



Brandeis University

The Heller School for Social Policy and Management

GRADUATE PROGRAM IN COEXISTENCE AND CONFLICT

Introduction to Transitional Justice HS 208F-1

Prof. Peter Dixon

Module ~ Spring 2022

Class Times: Thursdays 9am to 11:50am
Classroom & Office Location: <ul style="list-style-type: none">• Remote: https://brandeis.zoom.us/j/98233112720• In-person: TBD
Email: pdixon@brandeis.edu
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Office Hours: <ul style="list-style-type: none">• In-person: Wednesdays 5-6pm (Heller-Brown Building, 241)• Remote: Fridays 11am-12pm (https://brandeis.zoom.us/j/98233112720)

Course Description

Welcome to Introduction to Transitional Justice HS 208F-1!

This Module introduces transitional justice as a field of research and practice. Over the last four decades, TJ has developed and spread across the globe as a set of theories, concepts, and tools to both understand and support countries emerging from authoritarianism and war. Most commonly associated with mechanisms like truth commissions, amnesties, and reparations, the field started as a focused set of tools tailored to the emerging democracies of Latin America in the 1980s. Today, it encompasses a rich and multidisciplinary field that spans continents and connects local, national, and international actors.

The Module is divided into three sections. The first will provide an overview of TJ history, ideas, and mechanisms. The second will delve into some of the key debates that animate the field, exploring the relationship between TJ, peacebuilding, and the root causes of violence and conflict. Finally, the third will focus on the Module's key take-home: more than a set of tools and mechanisms, TJ is best thought of as a movement, within which different actors struggle over the right to narrate history. We will end this section and the course with an in-depth look at the United States, where movements for racial justice and economic justice are incorporating TJ ideas and tools.

About the Instructor

Dr. Peter Dixon is a Research Scientist at the Heller School for Social Policy and Management and a Principal Investigator on the *Everyday Justice* and *Everyday Indicators for Policy Innovation* projects at COEX and [Everyday Peace Indicators](http://www.peterdixon.org). He completed his doctorate in sociology at the University of California, Berkeley and has over a decade of experience as both a researcher and practitioner of transitional justice, including at the International Criminal Court, United Nations and Harvard Humanitarian Initiative. His research draws on mixed methods approaches to assess the effectiveness of transitional justice mechanisms in everyday life in conflicted societies, including Colombia, the Democratic Republic of the Congo, and the United States. [www.peterdixon.org]

Course Objectives

- Understand the importance and challenges of transitional justice processes
- Understand the history of transitional justice as a field of research and practice from social-scientific, legal and practitioner perspectives
- Learn about the variety of transitional justice mechanisms
- Gain familiarity with key transitional justice debates and apply them to historical and present-day case studies

Teaching Methodology

This Module will use lectures and discussion to introduce students to key transitional justice concepts, theories, and cases. It will draw largely on social-scientific approaches from political science, sociology, and anthropology, but will also incorporate legal and practitioner texts where relevant. It will provide students with a foundation in transitional justice while also introducing them to its key debates and challenges in practice.

Disability

If you have a documented disability on record at Brandeis University and require accommodations, please bring it to the instructor's attention prior to the second meeting of the class. If you have any questions about this process, contact Ravi Lakshmikanthan, disabilities coordinator for The Heller School at kanthan@brandeis.edu.

Requirements

1. Class participation (10%): daily + weekly discussion leaders
2. Weekly Reading Reflection (40%): due weekly by 11:59pm on Tuesdays
NOTE: There are no reading reflections due the first and final weeks of the course
3. Final Paper (50%): due March 21
NOTE: final grades are due Mar 28, so I can't give any extensions beyond this date!

Late Work: Class assignments that are submitted late will be penalized by half a grade for each day they are late (e.g. B instead of B+). Please email Professor Dixon if you have a documented personal illness with scanned documentation of your illness or official documentation from the Brandeis Office of Student Accessibility Support. Undocumented excuses will not be accepted.

Attendance, Punctuality, and Active Participation

Students are required to attend and arrive on time for every class to receive full participation credit unless a documented excuse is provided.

Readings

This syllabus provides both required and suggested readings. All required readings must be read prior to the start of each class. The suggested readings will provide students with resources on which they can draw for the seminar paper.

