When Political Transitions Work: Reconciliation as Interdependence

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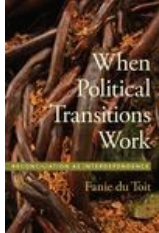
CHAPTER

Introducing the Argument 🔓

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Abstract

The introduction provides an overall summary of the book's argument as well as an answer to the question, So what? The goal of this argument, ultimately, is to develop a consistent yet flexible theoretical approach to political reconciliation rooted in the central idea of a pervasive, unavoidable interdependence between groups in conflict. It seeks to provide a roadmap through the three different sections of the book, which build on one another: one largely historical, one largely theoretical, and one largely programmatic. But the analysis that runs through these sections and binds them together is driven by three questions: how do reconciliations begin, how do they gain momentum, and how do they change society? The introduction explains this structure, which is important to keep in mind as a roadmap throughout the book. The introduction also develops a concept of transitional justice that operates in the background throughout the discussion of reconciliation.

Keywords: reconciliation, transitional justice, typologies, leadership, road map, relevance
Subject: Comparative Politics, International Relations

Reconciliation emphasizes relationships as a crucial ingredient of political transition. This book builds an argument for the importance of such a relational focus in crafting sustainable political transitions. The goal of this exercise ultimately, is to develop a consistent yet flexible theoretical approach to political reconciliation rooted in the central idea of a pervasive, unavoidable interdependence between groups in conflict.

But why another theory on reconciliation? And why build this, in part, on a re-evaluation of South Africa's transition *now*, twenty-four years after formal apartheid ended? We know that bibliographies of studies on South Africa's political change run into hundreds of pages and that the process has been discussed, debated, and analyzed endlessly around the world. Is there anything fresh that remains unsaid?

It turns out much remains unsaid, if South Africans are to be taken as a yard stick. If reconciliation was indeed no longer important, then someone indeed forgot to tell them. Mandela's death on December 5, 2013, saw a massive outpouring of grief, but also yet another round of intense debates about reconciliation. It clearly continued to matter—a lot. Citizens waged protracted and heated arguments about the merits and failures of Mandela's legacy—and by extention, of their country that had been founded amid so much promise two decades earlier. In trying to find answers, some commentators focused on Mandela's style of leadership as compared to his political counterpart, F. W. de Klerk. Others evaluated achievements of the ANC government after two decades in power. Some developed conspiracy theories to the left, others suspected foul play to the right. Some blamed "white monopoly capital," others viewed political corruption with its concomitant lack of delivery to mainly poor, black communities as the main problem. Whatever the many different views, one crosscutting sentiment prevailed: that reconciliation remained at the very heart of what South Africa stood for, but had not yet, achieved.

I would argue that not much has changed since those days when South Africans were coming to terms with the passing of their founding father. Today ↳ reconciliation remains an issue of critical importance to citizens from all walks of life—an unfinished national conversation that continues unabated, for some by decrying "rainbowism" as a ruse for maintaining vested interest, and for others as a call to return to a politics of inclusion, compromise and racial cooperation.

This book makes its own limited contribution to these conversations, by evaluating reconciliation from three angles: as political beginning, as peaceful transfer of power, and as social change. The aim is to understand how reconciliation begins as political settlement (often despite conditions which seem to militate against its possibility), how then the transfer of actual power is embodied and institutionalized in processes that go beyond agreements, declarations and high-profile meetings and finally what reconciliation promises, and is able, to deliver in terms of actual change in society, once the new dispensation gets underway.

One often hears that the time is "not yet right" for reconciliation, for talking to the enemy or for settling historical scores. Depending on who is making the claim, or where it is made, reasons proffered to substantiate this assessment may include a lack of the "right" leadership, or a "bad neighborhood," poor economic conditions, or low levels of historic precedent for peaceful transitions, etc. And yet, of course, time is seldom, if indeed ever, "right" for reconciliation. Rather, reconciliation processes that prove both transformative and sustainable display remarkable resilience against often "insurmountable" odds.

