

Transitional Justice  
INTL/POLI 352-01  
Macalester College, Spring 2022, 4 credits

**Instructor:** Nadya Nedelsky

**Time:** Tues/Thurs 9:40-1:10 am

**Place:** Carnegie 411

**Office:** Carnegie 413

**Email:** [nedelsky@macalester.edu](mailto:nedelsky@macalester.edu) (note: I may not check email evenings and weekends)

**Office hours:** usually Tuesdays 11:30-12:30, Wednesdays 2:00-2:50, and by appointment (please use office hours link below my email signature to sign up, especially as sometimes the times will need to change)

This course focuses on thinking critically about the rapidly evolving field of transitional justice, examining how and why regimes respond to wide-scale past human rights abuses. Drawing on examples worldwide, it asks why states choose particular strategies and looks at a variety of goals (truth, justice, reconciliation, democracy-building), approaches (trials, truth commissions, file access, memorialization, reparation, rewriting histories), actors (state, civil society, religious institutions), experiences, results, and controversies.

Readings available via Moodle.

### **Assignments:**

#### Overview

1. Classroom engagement: 17.5%
2. Response paper: 17.5%
3. Constructive dialogue paper: 17.5%
4. Mid-term response essay: 17.5%
5. Informal presentation of final paper topic: 5%
6. Final paper: 25%

#### Details

### **1. Classroom engagement**

This is not a lecture course, and your contribution is valuable. If you have trouble speaking in class, please let me know, and we will work on strategies to make it easier for you. Because comfort level in speaking can vary widely according to group size, we will use a variety of formats for discussion/problem-solving. Please remember that there are no easy answers to the questions we are confronting, and keep all interactions respectful. And bear in mind that listening carefully to peers is as important to learning as speaking.

## 2. Response paper

You will sign up to write a 1.5-to-2-page response paper (single-spaced, with spaces between paragraphs) on one course reading. In this paper, you will use the Unpacking an Argument template (on Moodle) to critically engage with the piece, focusing on any elements of the template you choose. A Voicethread on Moodle explains it – please watch before you do the paper.

Your essay should concisely cover the following:

- What is the author’s core concern, and what is their main argument about it?
- What evidence does the author offer to support the argument?
- What are the central concepts [such as “reconciliation,” “justice,” “ethnicity,” “pluralism,” etc.] that sit at the heart of the argument? How is the author defining them? How do they relate to each other?
- In what significant ways does this text relate to prior readings for the course?
- What is your own evaluation of the text? You should devote **at least one substantial paragraph** to answering this question. As noted above, draw upon elements discussed within the Voicethread on Unpacking an Argument
- A final, challenging question you are left with, **linked to a specific quote** of your choice in the reading. **Please send this to me by 5 pm the night before class.** We may draw on these for class discussion (depending on time)

Keep in mind that discussion questions should be thought-provoking, answerable (at least speculatively), and not require factual knowledge beyond what we have covered in the course. Generative questions need a bit of crafting. They should not be answerable by a simple “yes” or “no,” but they should also not require, for example, knowledge of Slovenian parliamentary procedure or the ability to see into the future. Reasonable people should also be able to disagree about how to answer it – that’s part of what makes the discussion valuable. In phrasing it, ask yourself: how would *I* answer this question? Would I know where to begin? If not, revise it. Bottom line, questions should be challenging, but engaging and interesting and within the scope of what we’re learning about.

The paper is due on Moodle by class time on the day we discuss that reading. Please do not submit as a PDF.

## 3. Constructive dialogue paper

Transitional justice issues are, almost by their very nature, divisive in the countries that take them up. To work toward careful and balanced consideration of contending viewpoints, in this three-page paper, you will consider a controversial question related to the transitional justice method considered on a particular day (we will sign up early in the semester), and with regard to a case covered by the readings. This will require some

background research to ensure a sense of the competing claims; please consult and then cite at least three sources that articulate/discuss the viewpoints of the contending parties (these could, for example, be perpetrators vs. victims, different classes of victims, bystanders vs. others, political Right vs. Left, etc., depending on the situation).

