

Transitional Justice: Accounting for the Past in the Aftermath of Atrocity

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Classes 1 and 2 - What is Transitional Justice? Mechanisms, Theories, and Practice (I and II)

These two classes offer an introduction to the concept of transitional justice and address its evolution over the past thirty years. Emerging out of the waves of democratic transitions in South America in the late 1980s and early 1990s, transitional justice has now established itself as a field of academic scholarship as well as a field of practice and policy-making. During these two classes, we will discuss: the main tools of transitional justice, dominant debates and dilemmas (*peace vs justice, truth vs justice, transformative vs transitional justice*) within the field, different theories that scholars have put forward (Justice in Balance, Justice Cascade), and the relationship with human rights. We will conclude by analysing some case studies of how transitional justice mechanisms have been adopted in practice in Latin America.

• March 13, 2019

Class 3 – Restorative Justice: Discovering the Truth and Repairing Harm

Today's class focuses on two emblematic tools of transitional justice, namely truth commissions and reparations. Since the mid-1980s, there has been a proliferation of truth commissions, especially so in the Americas and Africa. These mechanisms offer a "third way" between trials and blanket amnesty or national amnesia. Approximately seventy commissions have been established throughout the world, from Chile and South Africa to Canada and Brazil most recently. In parallel to the justice cascade, thus, a "truth cascade" has been occurring, with truth commissions being "fashionable" in times of transition. In coordination with truth commissions or independently, reparations programs have also been adopted across the world, from Argentina, Brazil, and Colombia to Peru. The victims' right to reparations is widely recognized in international law and reparations occupy a unique space among transitional justice measures, for recognizing individual suffering while also seeking to attain national and individual reconciliation.

• March 14, 2019

Classes 4 and 5 – Justice or Impunity? Accountability Trends since the 1980s (I and II)

In these final two classes, the focus is on retributive forms of justice, especially amnesties and criminal prosecutions. Since the mid-1970s, the so-called "justice cascade" (Sikkink), which highlights rising numbers of prosecutions for past human rights violations, has been unfolding - leading some scholars to coin the term the age of accountability (Lessa and Payne). Throughout the 1980s and 1990s, this prosecution preference was at the heart of the transitional justice literature and, despite the growing use of truth commissions and reparations policies, there remains an assumption that prosecutions are the best way to respond to atrocities. We will begin by focusing on the dominance of amnesties laws and examine the ways in which prosecutions eventually happened in domestic contexts, but increasingly so also beyond borders, by resorting to universal jurisdiction and other types of judicial strategies. References will be made to the historic Pinochet case and the Operation Condor trials.

Introductory readings:

1. Tricia Olsen, Leigh Payne, and Andrew Reiter, 'The Justice Balance: When Transitional Justice Improves Human Rights and Democracy,' *Human Rights Quarterly* 32 (2010): 980–1007;

2. Kathryn Sikkink and Hun Joon Kim, 'The Justice Cascade: The Origins and Effectiveness of Prosecutions of Human Rights Violations,' *Annual Review of Law and Social Science* 9 (2013): 269–285;
3. Eric Braham, 'Uncovering the Truth: Examining Truth Commission Success and Impact,' *International Studies Perspectives*, 8(2007): 16-35.