Much like a young sapling taking root and beginning life, only to find itself perilously balanced on some exposed rocky outcrop, or protruding from a crevice in a sheer cliff face, reconciliation too, needs to battle hostile and harsh conditions—often so daunting that they seem to rule out reconciliation very *possibility* even before it gets a chance to develop—like a rock face appears to rule out the possibility of a healthy tree thriving with it as its foundation. And yet some trees manage to do just that, seemingly against all odds. As their stubborn roots weave their way around the rocks, and into whichever narrow crevices they can find to extract all available nutrients and moisture, these searching roots entwine with one another and the rocks to which they cling to form an unshakeable foundation for a tree that should never have been able to stand there in the first place. Trees can surprise one with their will to survive. And so do reconciliation processes that achieve their goals under the most unlikely conditions.

In the coming pages, I hope to show that reconciliation processes that "work" are not all that different from trees who manage to survive, grow and ultimately thrive, where they should never have been able to do so.

And so the three angles of my investigation of reconciliation—beginning transition, transformation—shape the discussions right through the book: in Section I, where the focus is on re-evaluating the South African case; Section II, ↳ which tracks the field's broader theoretical approaches; and, finally, Section III, where I explain the theory of reconciliation that emerges from these discussions.

In Section I, I draw attention to aspects of South Africa's history that are in danger of being forgotten, or that may not yet have been considered adequately.

By looking at how South Africa's reconciliation process began, then extended into an institutionalized handover of power, and finally led, or depending on one's perspective, *failed* to lead, to a transformed society, several broad themes emerge. When, for example, is reconciliation a ruse of powerful elites to hide their interests? When does it constitute truly transformative leadership? When does it become a betrayal of justice, and when it is a visionary opening of a new dawn? How do we judge its failure, and under which conditions would we be prepared to admit to its success? Exactly which criteria ought we to use in these judgments, and over what time span?

In the second section of the book, these questions are taken up in a discussion on ways in which reconciliation is being theorized.

To compare approaches, I develop typologies for three different kinds of reconciliation theories. Liberals, restorative justice advocates, and agonists, I claim, each have a distinct approach to framing the messy, uneven, and disjointed affairs which we call "political transition" or "political reconciliation." A key focus throughout in these discussions remains on how relationships which form the core of reconciliation are viewed to be initiated, institutionalized and socialized within each of these different theoretical approaches.

Drawing on the findings from the first two sections in the book, I conclude in the third section that relationships created through political reconciliation, between top leaders as well as between ordinary citizens, are illuminated in interesting and productive ways when understood as an expression of a comprehensive (pervasive) and fundamental (unavoidable) "interdependence" that precedes, and long outlives, any formal peace process between enemies.

Such interdependence is illustrated by the kind of relationship that may develop between sworn enemies stuck in the same lifeboat following a shipping disaster many miles offshore. To begin, trust and hope would be low, and animosity high. Some will choose a dual to death with their fellow survivor or swimming for the shore, rather than having to cooperate with the very person they have learnt to hate so passionately. But should sanity prevail, there would eventually be a gradual, perhaps grudging acknowledgment that chances of survival are greatly improved first by remaining inside the boat; and furthermore if the boat is rowed by two rowers rather than one, working in rhythm toward the shore line.

In political terms, this acceptance of the need to achieve common goals with the enemy and making a sincere effort to do so, no more and no less, constitutes ↳ reconciliation's inception. It is set in motion not when the "shore" of peace is reached, but when the oars are first picked up together to get there in the acknowledgment of interdependence.

During the process of rowing together, gradually, conversations might begin and understanding might grow, first of how to row most effectively, and later perhaps about how to survive together on the life-boat. Gradually, the survivors will get to know one another. As the boat moves ahead, possibilities for more effective cooperation might emerge, producing hope for life beyond the crisis, and eventually, though perhaps only at the journey's end, the promise of some measure of acceptance of someone now no longer simply the enemy of old, but a fellow survivor of a life-threatening crisis. It is this shared determination to reach the shore that keeps the process going through all the difficulties and challenges.

