TRANSGITIONAL JUSTICE AS A GLOBAL PROJECT

Module “World Orders under the Global Condition”
Thursday, 11 am – 3 pm,
EFS.2.17

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COURSE DESCRIPTION

With the Nuremberg Trials after WWII a process began which, after the end of the cold war, became more dynamic and which is usually summarized under the term Transitional Justice. The launch of a universal human rights agenda led to the need for the international community to enforce these principles in some cases of severe violations, to punish the perpetrators, and to do justice to the victims. The institution of the International Criminal Court in Den Haag in 1998/2002 is a milestone in this development, although some important states including China, Russia, India, and the USA have not signed or ratified the treaty. While nevertheless the notion of Transitional Justice seems to be a global project, there is no universal scheme how to implement it. Since a rigorous reckoning with the perpetrators may lead to new instability, for centuries the idea prevailed which the Roman philosopher Seneca had expressed with the words “the best precaution against civil war is oblivion”. Transitional societies are, therefore, in the need to balance the victims’ legitimate call for justice and the necessity to reconcile the society and to stabilize its new institutions. The seminar will address the problem in the first part from a general, theoretical point of view. In the second part several cases of Transitional Justice will be examined. While the main focus, thereby, is on the Central and East European experience, cases in other areas will be also considered, depending on the interest of the participants.


SYLLABUS

14 sessions

Please note: The topics for the presentations are only preliminary suggestions; they may be subject to change due to the number and the interest of the participants.

Session 1: Introduction
11. April 2013, 11:00 am – 01:00 pm

Topic: General introduction to the seminar

Main questions: The significance of the seminar theme in terms of Global Studies in general as well as of the problem of peace and security in particular; outline of the syllabus, course requirements, introduction of the participants, their background and specific interest in the theme; expectation of the participants and of the instructor; organizational issues.
Session 2: Approaching the Problem: How to Deal with the Past and to Build a Bright Future?
18 April 2013, 11:00 am – 01:00 pm

Topics: Exploration of the underlying conflict of transitional justice which has been already described in the major literary work of ancient Greece about 3000 years ago; forgetting as a century long strategy of dealing with an atrocious past; definition of the central terms relating to the seminar’s theme.

Main questions: Why is transition? What is justice? What is transitional justice? What is the difference between transitional justice and normal criminal justice? What is truth? What is amnesty?

Literature: Homer, Odyssey, book 24, v. 420-
Treaty of Osnabruck, 1648, article 2.

Session 3: Europe’s “Great Seminal Catastrophe” and the Problem of Transitional Justice
18 April 2013; 01:00 pm – 03:00 pm

Topics: The first attempts of implementing transitional justice after World War I; the Soviet response to the tsarist and capitalist past

Main questions: Why did the transitional justice approach fail? How much retaliation is just? Which consequences generated the transitional justice and transitional injustice policies on peace and security in interwar Europe?

Presentations: 1. The Leipzig War Crimes Trial 1921
2. The “Red Terror” in Soviet Russia in the early 1920s.


Session 4: Coping with the Nazi Atrocities: The Nuremberg Trials
25 April 2013, 11:00 am – 01:00 pm

Topic: The Nuremberg trial as the archetype of international jurisdiction, its contribution to international law.

Main questions: Was the Nuremberg tribunal victors’ justice? For what reasons, the Nuremberg charter has been criticized? Did the Nuremberg Trials result in transitional justice? Can a president of several Stalinist show trials be a fair judge in human rights issues?

Presentations: 1. The Allied agreements about dealing with war crimes
   2. The International Military Tribunal for the trial of the major war criminals
   3. The Subsequent Nuremberg Trials
   4. Trials in West Germany against War Criminals

Session 5: Denazification in Post WWII-Germany
25 April 2013; 01:00 pm – 03:00 pm

Topics: Denazification as a method of “transitional justice”, of peace and security, and of democracy building; internment of civilians by the Allies; preparation of the excursion

Main questions: What effect did allied denazification have on peace and security in postwar Germany? Was it an efficient method to identify and to segregate perpetrators from societal life? What were the long term consequences of denazification with regard to coping with the past?

   Military Government of Germany, Fragebogen

Presentations: 1. Denazification in the Western-Zones of Occupation
   2. Denazification in the Soviet Zone of Occupation

Session 6 and 7: Fieldwork: Transitional Justice, Transitional Injustice and Long Term Memory
02 May 2013: Excursion to the Buchenwald Memorial, Weimar

Topics: Soviet Special Camp no. 2 Buchenwald as transitional injustice, memorialization of the Buchenwald Concentration Camp in the GDR; memorialization of both camps in unified Germany.

