Transitional Justice

Among the most pressing challenges facing societies emerging out of war or authoritarianism is how to respond to gross violations of human rights committed in the madness and mayhem of conflict. History is filled with examples of societies that attempted, often in the name of moving forward, to ignore crimes such as torture, enforced disappearance, the killing of non-combatants and destruction of sites of cultural heritage – crimes that undermine the very meaning of our humanity. Digging a hole and attempting to bury the past, it is increasingly acknowledged, only precipitates more conflict, entrenches animosity and eventually escalates destructivity and dysfunctionality.

South Africa’s Truth and Reconciliation Commission represents a much celebrated – and heavily critiqued - model of transitional justice. This course sets the commission in historic context and critically examines it through a theoretical lens that highlights questions about truth recovery, justice, reparations, and guarantees of non-repetition. Setting it against the backdrop of efforts in Latin America to establish the truth about enforced disappearances, the course critically engages the innovations of the SATRC, the political compromises that underpinned its functioning, before tracing its imprint in growing international efforts to tackle gross human rights violations. The course looks at growing international commitments to criminal accountability (through the International Criminal Court), at two subsequent truth commissions (Guatemala and Morocco), and at the growing role of civil society (in Zimbabwe and Cambodia).

The course thus offers an illustrated introduction to the concept and emergence of the field loosely described as Transitional Justice, while also providing a comparative view of the South African transitional justice process vis-à-vis the crucial questions: Has the truth about past violations been revealed? Has Justice been asserted? Has Reparation been made? Has South African society been restructured to prevent repetition of its gruesome past? Have South Africans reconciled?

Topics to be examined include:

- Argentina: The “nunca mas” imperative
- Chile: truth versus Pinochet
- South Africa: an innovative commission or a betrayal of justice?
- Internationalizing criminal justice: the International Criminal Court.
- Morocco: a model for the Arabophone world?
- Guatemala: an innovative commission (and a complementary initiative in civil society)
- NGO initiatives: Zimbabwe, Cambodia.

Student deliverables
1. A research paper (40%)
2. An op-ed article (40%)
3. A multiple choice exam, in class, which students must pass in order to pass the course (20%)