Final paper

Students should submit a paper in which they will apply one of the key debates covered in the class to a case study of their choosing. The paper should be 7-10 pages (double-spaced, one-inch margins, 12-pt font) and cover the following three topics:

- 1) Brief summary of the debate and its opposing sides (with references to the literature)
- 2) Historical review of the case and discussion of why, specifically, it is a case of *transitional justice*
- 3) Choose one of the following:
 - a) Summarize an argument, suitable for an eventual academic paper, as to how your chosen case clarifies, deepens, or moves forward the debate; *or*
 - b) Propose a public policy or civil society intervention for your case study and identify how it should navigate the tensions of your chosen debate.

Writing Requirements and Academic Integrity

This course's writing requirements are intended to encourage students to approach reading materials critically, to foster improved research and writing skills, and to serve as a basis for contributing to class discussion and a diversity of opinions. Students are expected to devote careful attention to the technical quality of their written work, as well as its substance. Honesty matters in all academic work and is strictly enforced by the instructor.

I cannot insist enough on the fact that all written work for this Module must include appropriate citation of all sources. The university policy on academic integrity [\[LINK\]](#) is distributed annually in the *Rights and Responsibilities* handbook [\[LINK\]](#). Academic integrity is critical in all that you write and say, and transgressions are treated severely. Instances of alleged dishonesty will be forwarded to the Office of Campus Life for possible referral to the Student Judicial System. Potential sanctions include failure in the course and suspension from the university. If you have any questions about this, do not hesitate to talk to your instructor, to your faculty advisor and to seek guidance.

Writing assistance is available from anyone who is interested. Please see me to learn more about how I can help directly and the resources that are available to you on campus!

Seminar Plan

I. OVERVIEW	WEEK 1 <i>The History of TJ</i>
	WEEK 2 <i>Trials, Reparations, and Amnesties</i>
	WEEK 3 <i>Truth Commissions, Dialogue, and Memorials</i>
II. KEY DEBATES	WEEK 4 <i>TJ & Economic Violence</i>
	WEEK 5 <i>TJ, Development & Peacebuilding</i>
III. TJ AS A MOVEMENT	WEEK 6 <i>TJ and Social Movements</i>
	WEEK 7 <i>TJ & Restorative Justice in the United States</i>

I. OVERVIEW

This first section provides a historical overview of transitional justice, starting from its early days in the wake of authoritarianism in Latin America up through its application to wartime contexts around the globe. We'll review some of the key TJ tools like trials, reparations, and truth commissions and a few of the cases where they've been applied. There's a lot to unpack and critique here, which we'll have a chance to do in Section 2—for now, our goal in this section is to establish a firm grasp of where TJ came from, how it's developed as a field, and where its ideas and institutions have been applied in practice.

WEEK 1 / The History of Transitional Justice

This section introduces the goals and origins of transitional justice as a field of research and practice. The key question here is, why do we need a field of TJ separate from related fields of human rights, development, and peacebuilding (fields to which we will return in Module 3). We will identify the field's principal tools, review the key international organizations that promote it, discuss the mechanisms through which it diffuses across the globe, and review its various disciplinary approaches, from the social sciences to law.

Required Reading:

- International Center for Transitional Justice, "What is Transitional Justice?" [[LINK](#)].
- Quinn, Joanna. 2017. "The Development of Transitional Justice." Pp. 11-33 in *Research Handbook on Transitional Justice*, edited by Cheryl Lawther, Luke Moffett, and Dov Jacobs. London: Edward Elgar Publishing.
- Sharp, Dustin N. 2013. "Interrogating the Peripheries: The preoccupations of fourth generation transitional Justice." *Harvard Human Rights Journal* 26:149-78.

Optional Reading

- Bell, Christine. 2009. "Transitional Justice, Interdisciplinarity and the State of the 'Field' or 'Non-Field'." *International Journal of Transitional Justice* 3:5-27.
- Dancy, Geoff, Bridget E Marchesi, Tricia D Olsen, Leigh A Payne, Andrew G Reiter, and Kathryn Sikkink. 2019. "Behind Bars and Bargains: New Findings on Transitional Justice in Emerging Democracies." *International Studies Quarterly* 63(1):99-110.
- de Greiff, Pablo. 2012. "Theorizing Transitional Justice." Pp. 31-77 in *Transitional Justice*, edited by Melissa Williams, Rosemary Nagy, and Jon Elster. New York: NYU Press.
- Teitel, Ruti. 2003. "Transitional Justice Genealogy." *Harvard Human Rights Journal* 16:69-94.