At the top of the first page, identify the issue and which two parties/perspectives you are representing in the dialogue.

You should begin by posing the contentious issue in the form of a question. You will then write a dialogue between two intelligent, rational, fair-minded persons. You should have them address one another, make objections, raise questions, and offer alternatives, with both sides making the strongest arguments you can construct.

The paper should be single-spaced, with double-spaces between each participant's contributions to the dialogue. Due on Moodle by class time the day of the relevant topic.

#### **4. Mid-term response paper**

In this 2-page paper (single-spaced, with spaces between paragraphs), you will respond to a piece by Harvey M. Weinstein from the March 2011 issue of *The International Journal of Transitional Justice* titled "Editorial Note: The Myth of Closure, the Illusion of Reconciliation: Final Thoughts on Five Years as Co-Editor-in-Chief." Explain your purpose and then address the strengths and weaknesses of his argument, making note of relevant course literature and current events/recent developments, and keeping in mind the key planks of a critical assessment (see Unpacking an Argument template, and use the most beneficial elements). You should imagine that your essay will be printed in a subsequent issue of the *IJTJ*.

Due **Tuesday, March 8<sup>th</sup>** by 5 pm on Moodle. Please do not submit as a PDF.

#### **5. Final presentation**

During the last week of class, you will give a 5-minute presentation on your final paper to share the knowledge and analysis you have developed with the class. The presentation should offer an overview of all of your paper's components.

#### **6. Final paper**

The final paper is an 8-10-page essay on a transitional justice topic of your choosing. You can write a research paper, or you can address any theme/question that has interested you

this semester in a reflective paper. You can also combine research and reflection. A more detailed prompt is posted on moodle.

A peer consultation session will be held Tues, **April 19<sup>th</sup>**. At that point, I would like you to know your final paper topic, have done initial research on it (if a research topic -- but also some of the reflection topics need some research, if for example you're considering what TJ might look like in your home community), and have considered which course readings are relevant to your topic. Please also think of problems/questions/issues you're having with the paper so you're ready to ask for specific help/suggestions from your peers.

Due Monday, **May 2<sup>nd</sup>**, via Moodle and hard copy, by 4 pm, at the I.S. office.

Grading scale:

100-94: A	89-87: B+	79-77: C+	69-61: D+
93-90: A-	86-83: B	76-73: C	60-59: D
	82-80: B-	72-70: C-	58-55: D-

Note: Plagiarized work will not be accepted and will incur significant penalties. If you are using someone else's ideas, words, or research, you **MUST** cite them properly.

Sustained engagement with the course is important. You may have 2 unexcused absences over the course of the semester. After this, absence will result in grade deduction.

Unless you have arranged an extension on a paper before the due date (and I am flexible on this, just ask me), each day late will incur a deduction of one letter grade.

Barring medical or family emergency, incompletes must be negotiated before the end of classes, and the paperwork filled out by the last day of class.

All papers should be delivered in hard copy as well as email.

I am committed to providing assistance to help you be successful in this course. Accommodations are available for students with documented disabilities. Contact the Assistant Dean of Students to make an appointment. Students are encouraged to address any accommodations with me as soon as you become aware of your needs. Additional information regarding the accommodations process for students with disabilities can be found at: <http://www.macalester.edu/studentaffairs/disabilityservices/>

**SCHEDULE:** (subject to change as necessary)

**Thurs, Jan 20:** Welcome to the course (zoom)

## **Part 1: Core concepts**

**Tues, Jan 25:** What is transitional justice?

- Phil Clark, "Establishing a Conceptual Framework: Six Key Transitional Justice Themes," in *After Genocide: Transitional Justice, Post-Conflict Reconstruction and Reconciliation in Rwanda and Beyond*, New York: Columbia University Press, 2009.
- Excerpt from David Satter, *It Was A Long Time Ago, And it Never Happened Anyway: Russia and the Communist Past*, New Haven and London: Yale University Press, 2012.

**Thurs, Jan 27:** What is guilt?

- Karl Jaspers, "Scheme of Distinction: Four Concepts of Guilt," in *The Question of German Guilt*, New York: Fordham University Press, Second Edition, 2001.