Linking reconciliation so closely with the acknowledgment of interdependence seeks to convey that enemies have little choice but to reconcile, should they wish to reach the "shore" alive. It conveys the sobering fact that without ensuring the conditions in which an enemy can survive and eventually flourish, one's own community is unlikely to prosper sustainably. The theoretical approach that develops from this discussion locates the deepest motivation for reconciliation in choosing mutual well-being above the one-sided fight for exclusive survival at the other's cost.

This is not necessarily the kind of news that is popular in an era of resurgent nationalism and crude power politics. We would much rather row our own boats, than risk the arduous task of learning to row with our enemies. To those who have fought one another over years, decades, and even centuries, this message almost certainly would require painful compromises, which some could see as betrayal of their historic struggle for justice. This means that reconciliation is often as much resented and feared as it is desired. Interdependence between fighting groups, when first acknowledged, appear therefore as a daunting, even unwelcome, imposition. Yet the promise of reconciliation to deliver transitions "that work" lies precisely in its ability to turn this *imposition* of interdependence into an *aspiration*, into hope, and into a set of possibilities with concrete benefits for those on both sides of the conflict. From an existential threat to my well-being and freedom, the enemy and his presence in my world develops into a unique opportunity to attain these aspirations, even as I become the gateway toward my enemy's future—without necessarily accepting to "like," "forgive," or "befriend" the enemy in any of the commonly accepted senses of these words. This tightrope that hovers so precipitously between the violence of betrayal and the violence of self-defeating struggle appears often the only way to reach a desired future in many intractable conflicts.

Apart from conveying this risky inevitability, the concept of reconciliation-as-interdependence also seeks to introduce a "workmanlike" dimension to reconciliation agendas. Rather than a primarily emotional journey of finding peace of mind, or closure, reconciliation is understood as more about what we *do* together (at least initially) than what we feel about one another. Of key importance, therefore, given these limitations, is to manage expectations about the levels of intimacy and trust one can expect from reconciliation once the fighting stops, whether around negotiation tables, or in community halls, schools, food markets, or board rooms.

Political leaders who want to lead their people to peace, must muster the tenacity of a tree hanging from a cliff face. They will also need the pragmatism of enemies surviving together in a life-boat on the open ocean.

South Africa's Transition: An Ongoing Debate

In anticipation of the Israeli elections of March 2015, the journalist Marwan Bishara wrote that it was high time that Israel adapted to a changing region and globe, and urgently reconsider its belligerent stance on Palestine. Yet, he concluded, the chances of this happening were slim because none of the main presidential candidates was likely to provide the leadership Israel requires. Bishara argued that Israel urgently needs an Israeli equivalent of F. W. de Klerk—a political leader willing to forge a historic agreement with the Palestinians as the South African leader did in the final days of apartheid. As it turned out, the Israeli electorate returned the hawkish Benjamin Netanyahu to power in 2015. Bishara anticipated this outcome, but suggested nevertheless that in the event that Israel does one day opt to elect a De Klerk of its own, that there would be no shortage of Palestinian Mandelas on the other side. Israelis would only need to "look in their jails or in the occupied territories" to find an inspirational Palestinian leader such as Mandela.[1]

Bishara's linking of the South African case with that of Israel and Palestine is interesting—not so much because of the accuracy or otherwise of his political assertions, but because his article illustrates how the South African transition continues to be held in esteem as an example of reconciliation. Why, one may ask, does the South African example still get cited in this manner? And why would Bishara assume that it holds relevance for such a vastly different conflict? Why too extol De Klerk's virtues when he remains controversial in his own country? And why invoke the concept of reconciliation as a possible solution?

At face value, some of the answers may be found in the fact that South Africa's political transition is still viewed by many as a moment of historic importance or, as historian Leonard Thompson called it, "one of the finest achievements of the ↳ twentieth century."[2] It may also have to do with growing disappointment over other potentially historic moments that failed to materialize. The high hopes for rapid democratization in Africa, for example, like those for a democratic and stable Middle East after the "Arab Spring," have all but disappeared.

