

**JUSTICE AND RECONCILIATION**  
**SIS-613-001**  
**Spring 2018**

American University  
School of International Service  
Spring 2018  
Thurs: 5:30-8:00PM  
Room: SIS 113

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Office Hours: Mon. 11:30AM-3:30PM

**COURSE DESCRIPTION:**

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This course facilitates a critical assessment of Justice and reconciliation in conflict and post-conflict settings. It focuses primarily on different and sometimes competing, sometimes complimentary forms of transitional justice, namely prescriptions for the imperative of prosecuting those responsible for mass human rights violations of the past versus the need to facilitate some form of national reconciliation. After an initial introduction to the key theoretical frameworks and debates in the field, the course pursues the subject through a series of contemporary case studies, ranging from South Africa often cited as the quincunial restorative justice success story to Syria were prospects of achieving any significant form justice and reconciliation appear far removed from the present. Through these case studies, students are exposed to the different types of traditional and non-traditional forms of transitional justice, the role of gender, ethnicity and class in these processes, and the domestic and international politics which often shape the formulation and outcomes of transitional justice processes.

**LEARNING OUTCOMES:**

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At the end of the course, students should be able to:

- Identify and gain an understanding of the different approaches to and frameworks for transitional justice
- Assess when the objectives of justice and reconciliation may be mutually exclusive and when they may be complimentary
- Gain familiarity with and analyze the critiques of various approaches to achieving justice and reconciliation in conflict and post-conflict settings.
- Assess the gaps between theory and practice in the field and how them may be better bridged.
- Discuss prospects for justice and reconciliation through a more contextualized and critical lens.

- Gain a deeper appreciation for the complexity and multiple dimensions of the relationship between reconciliation and justice in conflict and post conflict contexts as well as the challenges and opportunities involved.

### **COURSE POLICIES:**

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1. Students are encouraged to bring laptops to class but for use in specified assignments only. Students may not use laptops during class in all other circumstances (i.e. students should not be using their laptops during lectures, class discussions, group discussions etc. unless otherwise directed to do so). The only exception to this policy is in cases in which a student has a documented special need to use one. Bring pen and paper to take hand-written notes.
2. Students are expected to attend class regularly. Excessive absences may result in grade deductions or an “X” grade for the semester.
3. Extensions are granted only in cases of documented illness or special need. Late papers are docked five points for every day they are late.

### **GRADE RANGE:**

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“A” : 93.5 and above (Excellent, Surpasses Expectations)  
 “A-“ : 89.5- 93.49%  
 “B+“: 86.5- 89.49%  
 “B“: 83.5- 86.49% (Good, Meets Expectations)  
 “B-“: 79.5-83.49%  
 “C+“: 76.5-79.49%  
 “C” : 73.5-76.49% (Meets Most, but not all Expectations)  
 “C-“: 69.5-73.49%  
 “D“: 59.5-69.49  
 “F“: 59.49 and below (Failed to Meet Any Minimum Expectations)

### **COURSE REQUIREMENTS:**

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The grade for this course will be comprised of the following:

| <u>Category</u>     | <u>Points</u> |
|---------------------|---------------|
| Class Participation | 25%           |

|                           |      |
|---------------------------|------|
| Reading Reflection Papers | 25%  |
| Class Presentation        | 25%  |
| Final Paper               | 25%  |
|                           | ---- |
| Total                     | 100% |

### **Class Participation**

This course relies heavily on student participation. Ten percent of your grade is derived from your contributions to class discussions, debates and exercises. A prerequisite for quality class participation is preparation. Thus, while not every discussion will relate to assigned readings, a significant part of this grade will be derived from your contributions that are clearly informed by the assigned readings. See this rubric for how class participation will be evaluated at

<http://www46.homepage.villanova.edu/john.immerwahr/TP101/EvDay/discussion%20rubric.pdf>

There are two ways for students to participate. All entail attending class, preparing for class by completing the reading assignments and engaging with course concepts.

- 1. In Larger Class Discussions:** making comments that are relevant, reflect some understanding of the assigned readings and contributing to moving the class' discussion forward. We will frequently hold small group activities or exercises. Your active and meaningful participation in these small groups can also count towards your participation grade.
- 2. On the Class Blog:** You can participate by posting brief reflections, comments or questions relating to the assigned reading material or the previous class' discussions on Piazza. **Your comments must be posted by midnight, the night before each class.**

### **Reading Reflection Papers**

You are to submit four 500-word analyses of the readings on four weeks of your choosing. A hard copy of the assignment is due at the beginning of class—and cannot be turned in late since we will discuss the material in class.

**“You Teach the Class” Presentations**

Each of you will sign up for a topic and date in which you will be making a 15 minute presentation to the class.

