

Transitional Justice
Fall 2011
Professor Paul van Zyl

Key contacts:

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Please note that Professor van Zyl receives a large volume of email so it is best to take advantage of office hours for questions about the course, papers, internships, etc. Please copy Robert on all emails to Professor van Zyl.

Office hours:

Office hours will be held throughout the semester at Professor van Zyl's office. Please contact Robert for dates and to sign up.

Readings:

Articles for which NYU Law has access have been uploaded to Blackboard and listed below. The rest of the readings will be available in a course pack. Please see Robert for more details.

Paper deadline:

Papers should be submitted no later than Monday, January 2, 2011 at 9:00am via email to Robert Anselmi. Extensions will not be granted.

Course schedule

Class One: Introduction

- United Nations Security Council. *Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-conflict Societies* (S/2004/616), August 3, 2004. <http://www.un.org/Docs/sc/sgrep04.html>

Class Two: What is Transitional Justice?

- Aukerman, Miriam. "Extraordinary Evil, Ordinary Crimes: A Framework for Understanding Transitional Justice," *Harvard Human Rights Journal* 39 (2002), pp. 39-97.
<http://heinonline.org/HOL/Page?handle=hein.journals/hhrj15&id=1&size=2&collection=journals&index=journals/hhrj#43>
- Kritz, Neil J. "Progress and Humanity: The Ongoing Search for Post-Conflict Justice," in M. Cherif Bassiouni, ed., *Post Conflict Justice* (New York: Transnational Publishers, 2002), pp. 55-87.

Class Three: Dilemmas in Dealing with the Past

- Ackerman, Bruce. *The Future of Liberal Revolution*, Chapter 5, "The Mirage of Corrective Justice," (New Haven, CT: Yale University Press, 1994), pp. 69-98.
- Zalaquett, Jose. "Balancing Ethical Imperatives and Political Constraints: The Dilemma of New Democracies Confronting Past Human Rights Violations," *Hastings Law Journal* 43 (1992), pp. 1425-1438.
<http://heinonline.org/HOL/Page?handle=hein.journals/hastlj43&id=1&size=2&collection=journals&index=journals/hastlj#1461>

Class Four: International Tribunals

- Bass, Gary Jonathan. *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals*, Chapter 8, "Epilogue: Do War Crimes Tribunals Work?" (Princeton, NJ: Princeton University Press, 2000).
- Koskenniemi, Martii, "Between Impunity and Show Trials," *Max Planck Yearbook of United Nations Law* 6 (2002), pp. 1-35. http://www.mpil.de/shared/data/pdf/pdfmpunyb/koskenniemi_6.pdf
- Schabas, William A. "The Rwanda Case: Sometimes It's Impossible," in M. Cherif Bassiouni, ed., *Post Conflict Justice* (New York: Transnational Publishers, 2002), pp. 499-520.
- Lutz, Ellen and Reiger, Caitlin. "Introduction" and "Conclusion," *Prosecuting Heads of State* (New York: Cambridge University Press, 2009), pp. 1-24 and pp. 275-293.

Class Five: The International Criminal Court

- United Nations. *Rome Statute of the International Criminal Court* (U.N. Doc. A/CONF.183/9). 17 July 1998. <http://untreaty.un.org/cod/icc/statute/romefra.htm>
- Scharf, Michael. "The Amnesty Exception to the Jurisdiction of the International Criminal Court," *Cornell International Law Journal* (1999), pp. 507-527. <http://heinonline.org/HOL/Page?handle=hein.journals/cintl32&id=1&size=2&collection=journals&index=journals/cintl#515>
- van Zyl, Paul. "Justice without Punishment: Guaranteeing Human Rights in Transitional Societies," in Charles Villa-Vicencio and Wilhelm Verwoerd, eds., *Looking Back, Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa* (Cape Town: University of Cape Town Press, 2000), pp. 53-74.

Class Six: Regional Human Rights Bodies I - The European Convention on Civil and Political Rights and the Inter-American Convention on Human Rights

- Barrios Altos. <http://www1.umn.edu/humanrts/iachr/C/75-ing.html>
- Bazorkina v Russia. <http://www.menneskeret.dk/files/DoekerPDF/Case%20of%20Dedovskiy%20and%20others%20v.%20Russia.pdf>
- Yaman v Turkey. <http://www.bailii.org/eu/cases/ECHR/2004/572.html>
- Velasquez Rodriguez. http://www1.umn.edu/humanrts/iachr/b_11_12d.htm
- Almonacid-Arellano et al. v. Chile. <http://www1.umn.edu/humanrts/cases/44-02.html>

Class Seven: Regional Human Rights Bodies II - The International Covenant on Civil and Political Rights and the African Charter on Human and Peoples Rights

- Laureano Atachachua v. Peru, Communication No. 540/ 1993 (1996). <http://www.wfrrt.org/humanrts/undocs/540-1993.html>
- The African Charter on Human and Peoples Rights. <http://www1.umn.edu/humanrts/instree/z1afchar.htm>
- United Nations. *Communication No. 992/2001 Views of the Human Rights Committee under article 5, paragraph 4, of the Optional Protocol to the ICCPR* (CCPR/C/86/992/2001), 24 April 2006. <http://www.unhcr.ch/tbs/doc.nsf/0/0aef3b15e0b6c761c125719a00486e57?Opendocument>
- United Nations. *Communication No. 1196/2003 Views of the Human Rights Committee under article 5, paragraph 4, of the Optional Protocol to the ICCPR* (CCPR/C/86/D/1196/2003), 27 April 2006. <http://www.unhcr.ch/tbs/doc.nsf/0/ab979e42ca753ffcc125718f004fff82?Opendocument>