On the gloomy international stage where it is hard to find more recent examples of countries that have dealt with a violent or repressive past peacefully and sustainably, South Africa stands out as one of the few relative success stories (even if, ironically, South Africans themselves appear to be losing faith in a unified country).[3] And yet apart from these well-known assumptions, there may also be less obvious reasons for South Africa's ongoing relevance, some of which have come into focus for me during the past two decades.

The Institute for Justice and Reconciliation (IJR)—the organization I worked for since 2000—emerged in the wake of the South African Truth and Reconciliation Commission (TRC). The organization is often asked to assist countries undergoing processes of political transition, reconciliation, and transitional justice.[4] In these conversations questions arise such as how to make a start to reconciliation when conditions seem set against it, how to enable a sustainable and peaceful transfer of power, and how to deliver concretely to society against their inevitably high expectations, all with reference to how South Africa had done it.

These conversations extend not only beyond South Africa and into a more general political sphere, but also into deeply existential, personal dimensions. Reconciliation can sometimes seem to mean all things to all people, so another important question is, what is specific to reconciliation, and how is it different to other forms of political transition? Moreover, how can its processes be evaluated as successful or not, both as a promise at inception and as time goes by? Do some kinds of processes in fact fail to qualify as reconciliatory even if some claim that they are, or do such judgments constitute a form of moral imperialism? What is the role of the observer/researcher in all this, not least as in my case, when his history is one of deriving incalculable benefit from apartheid and colonialism? How does one balance one's own position "within" the story with "telling" the story?

Through many years of wrestling with questions such as these and trying to distill lessons, insights, and warnings from cases like South Africa and others, I have increasingly become convinced of the need for a coherent and versatile theory of reconciliation to address questions such as these. And so, the idea for a book like this was gradually born. In these pages, I try to explain political reconciliation from three angles and, by doing so, build a concept of reconciliation that corresponds largely with the South African experience itself as judged with the benefit of hindsight. The concept also explains some of the larger universal insights at stake.

Thus, in the first section of the book comprising the first four chapters, I revisit certain dimensions of the South African case to try to explain its ongoing ↳ allure for so many international observers, and its

durability twenty-four years on (while at the same time not assuming that these gains are permanent or indeed irreversible), and to point out a few stubborn but important misconceptions about the process.

In the book's second section, I map out the international theoretical landscape on reconciliation, identifying some strengths and weaknesses in current theories, which I spell out in more detail.

In the final section, I attempt to draw together a coherent yet versatile approach to reconciliation that can be used to make sense of and guide the processes often involved in political transitions.

Chapter 1 analyzes the key role that the kind of political leadership Bishara called for plays in initiating reconciliation processes. One can almost hear the clamor of incredulous responses to Bishara's claim that Palestine has many Mandelas. A claim often heard about groups like the Palestinians is precisely that peace would be more achievable if only they *did* have a leader like Mandela. And yet I am unsure which Mandela is being referred to in assertions like these—the real, historical figure, flaws and strengths included, or an idealized, even fictional, figure. Mandela was undoubtedly a giant of his time, but his reputation posthumously seems to have grown even larger, perhaps too much so. He now seems to enjoy a kind of secular beatification that makes it virtually impossible for any contemporary leader to claim to emulate him, let alone improve on his ideas. I believe this would have horrified the real Mandela.

To substantiate the argument developed through the course of the book I refer to some of the best published histories as well as a careful selection of interviews with principal actors during this era, therefore not making the entire historical case myself. There is simply not enough space to do this here, and it would be distracting to the main objective, which is to work toward a coherent approach to political reconciliation, articulated in the concluding section of the book.

In Chapters 2 and 3, I turn from Mandela and De Klerk as individual leaders to introduce another line of inquiry that remains relevant throughout the book, namely, how to understand reconciliation's unfolding over time into a real but peaceful transfer of power, both through different waves of negotiations and various transitional justice processes, the one overlapping with and building on the other. Once the inspiring words had been spoken, and the years of off-the-record meetings had run its course, how then did reconciliation shape and inform the actual political processes intended to achieve the effective transfer of political power from an entrenched white elite to a democratic majority of South Africans?

