justice in Germany, Poland and the Soviet Union from the 1930s to the 1950s*, ed. Magnus Brechtken, Władysław Bułhak, and Jürgen Zarusky (Göttingen: Wallstein Verlag, 2019), 179–93.

Kirsten Campbell, “The Gender of Transitional Justice: Law, Sexual Violence and the International Criminal Tribunal for the Former Yugoslavia” 1 (2007) *International Journal of Transitional Justice* 411–32.

Boris Kagarlitsky, “Boris Berezovsky and the Triumph of Historical Justice” *Counterfire* (26 March 2013), available [here](#).

Session IX [Tuesday, 4 June 2024]—Canada

Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (2015), available [here](#), “Introduction”, “Commission Activities”, and “Calls to Action”.

Rosemary Nagy, “The Truth and Reconciliation Commission of Canada: Genesis and Design”

29 (2014) *Canadian Journal of Law and Society* 199–217.

Pamela Palmater, “Genocide, Indian Policy, and Legislated Elimination of Indians in Canada” 3 (2014) *Aboriginal Policy Studies* 27–54.

National Inquiry into Missing and Murdered Indigenous Women and Girls, *Supplementary Report—Genocide*, available [here](#).

Umut Özsu, “Genocide as Fact and Form” 22 (2020) *Journal of Genocide Research* 62–71.

Session X [Thursday, 6 June 2024]—Memory

Jan-Werner Müller, “East Germany: Incorporation, Tainted Truth, and the Double Division” in *The Politics of Memory: Transitional Justice in Democratizing Societies*, ed. Alexandra Barahona De Brito, Carmen González-Enríquez, and Paloma Aguilar (Oxford: Oxford University Press, 2001) 248–74.

Omar G. Encarnación, “Reconciliation after Democratization: Coping with the Past in Spain” 123 (2008) *Political Science Quarterly* 435–59.

Dirk Moses, “The Canadian Museum for Human Rights: The ‘Uniqueness of the Holocaust’ and the Question of Genocide” 14 (2012) *Journal of Genocide Research* 215–38.

Arundhati Roy, “Intimations of an Ending” *The Nation* (13 January 2020), available [here](#).

Session XI [Tuesday, 11 June 2024]—Reparations

Thembele Kepe and Ruth Hall, “Land Redistribution in South Africa: Towards Decolonisation or Recolonisation?” 45 (2018) *Politikon: South African Journal of Political Studies* 128–37.

Zina Miller, “Effects of Invisibility: In Search of the ‘Economic’ in Transitional Justice” 2 (2008) *International Journal of Transitional Justice* 266–91.

Benoit Mayer, “Climate Change Reparations and the Law and Practice of State Responsibility” 7 (2017) *Asian Journal of International Law* 185–216.

Adolph Reed Jr., “The Case Against Reparations” (2000) *The Progressive*, available [here](#).

Session XII [Thursday, 13 June 2024]—Discussion of Research Papers

Summer 2024 Sessional Dates and University Closures	
<i>Please find a full list of important academic dates on the calendar website: https://calendar.carleton.ca/academicyear/</i>	
May 6, 2024	Early summer and full summer term begins.
May 10, 2024	Last day for registration and course changes (including auditing) for early summer courses.
May 17, 2024	Last day for registration and course changes (including auditing) for full summer courses.
	Last day to withdraw from early summer courses with a full fee adjustment (financial withdrawal).
May 20, 2024	Statutory holiday. University closed.
May 31, 2024	Last day to withdraw from full summer courses with a full fee adjustment (financial withdrawal).
June 1, 2024	Last day to request Formal Examination Accommodation for June examinations to the Paul Menton Centre for Students with Disabilities.
	Last day for academic withdrawal from early summer courses.
June 11, 2024	Last day for summative tests or examinations, or formative tests or examinations totaling more than 15% of the final grade in early summer term undergraduate courses before the official examination period (see examination regulations in the Academic Regulations of the University section of the Undergraduate Calendar/General Regulations of the Graduate Calendar).
June 18, 2024	Last day of early summer classes.
	Last day for handing in term assignments, subject to any earlier course deadline and the last day that can be specified by a course instructor as a due date for term work for early summer courses.
June 21-27, 2024	Final examinations in early summer courses and mid-term examinations in full summer courses will be held.
June 27, 2024	All final take-home examinations are due on this day, with the exception of those conforming to the examination regulations in the Academic Regulations of the University section of the Undergraduate Calendar/General Regulations of the Graduate Calendar.
July 1, 2024	Statutory holiday. University closed.
July 2, 2024	Late summer courses begin and full summer classes resume.

July 8, 2024	Last day for registration and course changes (including auditing) for late summer courses.
July 15, 2024	Last day for a full fee adjustment when withdrawing from late summer courses (financial withdrawal).
August 1, 2024	Last day for academic withdrawal from full and late summer courses.
	Last day to request Formal Examination Accommodation for August examinations to the Paul Menton Centre for Students with Disabilities.
August 5, 2024	Civic holiday. University closed.
August 7, 2024	Last day for summative tests or examinations, or formative tests or examinations totaling more than 15% of the final grade in late summer and full summer term undergraduate courses, before the official examination period (see examination regulations in the Academic Regulations of the University section of the Undergraduate Calendar/General Regulations of the Graduate Calendar).
August 14, 2024	Last day of late summer and full summer classes.
	Classes follow a Monday schedule.
	Last day for handing in term assignments, subject to any earlier course deadline.
August 17-23, 2024	Final examinations in full summer and late summer courses will be held.
August 23, 2024	All final take-home examinations are due on this day, with the exception of those conforming to the examination regulations in the Academic Regulations of the University section of the Undergraduate Calendar/General Regulations of the Graduate Calendar.

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 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](#).