Class Eight: The Truth Commission Model I

- van Zyl, Paul. "Unfinished Business: The Truth and Reconciliation Commission's Contribution to Justice in Post-Apartheid South Africa," in M. Cherif Bassiouni, ed., *Post Conflict Justice* (New York: Transnational Publishers, 2002), pp 745-760.
- Azanian Peoples Organisation (AZAPO) and others v. President of the Republic of South Africa and others, <http://www.saflii.org/za/cases/ZACC/1996/16.html>

Class Nine: The Truth Commission Model 2

- Tomuschat, Christian. "Clarification Commission in Guatemala," *Human Rights Quarterly* 23.2 (May 2001), pp. 233-258.
<http://heinonline.org/HOL/Page?handle=hein.journals/hurq23&id=1&size=2&collection=journals&index=journals/hurq#245>
- Gonzalez, Eduardo. "The Peruvian Truth and Reconciliation Commission and the challenge of impunity," in Naomi Roht-Arriaza and Javier Mariezcurrena, eds., *Transitional Justice in the Twenty-First Century: Beyond Truth versus Justice* (New York: Cambridge University Press, 2006), pp. 70-94.
<http://site.ebrary.com/lib/nyulibrary/docDetail.action?docID=10150363>
- Hayner, Priscilla. *Unspeakable Truths*, Chapters 2, 3, and 4 (New York: Routledge, 2001).
<http://site.ebrary.com/lib/nyulibrary/docDetail.action?docID=10053794>

Class Ten: Reparations

Thursday, October 22 (with Cristian Correa, expert on reparations)

- De Greiff, Pablo. "Repairing the Past: Compensation for Victims of Human Rights Violations," in Pablo De Greiff, ed., *The Handbook of Reparations* (New York: Oxford, 2006), pp. 1-18.
<http://www.oxfordscholarship.com/oso/private/content/politicalscience/9780199291922/p033.html#acprof-0199291926-chapter-1>
- Falk, Richard. "Reparations, International Law, and Global Justice: A New Frontier," in Pablo De Greiff, ed., *The Handbook of Reparations* (Oxford: Oxford University Press, 2006), pp. 478-503.
<http://www.oxfordscholarship.com/oso/private/content/politicalscience/9780199291922/p128.html#acprof-0199291926-chapter-14>
- Office of the UN High Commissioner for Human Rights. *Rule of Law Tools for Post-Conflict States: Reparations Programs*, 2007. <http://www.ohchr.org/Documents/Publications/ReparationsProgrammes.pdf>

Class Eleven: Vetting

- De Greiff, Pablo. "Vetting and Transitional Justice," in Alexander Mayer-Rieckh and Pablo de Greiff, eds., *Justice as Prevention: Vetting Public Employees in Transitional Societies* (New York: Social Science Research Council, 2007), pp. 522-544. http://www.ssrc.org/workspace/images/crm/new_publication_3/%7B57efec93-284a-de11-afac-001cc477ec70%7D.pdf
- Duthie, Roger. "Introduction," in Alexander Mayer-Rieckh and Pablo de Greiff, eds., *Justice as Prevention: Vetting Public Employees in Transitional Societies* (New York: Social Science Research Council, 2007), pp. 17-38. http://www.ssrc.org/workspace/images/crm/new_publication_3/%7B57efec93-284a-de11-afac-001cc477ec70%7D.pdf
- Office of the UN High Commissioner for Human Rights. *Rule of Law Tools for Post-Conflict States. Vetting: An Operational Framework* (HR/PUB/06/5), 2006.
<http://www.unhcr.org/refworld/category,POLICY,OHCHR,,,46cebcd62,0.html>

Class Twelve: Gender

- Nesiah, Vasuki. "Truth Commissions and Gender: Principles, Policies, and Procedures," ICTJ Gender Justice Series (2006), 1-55. <http://www.ictj.org/static/Gender/GendHandbook.eng.pdf>
- Rubio-Marín, Ruth. "The Gender of Reparations: Setting the Agenda," in Ruth Rubio-Marín, eds., *What Happened to the Women? Gender and Reparations for Human Rights Violations* (New York: Social Science Research Council, 2006), pp. 20-35.
http://www.ssrc.org/workspace/images/crm/new_publication_3/%7Bd6d99c02-ea4a-de11-afac-001cc477ec70%7D.pdf

Class Thirteen: Reconciliation

- Borraine, Alex. *A Country Unmasked*, Chapter 10 “What Price Reconciliation? The Achievement of the TRC” (Oxford: Oxford University Press, 2000), pp. 340-378.
- Bloomfield, David. “On Good Terms: Clarifying Reconciliation,” Berghof Report No. 14, (2006), pp. 3-35.
<http://www.berghof-conflictresearch.org/documents/publications/br14e.pdf>

Class Fourteen: Reflections

- Wishenthal, Simon. *The Sunflower: On the Possibility and Limits of Forgiveness* (New York: Schocken Books, 1976), pp. 3-98.