



TRANSITIONAL JUSTICE

Lecturer: Prof. dr. Peter Hack
Chair professor, Criminal Procedural Law and Corrections Department (ELTE)
E-mail: hpeter@ajk.elte.hu

Course Description

There has been an increasing interest by human rights scholars and activists on the issue of so called “transitional justice”. Transitional justice has to do with situations in which a previously authoritarian regime has given way to a democratic one, and the new democracy is faced with the problem of how to address the human rights abuses of its predecessor. Transitional societies necessarily face with the past in general, and the legacy of human right violations in the previous regime in particular. The way of dealing with past very much depends on the power relations at the time the transition towards democracy starts.

The course sheds light on the normative and institutional framework of these measures. Class sessions will be dedicated to discussions on criminal accountability, amnesty laws, truth revelation efforts, lustration, reparation programs, and the role of different relevant stakeholders and institutions, such as the United Nations, regional international organizations, civil society actors, international, hybrid and domestic criminal courts, or truth commissions.

We will discuss the different models of transitional justice, like the so called “Amnesia Model” used by Spain after the fall off Franco regime, “Selective Punishment Model” which was implemented in Greece, ”The Historical Clarification Model” of Guatemala, the “Mixed Memory and Punishment Model” of South Africa, and the role of international and hybrid criminal courts in the former Yugoslavia, Rwanda, East Timor, Sierra Leone and Uganda. We try to analyze and compare the methods used in Southern Europe in the seventies and eighties, in Southern America after the collapse of dictatorships, Central and Eastern Europe after the fall of communism, and South Africa after the apartheid regime.

The lectures main perspective is forward looking, as far as even today a large number of countries are facing the problem of transitional societies, and are seeking reasonable and fair methods to deal with the legacy of the past.



Class Sessions

- **1st week (09. 14.)**
- Introduction. What do we mean by transitional justice, basic arguments.
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- **2nd week (09. 21.)**
- The first generation of transitional justice, the Nurnberg-trial, the problem of international criminal justice.
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- **3^d week (09. 28.)**
- International Criminal Tribunals (Ruanda, Former Yugoslavia) the ICC.
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- **4th week (10. 05.)**
- Transitional Justice in Europe (Spain, Portugal, Greece) 1.
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- **5th week (10. 12.)**
- Transitional Justice in Europe (Spain, Portugal, Greece) 2.
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- **6th week (10. 19.)**
- Transitional Justice in South America (Argentine, Chile, Guatemala).
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- **7th week (10. 26.)**
- South Africa, (the Truth and Reconciliation Commission).
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- **8th week (11. 09.)**
- East European Models (Poland, Check Republic, former East Germany)



- **9th week (11. 16.)**
- East European Models (Poland, Check Republic, former East Germany)
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- **10th week (11. 23.)**
- East European Models (Hungary)
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- **11th week (11. 30.)**
- The Hungarian Solutions: Volley Trials. Annulment Laws. The Hungarian Solutions: Lustration Laws. Victim Reparation. Summary, and conclusions.
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- **12th week (12. 07.)**
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- **EXAM**

Literature

- Melissa S Williams, Rosemary Nagy, Jon Elster: *Transitional Justice*. Nomos LI. New York University Press 2012.
- Lavinia Stan (ed.) *Transitional Justice in Eastern Europe and the Former Soviet Union. Reckoning with the communist past*. Routledge London 2009.
- Barrett, Elizabeth–Hack, Péter–Munkácsi, Ágnes: ‘Lustration as Political Competition: Vetting in Hungary?’. 260–307. In: Alexander Meyer-Rieckh–Pablo de Greiff, (eds.): *Justice as Prevention: Vetting Public Employees in Transitional Societies*. New York: Social Science Research Council, 2007.
- Hack Péter: Transitional Justice. = *The Transformation of the Hungarian Legal Order 1985-2005*. András Jakab, Péter Takács, Allan F. Tatham (ed.) The Netherlands, Kluwer Law International, 2007. 257-271.



- Roth-Arriaza, Naomi – Mariezcurrena, Javier (ed.): *Transitional justice in the Twenty-First Century. Beyond Truth versus Justice*. Cambridge University Press 2006.
- Barahona de Brito, Alexandra–Gonzalés Enríquez, Carmen–Aguilar, Paloma (eds.): *The Politics of Memory and Democratization*. Oxford: Oxford University Press, 2001.
- Alexander Meyer-Rieckh–Pablo de Greiff, (eds.): *Justice as Prevention: Vetting Public Employees in Transitional Societies*. New York: Social Science Research Council, 2007. 522–544.
- Eiskovits, Nir: Transitional Justice. *Stanford Encyclopedia of Philosophy*. Jan 26. 2009
<http://plato.stanford.edu/archives/spr2009/entries/justice-transitional/notes.html#2>
- Elster, Jon: *Memory and Transitional Justice*. Available
http://web.mit.edu/rpeters/papers/elster_memory.pdf
- Elster, Jon: Coming to Terms with the Past. *European Journal of Sociology* 39 (1998)
- Garrett, A. Stephen: *Models of Transitional Justice – A Comparative Analysis*. International Studies Association 41st Annual Convention, Los Angeles, CA. March 14–18, 2000.
www.ciaonet.org/isa/gas02/
- Huntington, Samuel P: *The Third Wave: Democratization in the Late Twentieth Century*. University of Oklahoma Press 1991.
- Neil Kritz, (ed.), *Transitional Justice: How Emerging Democracies Reckon with Former Regimes. Vol. I-III*. Washington, DC: US Institute of Peace Press, 1995.
- James McAdams, (ed.), *Transitional Justice and the Rule of Law in New Democracies*. Notre Dame and London: University of Notre Dame Press, 1997.
- Nino, Carlos Santiago. 1996. *Radical Evil on Trial*. New Haven, Connecticut: Yale University Press. 135.
- Offe, Claus: *Varieties of Transition: the East European and East German Experience*. Cambridge: Polity, 1996. 82.

Assessment

The course evaluation will be made after an online open book written exam.