In societies such as South Africa where the past dominates every aspect of society, it takes special resolve to articulate, let alone pursue, a new future. If the ↳ inception of South Africa's reconciliation process depended crucially on political leadership, then its subsequent enactment and sustainable moves toward a new future depended equally crucially on the range of platforms, mechanisms, institutions, organizations, and initiatives that emerged in its name. Arguing that reconciliation is morally or strategically desirable is one thing, but to convince a divided nation that it is actually possible and practically workable—that a new future is around the corner—is quite another. And it was this burden, more than any other, that a range of transitional institutions in South Africa carried as they set out to put reconciliation into practice in a country that had never before experienced black and white citizens working together in intentionally reciprocal and mutually beneficial ways.

Despite this resolve to move forward in realizing a common future, South African leaders quickly found that seeking a basis for working together toward a desired future in a context of deep mistrust and historical enmity, and with the specter of protracted violence hanging over society, unavoidably raises the question of transitional justice, which I take up in more detail below.[5] While finding ways to build trust between former enemies is crucial, the new elite must directly address the wrongdoings of the past and the lingering resentments these have created. Otherwise, peace is likely to be temporary,[6] even if some countries prefer to encourage citizens deliberately to forget the past through what Andrew Rigby calls a "pact with oblivion."[7]

Against this background, Chapter 4 focuses on such normative and empirical questions related specifically to South Africa's reconciliation processes. First, I investigate reconciliation's implicit normative implications by asking which social goods had in fact been promised as outcomes of reconciliation—and therefore by which normative criteria reconciliation ought to be evaluated. Clearly, the architects of reconciliation did not promise the solution of all social problems and challenges overnight. What in fact then did they promise? And consequently which normative guidelines should we use to judge progress toward reconciliation? The first aim in Chapter 4 is therefore to explore reconciliation's implicit normativity, in the rhetoric of its chief political advocates, but also in the ways that it was first enacted and

made concrete in the various mechanisms and platforms that followed. This is important, because South Africans' experience of reconciliation was decisively shaped by these institutions.

After exploring reconciliation's promise, the second half of Chapter 4 explores whether reconciliation did or did not deliver on this promise. Looking back on what has occurred since the late 1980s, I draw on public-opinion surveys conducted in South Africa, as well as victim and perpetrator interviews, and data tracking the implementation of TRC recommendations.

So, re-reading this history, produces a set of conclusions about why South Africa's transition from apartheid to democracy was able to put an end to political ↳ violence, if not *all* forms of violence; why it produced democratic institutions that, amid growing executive impunity, have appeared reasonably effective; and why, after four hundred years of colonialism and apartheid, South African society is finally taking concrete steps toward racial justice, even if these steps have not been fast or decisive enough, not least as a result of a toxic mix of public and private sector corruption and nepotism which swept across the country during the Zuma era.

What is new here are the normative criteria against which the claim that South Africa's transition "worked" is made. If a transition is meant to deliver, within a matter of years, the complete erasure and closure of an evil past, then clearly South Africa's transition did *not* work, either in the Marxist sense of a class revolution, or in the restorative justice sense of forgiveness. However, the book builds a different set of criteria against which South Africa and political transitions, more broadly, ought to be judged.

Judged by these criteria, I argue that the South African transition "worked." Political violence was replaced by largely nonviolent political contestation; the apartheid state was replaced by a constitutional democracy with institutions that since 1994 have acted at least partially effectively in curbing executive impunity (not least with increasing conviction during the Zuma presidency), and a vast array of policies and measures have been undertaken to improve the lives of poor South Africans, which has led to the gradual but steady increase in the life expectancy of all South Africans. This story is not, as the ANC's campaign slogans during the 2014 elections glibly proclaimed, simply a "good story to tell" (there are too many missed chances and squandered opportunities along the way), but despite this, the story does go a long way in dispelling the Afro-pessimism so typical of many "critical" studies of South Africa.