**Tues, Feb 1:** What is justice?

- Kirsten Ainley, "Evaluating the Evaluators: Transitional Justice and the Context of Values," *International Journal of Transitional Justice* [hereafter *IJTJ*], November 2017, 421-442.

**Thurs, Feb 3:** What is reconciliation? And how does it relate to justice?

- Audrey R. Chapman, "Approaches to Studying Reconciliation," in *Assessing the Impact of Transitional Justice: Challenges for Empirical Research*, Hugo van der Merwe, Victoria Baxter, and Audrey R. Chapman, eds., Washington DC: United States Institute of Peace, 2009.

## **Part 2: Key actors**

**Tues, Feb 8:** Perpetrators

- Scott Strauss, "Studying Perpetrators: A Reflection," *Journal of Perpetrator Research*, 2017, 28-38.

- Sibylle Schmidt, "Perpetrators' Knowledge: What and How Can We Learn from Perpetrator Testimony," *Journal of Perpetrator Research*, 2017, 85-104.

#### **Thurs, Feb 10: Victims**

- Huma Saeed, "Victims and Victimhood: Individuals of Inaction or Active Agents of Change? Reflections on Fieldwork in Afghanistan," *IJTJ*, 2016, 168-178.
- Ginn Fourie, "A Personal Encounter with Perpetrators," in *Looking Back Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa*, ed. Charles Villa-Vicencio and Wilhelm Verwoerd, Cape Town: University of Cape Town Press, 2000.
- Jean Baptiste Kayigamba, "Without Justice, No Reconciliation: A Survivor's Experience of Genocide," in *After Genocide: Transitional Justice, Post-Conflict Reconstruction and Reconciliation in Rwanda and Beyond*, ed. Phil Clark and Zachary D. Kaufman, New York: Columbia University Press, 2009.

#### **Tues, Feb 15: Bystanders**

- Steven K. Baum, "Bystanders," in *The Psychology of Genocide: Perpetrators, Bystanders, and Rescuers*, Cambridge: Cambridge University Press, 2008 (**short excerpt**).
- Stanley Cohen, "Bystander States," in *States of Denial: Knowing About Atrocities and Suffering*, Cambridge: Polity Press, 2001.

### **Part 3: Methods**

#### **Thurs, Feb 17: Trials**

- Claire Garbett, "Court Trials for Redress," in *The Encyclopedia of Transitional Justice*, ed. Lavinia Stan and Nadya Nedelsky, New York: Cambridge University Press, 2013 (hereafter *The Encyclopedia*).
- Laurel E. Fletcher and Harvey M. Weinstein, "Violence and Social Repair: Rethinking the Contribution of Justice to Reconciliation," *Human Rights Quarterly*, Vol. 24, No. 3, 2002.

#### **Tues, Feb 22: The South African Truth and Reconciliation Commission**

- In class viewing: *Long Night's Journey into Day: South Africa's Search for Truth and Reconciliation*, Deborah Hoffman and Frances Reid, Snagfilms, 2000.
- Nokukhanya Mncwabe, "Truth Commissions," in *The Encyclopedia*.

- David Mendeloff, "Trauma and Vengeance: Assessing the Psychological and Emotional Effects of Post-Conflict Justice," *Human Rights Quarterly*, 2009, 592-623.

**Thurs, Feb 24:** Local truth commissions: a hypothetical case study

- Bennett Collins and Alison M.S. Watson, "Examining the Potential for an American Truth and Reconciliation Commission," Carnegie Council, February 5, 2015.

**Tues, Mar 1:** File access; Guest speaker via Zoom: Dr. Lavinia Stan

- Lavinia Stan and Nadya Nedelsky, "Access to Secret Files," in *The Encyclopedia*.
- Lavinia Stan, "Inside the Securitate Archives," Cold War History Project, 2005 (skim)
- Timothy Garton Ash, *The File: A Personal History*, New York: Random House, 1997 (**excerpt**).

