Transitional Justice

Lecturer: Dr. Peter Hack – Dr. Anna Doszpoth
Office hours: Monday 12:00 – 13:00 am, Room 219.
E-mail: hpeter@ajk.elte.hu
Department: Criminal Procedural Law and Corrections (ELTE)

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. Transitional justice does not refer to a solid set of tools which would offer an ideal solution for all countries facing past mass atrocities. Even though international law defines common standards, the potential judicial and non-judicial measures have to be selected based on the political and social context given in the particular post-conflict society.

We will discuss the different models of transitional justice, like the so-called “Amnesia Model” used by Spain after the fall of 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** Introduction. The history of transitional justice: the experiences of Latin-America (Argentina, Chile, Guatemala) and the appearance of international criminal justice (the Nurnberg trials).

**2nd week** Different strategies for truth revelation. The prototype of truth commissions: South Africa.

**3rd week** The relationship between transitional justice and other special legal regimes: international humanitarian law, international criminal law and human rights law. Normative and strategic limits of cooperation between criminal judicial bodies and truth commissions (East Timor and Sierra Leone).

**4th week** The role and legacy of international criminal courts. The impact on truth revelation and the domestic criminal justice system (the former Yugoslavia, Rwanda).

**5th week** Peace versus justice. Legal and political implications of the prosecutions before the International Criminal Court (Northern Uganda).

**6th week** Victims and criminal trials. Witness protection and the special needs of vulnerable victims, such as victims of sexual crimes. Reparation programs.

**7th week** Transitional Justice in Europe (Spain, Portugal, Greece) 1.

**8th week** Transitional Justice in Europe (Spain, Portugal, Greece) 2.

**9th week** East European Models 1.

Visit to the Terror House Museum

**10th week** East European Models 2. (Poland, Check Republic, former East Germany)
11th week The Hungarian Solutions: Volley Trials. Annulment Law


13th week EXAM

**Working method:**

Students are expected to read the material in advance and discuss it in class. The materials for each class can be downloaded from the e-learning site of the course. All students should read the material carefully beforehand and be prepared to explain it and comment on it.

**Assessment:**

- regular attendance (40%) (students are allowed to miss two classes per semester)
- examination / The exam is a written exam with six essay-questions. For the successful exam, the students has to have factual knowledge, and proper understanding of the events and legal solutions.