I do acknowledge, through the course of the discussion, the deep disappointment of many South Africans who feel that, in the light of the escalating inequality and pervasive corruption, not enough has been done. But this disappointment should not blind us to the fact that the 1994 transition did away effectively and peacefully with "apartheid" as a political dispensation and set South Africa on the road toward social transformation.

More on the relationship between Reconciliation and Transitional Justice

Before moving on to outlining the next section of the book, it is important to revisit an important underlying relationship which, depending on how it is understood, profoundly impacts the rest of the discussion—namely the relationship between transitional justice and reconciliation. These are two adjacent, partially ↳ overlapping, but ultimately distinct fields of study, practice and normative debate. Too often these terms are used inter-changeably, or in vague, ill-defined consort—whereas it is important to be precise about how they differ and where they do overlap.

The single-minded pursuit of a shared future in the context of deep division often means, at least initially, that there is little room for settling old scores; and yet it is increasingly clear that this willingness to forgo vengeance or even forms of legalized retribution does not equate with ignoring the past. Indeed, in many cases, dealing with the past appears necessary to overcome lingering resentments and achieve the desired future. Transitional justice correctly insists therefore that reconciliatory spaces need to be concerned, in principle and from the outset, with justice and accountability. It is therefore wholly understandable that a prominent emphasis in the TRC enactment of reconciliation is on transitional justice mechanisms and processes.

Transitional justice scholars tend to have three main concerns. First, they examine the concrete practices and processes through which transitional or post-conflict societies deal with past political atrocities. The second focus is on normative debates about what ought to be the aims of these processes, and the third

focus is on empirical studies to measure their impact. Distinguishing between these three broadly differentiated definitions of transitional justice—first as a practice, second as normative discourse on this practice, and third as empirical investigation of the outcomes and impact—is not only useful for structuring the discussion of the South African case, but it also clarifies the relationship between reconciliation practices and transitional justice as they are treated throughout this book.

The generic concept of "dealing with the past" naturally includes a diverse range of interventions that address past atrocities in ways that seek to promote reconciliation and democracy.[8] Institutional arrangements typically, but not exclusively, include bringing past political perpetrators to account through criminal prosecution and punishment, vetting and lustration, structured processes of public truth-telling, the production of publicly accessible archives about past political crimes, public apologies or other formal opportunities for reconciliation between former political and military opponents, and reparations for those who had fallen victim to gross human rights violations.[9]

As explained earlier, a key focus in Chapter 2 and 3 is on identifying and investigating some of the cross-cutting traits that characterized the various platforms for reconciliation and transitional justice in South Africa, those which were tasked to anticipate a shared future (in Chapter 2) as well as those tasked to deal with the past (in Chapter 3).

To understand how the transitional arrangements in South Africa balanced the struggle between the future and the past, more is needed than an individualized study of each mechanism. Absolutely central to the

success of achieving a correct ↳ balance between moving on and facing the past is how the various mechanisms and organizations themselves work together and build on one another.

This, in turn, raises the concern of how the various mechanisms, platforms, and institutions contributed to a larger, more comprehensive political transition that was framed by the concept of reconciliation. The alternative—thinking of transitional justice in isolation from political transition and reconciliation—often results in transitional justice mechanisms misfiring or even undermining one another in ways that were never foreseen. Too often, transitional justice mechanisms are then viewed as "silver bullets," able to operate in isolation from one another, and from the processes they are meant to serve. Unrealistically, such processes are habitually required to address shortcomings in the political transition, without the process itself being corrected. Importantly, this is not only an unfortunate tendency of transitional justice practice, but also a fairly marked blind spot in transitional justice literature.

In South Africa's case, this kind of "silver bullet" analysis has led to a disproportionate focus on the TRC as the sole platform for reconciliation and transitional justice, while crucial platforms and mechanisms that preceded, surrounded, and followed on from it, and on which it depended heavily for its own impact, have been largely ignored. I therefore aim to correct this bias by discussing additional reconciliation platforms to the TRC, namely the National Peace Accord (NPA), the Multi-Party Negotiation Process (MPNP), and the Transitional Executive Council (TEC)—as well as importantly the important ways in which they related to, paved the way for, and limited the possibilities for what the TRC could and did achieve.