**Thurs, Mar 3:** Lustration/vetting

- Roman David, "From Prague to Baghdad: Lustration Systems and their Political Effects," *Government and Opposition*, Vol. 41, No. 3, 2006.
- Nadya Nedelsky, "Czechoslovakia and the Czech and Slovak Republics," in *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the communist past*, ed. Lavinia Stan, London and New York: Routledge, 2009 (**short excerpt**).

**Tues, Mar 8:** Forgetting? (**mid-term essay due**)

- David Rieff, "Against Remembrance," in *In Praise of Forgetting: Historical Memory and its Ironies*, New Haven and London: Yale University Press, 2016.

**Thurs Mar 10:** Reparations

- Nadya Nedelsky, "Reparations" in *The Encyclopedia*.
- Sanne Weber, "From Victims and Mothers to Citizens: Gender-Just Transformative Reparations and the Need for Public and Private Transitions," *IJTJ*, 2017, 1-20.

**Mar 12-20: SPRING BREAK! ENJOY!**

**Tues, Mar 22:** Apology

- Nadya Nedelsky, "Apology," in *The Encyclopedia*.
- Eleanor Bright Fleming, "When Sorry Is Enough: The Possibility of a National Apology for Slavery," in *The Age of Apology: Facing Up to the Past*, ed. Mark Gibney, Rhoda E. Howard-Hassmann, Jean-Marc Coicaud and Niklaus Steiner, Philadelphia: University of Pennsylvania Press, 2008.
- Alfred L. Brophy, "The University and the Slaves: Apology and Its Meaning," in *The Age of Apology*.
- If relatively unfamiliar with the international reaction to the Rwandan genocide, SKIM: Samantha Power, "Bystanders to Genocide," *The Atlantic*, Sept 2001, noting particularly the quote from it on Moodle.

**Thurs, Mar 24:** Memorialization

- Louis Bickford, "Transforming a Legacy of Genocide: Pedagogy and Tourism at the Killing Fields of Choeung Ek," Memory, Memorials, and Museums (MMM) Program, International Center for Transitional Justice, February 2009.
- Lea David, "Against Standardization of Memory," *Human Rights Quarterly*, 2017, 296-318.

**Tues, Mar 29:** Traditional/local methods

- Rachel Kerr and Eirin Mobbekk, "Traditional Informal Justice Mechanisms," in *Peace and Justice: Seeking Accountability after War*, Cambridge: Polity Press, 2007.
- Victor Igreja and Beatrice Dias-Lambranca, "Restorative justice and the role of magamba spirits in post-civil war Gorongosa, central Mozambique," in *Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences*, ed. Luc Huyse and Mark Salter, Stockholm: International Institute for Democracy and Electoral Assistance, 2008.

**Thurs, Mar 31:** Rewriting history books

- Briony Jones, "Exploring the Politics of Reconciliation through Education Reform: The Case of Brčko District, Bosnia and Herzegovina," *IJTJ* 2012, 126-148.

**Tues, Apr 5:** Transitional Justice and Corporations: Guest Speaker via zoom: Chloë Poynton ('06), Co-founder and Principal of Article 1

- Irene Pietropaoli, "Business, Human Rights, and Transitional Justice," in *The Encyclopedia*

**Thurs, Apr 7:** Grassroots/civil society transitional Justice in the Former Yugoslavia: Guest Speaker via zoom: Ana Gvozdic ('20) (**this date might change**)



**Tues, Apr 12:** Guest speaker via zoom: Graeme Simpson, Director of *Interpeace* USA and Senior Adviser to the Director-General of *Interpeace*, a global peace-building organization working in 20 conflict and immediate post-conflict zones around the world. He is also an Adjunct Lecturer in Law at Columbia University School of Law in New York City, where he teaches a seminar on transitional justice and peacebuilding (**this date might change**)

**Thurs, Apr 14:** Question catch-up day

**Tues, Apr 19:** Peer consultation day

**Thurs, Apr 21:** Paper writing

**Tues, Apr 26:** Paper presentations

**Thurs, Apr 28:** LAST DAY OF CLASS!

**Mon, May 2:** Final paper due via Moodle and in paper copy (in International Studies office) by 4:00 pm