

Transitional Justice

Fall 2008

Professor Paul van Zyl

Class 1: 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.

Class 2: What is Transitional Justice?

- Aukerman, Miriam, "Extraordinary Evil, Ordinary Crimes: A Framework for Understanding Transitional Justice," *Harvard Human Rights Journal* 39 (2002), 39-97.
- 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 3: Dilemmas in Dealing with the Past

- 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.

Class 4: International Tribunals

- 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.
- 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.

Class 5: The International Criminal Court

- 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.htm>
- Scharf, Michael, "The Amnesty Exception to the Jurisdiction of the International Criminal Court," *Cornell International Law Journal* (1999), 507-527.
- 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.

Class 6: Regional Human Rights Bodies: The European Convention on Civil and Political Rights and the Inter-American Convention on Human Rights

- Barrios Altos
- Bazorkina v Russia
- Yaman v Turkey
- Velasquez Rodriguez
- Almonacid-Arellano et al. v. Chile

Class 7: Regional Human Rights Bodies: 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).
- The African Charter on Human and Peoples Rights.
- 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.
- 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.

Class 8: 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

Class 9: The Truth Commission Model 2

- Tomuschat, Christian, “Clarification Commission in Guatemala,” *Human Rights Quarterly* 23.2 (May 2001), 233-258.
- 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 10: 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.

- 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.
- Office of the UN High Commissioner for Human Rights. *Rule of Law Tools for Post-Conflict States: Reparations Programs*. 2007 DRAFT

Class 11: 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.
- 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.
- 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

Class 12: Reconciliation

- 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.

Class 13: Gender

- Nesiah, Vasuki, “Truth Commissions and Gender: Principles, Policies, and Procedures,” ICTJ Gender Justice Series (2006), 1-55.
- 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.

Class 14: Reflections

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