

Transitional Justice

Fall 2009

Professor Paul van Zyl
Fall 2009
FH 326

Course schedule

Class One: Introduction

- **Thursday, August 27**
- 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.
Available at:
<http://daccessdds.un.org/doc/UNDOC/GEN/N04/395/29/PDF/N0439529.pdf?OpenElement>

Class Two: What is Transitional Justice?

- **Thursday, September 3**
- Aukerman, Miriam, "Extraordinary Evil, Ordinary Crimes: A Framework for Understanding Transitional Justice," *Harvard Human Rights Journal* 39 (2002), 39-97. Available at:
<http://www.heinonline.org/HOL/Index?collection=journals>
- 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

- **Thursday, September 10**
- Ackerman, Bruce, "The Future of Liberal Revolution," New Haven, CT: Yale University Press, 1994, 69-77.
- Zalaquett, Jose, "Balancing Ethical Imperatives and Political Constraints: The Dilemma of New Democracies Confronting Past Human Rights Violations," *Hastings Law Journal* 43 (1992), 1425-1438. Available at: <http://www.heinonline.org/HOL/Index?collection=journals>

Thursday, September 17: No class

Class Four: International Tribunals

- **Monday, September 21 from 12:25-2:00**
- Bass, Gary Jonathan, *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals*, New Jersey: Princeton University Press, 2000, chapter 8.
- Koskeniemi, Martii, "Between Impunity and Show Trials," *Max Planck Yearbook of United Nations Law* 6 (2002), 1-35. Available at
<http://www.heinonline.org/HOL/Index?collection=journals>
- Schabas, William A, "The Rwanda Case: Sometimes It's Impossible," in M. Cherif Bassiouni, ed., *Post Conflict Justice* (New York: Transnational Publishers, 2002), pp. 499-522.

- Lutz, Ellen and Reiger, Caitlin. “Introduction” and “Conclusion,” *Prosecuting Heads of State* (2009) 1-24 and 275-293.

Class Five: The International Criminal Court

- **Thursday, September 24**
- United Nations. *Rome Statute of the International Criminal Court* (U.N. Doc. A/CONF.183/9). 17 July 1998. <http://www.un.org/law/icc/statute/rome fra.htm>
- Scharf, Michael, “The Amnesty Exception to the Jurisdiction of the International Criminal Court,” *Cornell International Law Journal* (1999), 507-527. Available at: <http://www.heinonline.org/HOL/Index?collection=journals>
- 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. 42-57.

Monday, September 28 (5:00-6:00): Drop-in office hours at the ICTJ

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

- **Thursday, October 1**
- 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

- **Friday, October 2 from 2:00-3:50**
- 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.unhchr.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.unhchr.ch/tbs/doc.nsf/0/ab979e42ca753ffcc125718f004fff82?Opendocument>

Thursday, October 8: No class

Class Eight: The Truth Commission Model I

- **Thursday, October 15**
- 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

- **Friday, October 16 from 2:00-3:50**
- Tomuschat, Christian, “Clarification Commission in Guatemala,” *Human Rights Quarterly* 23.2 (May 2001), 233-258, <http://www.heinonline.org/HOL/Index?collection=journals>
- 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.
- Hayner, Priscilla, *Unspeakable Truths*, New York: Routledge, 2001, chapters 2, 3, and 4.

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/public/content/politicalscience/9780199291922/acprof-0199291926-chapter-1.html>
- 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 Ten: Vetting

- **Thursday, November 5**
- 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. 15-34, 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

- **Thursday, November 12**
- Nesiiah, 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

- **Monday, November 16 from 12:25-2:00**
- Boraine, Alex, *A Country Unmasked*, Oxford: Oxford University Press, 2000, chapter 10.
- Bloomfield, David, “On Good Terms: Clarifying Reconciliation.” Berghof Report No. 14, (2006), 3-35, <http://www.berghof-center.org/uploads/download/br14e.pdf>

Class Fourteen: Reflections

- **Thursday, December 10**
- Wishenthal, Simon, *The Sunflower: On the Possibility and Limits of Forgiveness*, New York: Schocken Books, 1976, 3-98. On Reserve in the library.