Optional TJ Reports

- Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law [General Assembly Resolution 60/147 (2005)] [[LINK](#)].
- Office of the High Commissioner for Human Rights, Rule of Law Tools for Post Conflict States, a series of publications including: [Truth Commissions](#) (2006); [Mapping the justice sector](#) (2006); [Vetting: an operational framework](#) (2006); [Monitoring legal systems](#) (2006); [Prosecution Initiatives](#) (2006); [Reparations programmes](#) (2008); [Legacy of Hybrid Courts](#) (2008); [Amnesties](#) (2009)
- Report of the Secretary-General, *The Rule of Law and Transitional Justice in Conflict and Post-conflict Societies*. S/2011/634 (12 October 2011) [[LINK](#)]
- Report of the Secretary-General, *The Rule of Law and Transitional Justice in Post-conflict Societies*, S/2004/616 (August 23, 2004). [[LINK](#)]

WEEK 2 / Trials, Reparations, and Amnesties

This week, we will delve into the tension between the need to account for crimes of the past while moving toward peace and/or democracy. We will review the logics of retributive and restorative justice, discuss past and ongoing debates between peace VS justice in conflict and postconflict states, and analyze the roles of trials, reparations, and amnesties in peace processes. Finally, we will discuss the place of international criminal law and the international tribunals in this debate and begin to look at some of their effects on domestic conflicts.

Required Reading

- Cody, Stephen Smith; Stover, Eric; Balthazard, Mychelle; Koenig, Alexa. 2015. "The Victims' Court? A Study of 622 Victim Participants at the International Criminal Court." Berkeley: University of California Berkeley Human Rights Center [[LINK](#)].
 - p. 1-8
 - p. 12-19
 - p. 26-28
- Dancy, Geoff and Wiebelhaus-Brahm, Eric. 2019. "Trials of Peace: Post-Conflict Criminal Prosecutions and Conflict Recurrence", SSRN. [[LINK](#)]
 - p. 1-18
 - p. 26-31
- Mamdani, Mahmood. 2002. "Amnesty or Impunity? A Preliminary Critique of the Report of the Truth and Reconciliation Commission in South Africa." *Diacritics* 33:36-47.
- McEvoy, Kieran, and Louise Mallinder. 2012. "Amnesties in transition: Punishment, restoration, and the governance of mercy." *Journal of Law and Society* 39(3):410-40.
 - This is an important paper in the field, so try to read the whole thing, but if you're short on time, start with "AMNESTIES, DETERRENCE, AND THE RATIONAL ACTOR" (p. 422) and read to the end.

Optional Reading

- Bass, Gary. J. 2000. *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals*. Princeton: Princeton University Press.
- Bradfield, Paul. 2017. "Reshaping Amnesty in Uganda: The Case of Thomas Kwoyelo." *Journal of International Criminal Justice* 15(4):827-55.
- Dixon, Peter J. 2015. "Reparations and the Politics of Recognition." Pp. 326-51 in *Contested Justice: The Politics and Practice of International Criminal Court Interventions*, edited by Carsten Stahn, Christian de Vos, and Sara Kendall. Cambridge: Cambridge University Press.
- Fletcher, Laurel E. 2015. "Refracted Justice: The Imagined Victim and the International Criminal Court." Pp 302-325 in *Contested Justice: The Politics and Practice of International Criminal Court Interventions*, edited by Carsten Stahn, Sara Kendall, and Christian De Dos. Cambridge: Cambridge University Press. [[LINK](#)].
- Laplante, Lisa J. 2014. "The plural justice aims of reparations." Pp. 66-84 in *Transitional Justice Theories*, edited by Susanne Buckley-Zistel, Teresa Koloma Beck, Christian Braun, and Friederike Mieth: Routledge.
- Moffett, Luke. 2014. *Justice for victims before the International Criminal Court*. London: Routledge.

- Okafor, Obiora Chinedu, and Uchechukwu Ngwaba. 2014. "The International Criminal Court as a 'Transitional Justice' Mechanism in Africa: Some Critical Reflections." *International Journal of Transitional Justice* 9(1):90-108.

WEEK 3 / Truth Commissions, Dialogue, and Memorials

This is the final week of our Overview Module, in which we'll look at the use of truth commissions, dialogue, and memorials in post-authoritarian and post-conflict settings. The role of truth in transitions to peace is often romanticized, particularly its restorative power, so we will look at these tools with a critical eye to ask what they have actually accomplished in practice.