Broadly, here is what I am looking for in these presentations:

1. Provide students with key significant information and context about your topic. Be careful you are not providing information we already have from previous class discussions or readings. You will lose your audience (and points) if you do not adequately orient them and you will lose your audience (and points) if you provide redundant information.
2. Make connections to course concepts and discussions but make sure you are also bringing a new dimension to the class through your presentation.
3. Provide analysis by drawing out the significance of the facts you lay out, identify critiques, dilemmas and contradictions encompassed.
4. If broader topic, zoom in on a particular aspect or theme which allows you to dig deeper.
5. Use a Powerpoints and make sure most of your slides have images. You will be graded not only on the content of your presentation, but also the time spent on preparing the Powerpoint such that it is engaging.
6. Engage the class through at least one question that fosters discussion and critical thinking by your classmates.
7. Above all else, make sure the presentation is interesting, engaging and educational to your classmates! Fifteen minutes can be both a very short time for you and very long time for your classmates if your presentation is not concise, organized and well designed! Please be considerate of your classmates' time.

This is an exercise in developing your presentation skills. Please keep in mind the following:

1. Practice your presentations enough times that it flows and you are clearly familiar and comfortable with the material.
2. Get the most important points across concisely.
3. You should primarily be looking at your audience. Do not look at the projector screen, your laptop screen or your notes for more than a few seconds at a time if need be.
4. Your voice and demeanor should convey energy and interest in the topic.
5. You should not put too much written information on slides. Most slides should have relevant images.

**Final Papers Due on the Last Day of Class, April 26, 2018**

Students are to write a 10 page analytical paper on a topic of your choosing. The topic should be e-mailed to the instructor for approval **no later than March 31<sup>st</sup>**. They will be graded based on the following criteria:

- Your development of a research question and thesis within the parameters of the topic assigned to you.
- Quality of your research: There is a wealth of information you can find on the internet and I expect you to incorporate information found on-line research into your paper. **However, if your paper is limited to internet-based research and non-academic sources, you will not meet the requirements for the paper.** In addition to such more empirical on-line research, I expect you to have consulted at least five scholarly sources for your paper. Scholarly sources are academic journal articles and books which you will generally have access to through the library.
- Quality of analysis. This includes your ability to link your writing to course concepts and display multi-dimensional and critical thinking in your treatment of the topic.
- Proper grammar, punctuation, good word choice and sentence construction. This will usually mean allowing enough time to edit your paper and investing time and effort on not only the content of your paper, but the writing as well.
- Organization of your paper. The paper has an appropriate length introduction and conclusion. Ideas are organized into appropriate length paragraphs. There is a logical order to the way paragraphs are organized.
- Proper citation. You can use any conventional citation system but please ensure you do so properly and consistently. Make sure you are citing any ideas you are taking from other sources, even if you are using your own words in presenting them.

**COURSE SCHEDULE:**

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All Readings will be made available on Blackboard.

This is a tentative list of class readings. Please consult the google docs list of assigned readings before beginning each week's readings where changes will be reflected.

**Jan 18 (Session 1): Course Overview and Introductions**

**Jan 25 (Session 2): On Justice and Reconciliation**

## Reading Assignment:

- International Center for Transitional Justice, “The Place of Reconciliation in Transitional Justice” (June 2017). Available at <https://www.ictj.org/sites/default/files/ICTJ-Briefing-Paper-Reconciliation-TJ-2017.pdf>
- Robert C. Soloman and Marc C. Murphy, “Introduction” in Robert C. Soloman and Marc C. Murphy eds. *What is Justice? Classic and Contemporary Readings* (Oxford, 2000).
- Johan Galtung. “After Violence, Reconstruction, Reconciliation, and Resolution: Coping with Visible and Invisible Effects of War and Violence” and Abu-Nimer, et. al. “The Long Road to Reconciliation” in Abu-Nimer Mohammed. *Reconciliation, Justice, and Coexistence: Theory and Practice*, New York: Rowman and Littlefield, 2001.
- “The Mechanics of Reconciliation” in Daly Erin and Sarkin, Jeremy (Eds.) *Reconciliation in Divided Societies: Finding Common Ground*. UPEN Press. 2010

**Feb 1 (Session 3): Overview, Debates and Critiques of Transitional Justice**

## Reading Assignment:

- Kerr, Rachel and Eirin Mobekk. “Chapter 6: Truth Commissions” *Peace & Justice: Seeking Accountability After War* (Cambridge: Polity Press, 2007). Pages 128-149.
- Nigel Biggar. *Making Peace or Doing Justice: Must We Choose?* Biggar, Nigel. (ed.). *Burying the Past: Making Peace and Doing Justice After Civil Conflict*. Washington, D.C.: Georgetown University Press, 2001.
- Leebaw, Bronwyn Anne. “The Irreconcilable Goals of Transitional Justice.” *Human Rights Quarterly* 30.1 (February 2008): 95-118.
- Robinson and Hudson. *Restorative Justice: Typology and Critical Appraisal*. *Willamette Journal of International Law and Dispute Resolution*, Vol. 23, Issue 2 (2016), pp. 335-366.
- “Introduction” in Shaw, Rosalind and Lars Waldorf, eds. 2010. *Localizing Transitional Justice*. Stanford: Stanford University Press
- Kris Brown and Fionnuala Ní Aoláin. *Through the Looking Glass: Transitional Justice Futures through the Lens of Nationalism, Feminism and Transformative Change*. *International Journal of Transitional Justice*. 2015, 9, 127-149.