Main questions: Why can the Soviet Special Camp be considered as “transitional injustice”? In which respect did GDR antifascism comply with the transitional justice concept, in which respect it did not? Why is it so controversial to memorialize Buchenwald’s dual past? What does the addition of the Buchenwald Memorial to the UNESCO World Heritage list imply in terms of the transitional justice theme?


09 May 2013: No class – public holiday (Ascension Day)
Session 8: Transitional Justice in Eastern Europe after 1989/1990: Germany and Russia
16 May 2013, 11:00 am – 01:00 pm

Topics: The “Truth-Commission” of the Bundestag, trials against members of the politburo and against the “Berlin Wall Shooters”; the Gauck-Office for the Stasi Archives; the trial of the Communist Party of the Soviet Union; controversies about Stalin.

Main questions: How did the West German experience of coping with the NS past affect the reappraisal of the GDR past? Who was identified as perpetrator and who was not? How did this interact with the societal peace and the aim of a growing together of the two parts of Germany? Why did the trial of the CPSU not lead to a “Decommunization” of Russia? How did peace and security matters influence the transitional justice process in Russia? Why do many Russians consider Stalin as an “effective manager”?


   2. The “Gauck-office” for the Stasi-Files
   3. The trial against Erich Honecker and other members of the Politburo
   4. The ban of the CPSU and the trial in the Constitutional Court
   5. Stalin and Stalinism in Russia’s culture of remembrance

Session 9: Transitional Justice in Eastern Europe after 1989/1990: Poland and the Czech Republic
16 May 2013, 01:00 pm – 03:00 pm

Topic: Transitional justice in Poland and the Czech Republic, lustration legislation, dealing with the secret police and their files; prosecution of perpetrators

Main questions: Why did Poland and the Czech Republic chose different approaches of transitional justice? Which were the historical, societal and political preconditions for this development? What kind of crimes was not addressed in the transitional justice process?


Presentations: 1. Trials against communist perpetrators in Poland
   2. Lustration legislation in Poland
3. The Institute of National Remembrance in Poland
4. Institutions of transitional justice in the Czech Republic (Institute for the Studies of Totalitarian Regimes/Security Service Archives/Office for the Documentation and the Investigation of Crimes of Communism)
5. Lustration legislation in the Czech Republic

Session 10: Transitional Justice as a Problem of International Peace and Security: Bosnia-Hercegovina
23 May 2013, 11:00 am – 01:00 pm

Topics: Peace building and peace keeping by the international community; International Criminal Tribunal for the Former Yugoslavia; reconciliation policies

Main question: How successful are the peace and security building measures of the international community? How do the verdicts of the ICTY influence the reconciliation process in Bosnia?

Literature: Lauth, Mechthild: Ten Years after Dayton: War Crimes Prosecution in Bosnia and Herzegovina. In:Helsinki Monitor 16 (2005); 4, S. 253-266.

Presentations: 1. The Dayton Peace Agreement
2. The trials of the ICTY
3. Reconciliation strategies

Session 11: Transitional Justice in a Global Perspective
23 May 2013, 01:00 pm – 03:00 pm

Topics: Establishment of the International Criminal Court; South Africa’s Truth Commission as non-European transitional justice reconciliation paradigm, hybrid TJ mechanisms (special court in Sierra Leone), Problem of Western paternalism

Main questions: Why is the South African Truth commission so attractive for transitional societies? Which are its advantages/disadvantages? Is the internationalization of criminal jurisdiction facilitating the implementation of transitional justice in the areas concerned? Are all actors in transitional justice processes equally subject to international criminal jurisdiction?


Presentations: 1. The Truth and Reconciliation Commission in South Africa
2. The Special Court in Sierra Leone
Session 12: Patterns and Actors of Transitional Justice Processes: a Systematic Approach
30 May 2013, 11:00 am – 01:00 pm

Topic: Systematization of the various TJ models discussed; reflection of the various actors involved

Main questions: Which TJ model necessitates which actor? What influence has the various actors on the sustainability of the TJ process? What is the timeframe of a TJ process?


Session 13: Resume
30 May 2013, 01:00 pm – 03:00 pm

Topic: Summarization of the seminar; praise and criticism.

COURSE REQUIREMENTS
Active participation in classroom discussions
Essay
One Presentation