Required Reading:

- David Rieff, 2016. "What is Collective Memory Actually Good For?" and "Against Remembrance," in *In Praise of Forgetting: Historical Memory and its Ironies*.
- Hayner, Priscilla B. 2010. *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*. Routledge. [SECTIONS TBD]
- Posthumus, Daniel and Kelebogile Zvobgo. 2021. "Democratizing Truth: An Analysis of Truth Commissions in the United States." *International Journal of Transitional Justice*.

Optional Reading:

- Gibson, James L. 2006. "The contributions of truth to reconciliation: Lessons from South Africa." *Journal of conflict resolution* 50(3):409-32.
- Longman, Timothy. 2017. *Memory and Justice in Post-Genocide Rwanda*. Cambridge University Press.
- Shaw, Rosalind. 2007. "Memory frictions: Localizing the truth and reconciliation commission in Sierra Leone." *International Journal of Transitional Justice* 1(2): 183-207.

II. KEY DEBATES IN TRANSITIONAL JUSTICE

In our second section, we'll unpack the assumptions upon which the TJ project was built and has expanded to critically assess its implicit values and explicit goals. It is a wide-ranging debate, which scholars have been discussing almost since the field emerged. Key sub-themes on which we will reflect include the differences between transitional and transformative justice; the relationship between TJ, peacebuilding, and reconciliation; and the place of political, civil, economic, and social rights in transitional processes.

WEEK 4 / Transitional Justice and Economic Violence

This week introduces a key debate at the heart of transitional justice: what exactly do we mean by “justice” and what is legitimate terrain for the TJ toolkit? To put it more concretely, if a state is responsible for the murder and disappearance of its citizens as well as for the destruction of the environment and pillaging of its economy, what “crimes” should a truth commission address?

Required Reading:

- Miller, Zinaida. 2008. "Effects of Invisibility: In Search of the 'Economic' in Transitional Justice." *International Journal of Transitional Justice* 2(3): 266-291.
- McEvoy, Kieran. 2007. “Beyond Legalism: Towards a Thicker Understanding of Transitional Justice.” *Journal of Law and Society* 34(4): 411-440.
- Sehmi, Anushka. 2020. “Judicializing economic violence as means of dismantling the structural causes of atrocity in the Democratic Republic of Congo” *International Journal of Transitional Justice* 14(3): 423-442. [SECTIONS TBD]

Optional Reading

- Sharp, Dustin N. 2014. "Addressing Economic Violence in Times of Transition." Pp. 1-26 in *Justice and Economic Violence in Transition*, edited by Dustin N. Sharp: Springer. [\[LINK\]](#)
- *Justice and Economic Violence in Transition*, edited by Dustin N. Sharp: Springer. [\[LINK\]](#)
- Roht-Arriaza, Naomi. 2014. “Reparations and Economic, Social, and Cultural Rights.” In *Justice and Economic Violence in Transition*, edited by Dustin N. Sharp, 109–38. Springer.
- Waldorf, Lars. 2012. “Anticipating the Past: Transitional Justice and Socio-Economic Wrongs.” *Social & Legal Studies* 21(2): 171–86.

WEEK 5 / Transitional Justice, Development, and Peacebuilding

We'll continue our debates about where the boundaries of TJ are and where they should be—both in theory and in practice. Where last week we delved into what kinds of violence is legitimate terrain for TJ narratives and tools, this week will ask about the consequences when TJ tries to cover everything—what value does it add to the broader peacebuilding and development fields?

Required Reading

- Gready, Paul, and Simon Robins. 2014. "From Transitional to Transformative Justice: A New Agenda for Practice." *International Journal of Transitional Justice* 8(3): 339–61.
- Lambourne, Wendy. 2013. "Transformative justice, reconciliation and peacebuilding." Pp. 19-39 in *Transitional Justice Theories*, edited by Susanne Buckley-Zistel, Teresa Koloma Beck, Christian Braun, and Friederike Mieth: Routledge.
- Mendeloff, David. 2004. "Truth-seeking, truth-telling, and postconflict peacebuilding: Curb the enthusiasm?" *International Studies Review* 6(3):355-80. [SECTIONS TBD]
- Theidon, Kimberly. 2013. *Intimate Enemies: Violence and Reconciliation in Peru*. University of Pennsylvania Press. [SECTIONS TBD]