**Feb 8 (Session 4): Retributive Justice**

## Reading Assignment:

- Orenlichter, Diane F. "Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime." *The Yale Law Journal* 100.8 (June 1991): 2537-2615. **Read Only: 2539-2551**
- Chapter 1 in Kathryn Sikkink, *The Justice Cascade* (W.W. Norton, 2011).
- Kerr, Rachel and Eirin Mobekk. "Chapter 2: Ad Hoc International Tribunals: The ICTY and ICTR" *Peace & Justice: Seeking Accountability After War* (Cambridge: Polity Press, 2007). Pages 30-54.
- Humphrey, Michael. "International Intervention, Justice and National Reconciliation: The Role of the ICTY and ICTR in Bosnia and Rwanda." *Journal of Human Rights* 2.4 (December 2003): 495-505.
- Kerr, Rachel and Eirin Mobekk. "Chapter 3: The International Criminal Court," *Peace & Justice: Seeking Accountability After War* (Cambridge: Polity Press, 2007). Pages 58-77.

## Student Presentation Topics:

1. Key legal precedents, transitional justice achievements and controversies of the ICTY
2. Key legal precedents, transitional justice achievements and controversies of the ICTR
3. Key achievements, promise and critiques of the ICC.

**Feb 15 (Session 5): South Africa**

## Reading Assignment:

- Van Zyl, Paul. "Dilemmas of Transitional Justice: The Case of South Africa's Truth and Reconciliation Commission." *Journal of International Affairs* 52.2 (Spring 1999): 647-667.
- Anthea Jeffery, "The Truth About the Truth Commission." *Human Rights* 19 (Spring 2000): 19-23.
- Gibson, James L. "The Contributions of Truth to Reconciliation: Lessons from South Africa." *Journal of Conflict Resolution* 50 (2006): 409-432
- Richard A. Wilson, Justice and Legitimacy in the South African Transition, in *THE POLITICS OF MEMORY* 190 (2001).

- James L. Gibson, Does Truth Lead to Reconciliation? Testing the Causal Assumptions of the South African Truth and Reconciliation Commission Process, 48 AM. J. POL. SCI. 201 (2004). Read: 201-202, 202-208 (end just before “Alternative Explanations of Truth and Reconciliation”), 215-216. [website]
- Judith Renner. “The Local Roots of the Global Politics of Reconciliation: The Articulation of ‘Reconciliation’ as an Empty Universal in the South African Transition to Democracy” 42 (2014) Millennium: Journal of International Studies 263-85.

#### Student Presentation Topics:

1. Development and Distributive Justice in Transitions: Should Transitional Justice Processes Address Structural Violence and Social and Economic Rights Violations?
2. Attempts at Transitional Justice in Zimbabwe

#### **Feb 22 (Session 6): Rwanda**

#### Reading Assignment:

- Sarkin, Jeremy. “The Tension Between Justice and Reconciliation in Rwanda: Politics, Human Rights, Due Process and the Role of the Gacaca Courts in Dealing With the Genocide.” Journal of African Law 45.2 (2001): 143-172.
- Lars Waldorf, Mass Justice for Mass Atrocity: Rethinking Local Justice as Transitional Justice, 79 TEMPLE L. REV. 1 (2006). Read: 26-28
- Timothy Longman & Théonèste Rutagengwa, Memory, Identity & Community in Rwanda, in MY NEIGHBOR, MY ENEMY: JUSTICE AND COMMUNITY IN THE AFTERMATH OF MASS ATROCITY 162 (Eric Stover & Harvey M. Weinstein eds., 2004).
- Chi Mgbako, Ingando Solidarity Camps: Reconciliation and Political Indoctrination in Post-Genocide Rwanda, 18 HARV. HUM. RTS. J. 201 (2005)
- Susan Thomson, “The Darker Side of Transitional Justice: The Power Dynamics Behind Rwanda’s Gacaca Courts” 81 (2011) Africa 373-90.
- Christopher J. Le Mon, Rwanda’s Troubled Gacaca Courts, 14 HUM. RTS. BRIEF 16 (2007).