Optional Reading

- Baines, Erin K. 2007. "The haunting of Alice: Local approaches to justice and reconciliation in Northern Uganda." *The International Journal of Transitional Justice* 1(1):91-114.
- Dixon, Peter J., and Chris Tenove. 2013. "International Criminal Justice as a Transnational Field: Rules, Authority and Victims." *International Journal of Transitional Justice* 7: 393–412.
- Dixon, Peter J. 2017. "Transitional Justice and Development: Argument for and Against a Holistic Approach." Pp. 159-83 in *Research Handbook on Transitional Justice*, edited by Cheryl Lawther, Luke Moffett, and Dov Jacobs. London: Edward Elgar Publishing.
- Firchow, Pamina, and Roger Mac Ginty. 2013. "Reparations and Peacebuilding: Issues and Controversies." *Human Rights Review* 14: 231–39.
- Pham, Phuong Ngoc, Patrick Vinck, Bridget Marchesi, Doug Johnson, Peter J Dixon, and Kathryn Sikkink. 2016. "Evaluating Transitional Justice: The Role of Multi-Level Mixed Methods Datasets and the Colombia Reparation Program for War Victims." *Transitional Justice Review* 1(4).

III. TRANSITIONAL JUSTICE AS A MOVEMENT

Our final section gets to the key take-home of this course: rather than simply a set of tools that states and societies can apply to complex justice problems, TJ is best thought of as a movement. We'll look at the politics of TJ and the incorporation of TJ ideas and tools into broader social movements, taking a closer look at the current state of TJ here in the United States.

WEEK 6 / Transitional Justice, Civil Society, and Social Movements

This week, we will discuss the strategic and political use of TJ by elites and NGOs alike in post-authoritarian and postconflict countries. These readings will unpack TJ as a site of struggle where actors compete over the right to narrate history and tell the official story of their societies.

Required Reading:

- Rowen, Jamie R. 2017. "We Don't Believe in Transitional Justice:" Peace and the Politics of Legal Ideas in Colombia." *Law & Social Inquiry* 42(3):622-47.
- Paul Gready and Simon Robins. 2017. "Rethinking civil society and transitional justice: lessons from social movements and 'new' civil society." *The International Journal of Human Rights* 21(7): 956-975.
- Wiebelhaus-Brahm, Eric. 2021. "Competition for control of the state and the transitional justice agenda among Tunisian civil society organisations." *Peacebuilding* 9(2).
[SECTIONS TBD]

Optional Reading

- Shaw, Rosalind, and Lars Waldorf. 2010. "Introduction: Localizing Transitional Justice." Pp. 3-26 in *Localising Transitional Justice: Interventions and Priorities after Mass Violence*, edited by Rosalind Shaw, Lars Waldorf, and Pierre Hazan: Stanford University Press.
- Duthie, Roger. 2009. "Building Trust and Capacity: Civil Society and Transitional Justice from a Development Perspective" *International Center for Transitional Justice* [\[LINK\]](#)
- Rowen, Jamie. 2012. "Mobilizing Truth: Agenda Setting in a Transnational Social Movement." *Law & Social Inquiry* 37(3): 686-718.

WEEK 7 / Transitional Justice and Restorative Justice in the United States

In this final week we will focus on TJ movements and processes in the United States and other peaceful democracies to reflect on how the language, ideas and institutions of the field have been adapted outside the traditional boundaries of violent conflict and authoritarianism.

Required Reading:

- Dixon, Peter. August 2020. “U.S. cities and states are discussing reparations for Black Americans. Here’s what’s key.” *Washington Post* [[LINK](#)]
- Hannah-Jones, Nikole. June 2020. “What is Owed.” *New York Times Magazine* [[LINK](#)]
- Miller, Zinaida. June 2020. “Transitional Justice, Race, and the United States.” *Just Security* [[LINK](#)]

Optional Reading

- Bassett, Mary T. and Sandro Galea. November 2020. “Reparations as a Public Health Priority — A Strategy for Ending Black–White Health Disparities.” *New England Journal of Medicine* [[LINK](#)]
- Darity Jr., William A. 2020. *From Here to Equality: Reparations for Black Americans in the Twentieth Century*. Chapel Hill: The University of North Carolina. [Chapter 1, Chapter 13]
- Heath, Dreisen. May 2020. “The Case for Reparations in Tulsa, Oklahoma.” *Human Rights Watch* [[LINK](#)]
- Howard-Hassmann, Rhoda E. July 2019. “Why Japanese-Americans received reparations and African-Americans are still waiting.” *The Conversation* [[LINK](#)]