## Student Presentation Topics:

1. Gender and Transitional Justice in Rwanda
2. Northern Uganda and Informal Traditional Approaches to Reconciliation
3. East Timor's Community Reconciliation Process

**Feb 29 (Session 7): Israel/ Palestine**

## Reading Assignment:

- Nadim N. Rouhana 'Reconciling History and Equal Citizenship in Israel: Democracy and the Politics of Historical Denial' in Will Kymlicka and Bashir Bashir. (Eds.). *The Politics of Reconciliation in Multicultural Societies*. (Oxford: Oxford University Press, Forthcoming)
- - Rouhana, Nadim (2005) "Truth and Reconciliation: The Right of Return in the Context of Past Injustice". Ann M. Lesch and Ian S. Lustick (Eds.) *Exile and Return Predicaments of Palestinians and Jews*. Pennsylvania University Press, pp. 106-132.

## Student Presentation Topics:

1. Morocco's Truth Commission, Between Co-option and Justice
2. The Promise and Politics of Transitional Justice in Tunisia
3. Bridging the Islamist-Secular Divide in Egypt

**Mar 8 (Session 8): Guatemala and Columbia**

## Reading Assignment:

TBA

## Student Presentation Topics:

1. Assessing the Salvadoran Transitional Justice Experience
2. Chile and Pinochet's Fate- From Immunity Pact to Prosecution
3. Argentina and the Mothers of the Plaza de Mayo

**Mar 15 (No Class: Spring Break)****March 22 (Session 9): Ireland: Bottom-Up Transitional Justice?**

## Reading Assignment:

- Lundy, Patricia and Mark McGovern. "Whose Justice? Rethinking Transitional Justice from the Bottom Up." *Journal of Law and Society* 35.2 (June 2008): 265-292.
- Aiken, Nevin T. "Learning to Live Together: Transitional Justice and Intergroup Reconciliation in Northern Ireland." *The International Journal of Transitional Justice* 4.2 (2010): 166-188.
- Bell, Christine. "Dealing with the Past in Northern Ireland." *Fordham International Law Journal* 26 (2002- 2003): 1095-1044.

Student Presentation Topics:

1. Germany, the Nuremberg Tribunals and Confronting the Legacy of the Holocaust
2. Assessing societal Transitional Justice Outcomes in the Former Yugoslavia

**March 29 (Session 10): Canada and its Aboriginal Population**

Reading Assignment:

- 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 at: [http://www.myrobust.com/websites/trcinstitution/File/Reports/Executive\\_Summary\\_English\\_Web.pdf](http://www.myrobust.com/websites/trcinstitution/File/Reports/Executive_Summary_English_Web.pdf)
- "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.
- John Borrows, "Residential Schools, Respect, and Responsibilities for Past Harms" 64 (2014) *University of Toronto Law Journal* 486-504.

Student Presentation Topics:

1. Reparations for Slavery and Race, Justice and Reconciliation in the United States
2. The United States and post-9/11 Human Rights Abuses

**April 5 (Session 11): Transitional Justice and Education in Sierra Leone**

\*Note I will be at a conference and Susan Shepler will be teaching this class.

Reading Assignment:

TBA

**April 12 (Session 12): Some Conclusions about Justice and Reconciliation and Considering the Future of Transitional Justice**

Reading Assignment:

TBA

Student Presentation Topics:

1. Prospects for Justice and Reconciliation in Syria

**April 19 (Session 13): Brief Presentation of Your Final Papers****April 26 (Session 14): Course Wrap-Up/ Final Papers Due****ACADEMIC INTEGRITY CODE:**

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Standards of academic conduct are set forth in the University's Academic Integrity Code. By registering, you have acknowledged your awareness of the Academic Integrity Code, and you are obliged to become familiar with your rights and responsibilities as defined by the Code. Violations of the Academic Integrity Code will not be treated lightly, and disciplinary actions will be taken should such violations occur. Please see me if you have any questions about the academic violations described in the Code in general or as they relate to particular requirements for this course.

**EMERGENCY PREPAREDNESS FOR INTERRUPTION OF CLASSES:**

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In the event of an emergency, American University will implement a plan for meeting the needs of all members of the university community. Should the university be required to close for a period of time, we are committed to ensuring that all aspects of our educational programs will be delivered to our students. These may include altering and extending the duration of the traditional term schedule to complete essential instruction in the traditional format and/or use of distance instructional methods. Specific strategies will vary from class to class, depending on the format of the course and the timing of the emergency. Faculty will communicate class-specific information to students via AU e-mail and Blackboard, while students must inform their faculty immediately of any absence. Students are responsible for checking their AU e-mail regularly and keeping themselves informed of emergencies. In the event of an emergency, students should refer to the AU Student Portal, the AU Web site ([www.prepared.american.edu](http://www.prepared.american.edu)) and the AU information line at (202) 885-1100 for general university-wide information, as well as contact their faculty and/or respective dean's office for course and school/ college-specific information.