The focus on the political integration of transitional justice institutions highlights important concerns about how to move from a violent past in genuinely transformative ways to a desired, shared future. For example, isolating and prosecuting individual criminals may deliver some benefits, but this does not address wider issues of accountability for the past, and contributes little to the need to balance credible levels of accountability with ongoing inclusivity.[10] Equally, reparations can, at best, provide some sense of emotional and very limited material relief for a small group of victims (even smaller when court trials are chosen over TRCs), but they do not address the structural issues related to social justice, either historically or as communities live into the future. Likewise, public truth-telling often amounts to an obscuring rather than a revealing of truth if these exercises are not conducted within a range of support mechanisms, not least a functioning legal system and agencies with proper investigative powers and political independence. In the absence of a rights-based gender policy, traditional reconciliation practices have the potential to simply reinforce hegemonies and power relations that might have been major contributing factors to the

conflict in the first place.[11] These dangers and risks associated with ↳ transitional justice all demand careful reflection on how mechanisms, processes, and platforms are integrated and allowed to complement one another.

In addition to this, and as mentioned earlier, the term "transitional justice" can also refer to normative discourses and debates about what ought to constitute the aims of measures and mechanisms for dealing

with past political atrocities.[12] These debates are conducted in academic discourse as well as popular political debates, with one arguably feeding off the other.

As explained further in Chapter 4, these questions are taken up with reference to South Africa: how and why reconciliation and related transitional justice initiatives were undertaken; how they were justified or on what grounds they were opposed; and how they purportedly contributed to outcomes such as justice or peace. Far beyond the South African case, these concerns have given rise to a widespread and prolific academic discourse, with specific terminologies that emerged in parallel to the operational history of political transition. Paige Arthur has described how a series of international conferences in the late 1980s and early 1990s launched the term "transitional justice" into the policy environment, and how this was aided by the publication of seminal works by authors such as Neil Kritz, Ruti Teitel, and Guillermo O'Donnell.[13] Arthur also described how a range of NGOs, some with international reach, others much more modest, adopted the notion of "transitional justice" as their mandate. Erik Doxtader, in turn, explained how transitional justice became standard UN parlance.[14] Meanwhile, bibliographies on transitional justice relating only to the South African case already run to hundreds of pages.[15] Transitional justice debates often range from polemical and partisan commentaries to more even-handed reports, grounded justifications, and sustained analyses. Insofar as transitional justice institutions publish written outputs (such as the proceedings of tribunals or truth commissions), these are often closely associated with the normative discourses and debates.

In addition to normative debates, transitional justice and reconciliation are increasingly also the focus of empirical analyses and investigation. In the second half of Chapter 4 I show how in seeking to evaluate South Africa's transition, such studies have begun to challenge the key assumptions and conclusions of some of the normative assumptions made at the onset.[16] Thus, empirical investigations of various kinds, such as public opinion surveys, smaller-sample surveys focusing on specific stakeholder groups like victims or perpetrators, as well as detailed analysis of the impact of reconciliation programmes such as reparations, have led to an interdisciplinary literature including comparative and theoretical analyses of case studies and global trends.[17] This subfield of research on transitional justice is of course closely related to the study of democratic transitions, and have provided a rich body of literature that helps us make sense of how to judge whether or not, or what ways, the South African transition "worked."[18]

Theories of Reconciliation

In the second section of this book, I turn away from the focus on South Africa specifically to chart the landscape of international theorizing on political reconciliation since the mid-1990s. Chapters 5, 6, and 7 each describe a family or cluster of theories on reconciliation prevalent in academic debates internationally. I outline the same three core questions in relation to each cluster of theories that I considered regarding the South African experience—that is, about reconciliation's inception, its progressive enactment, and its promise. This section is meant to chart current thinking on political reconciliation, and to discuss what I consider to be some of the weaknesses and strengths of each position. A comparative table summarizing the main points in these typologies, and comparing them to reconciliation-as-interdependence, is found in the appendix (pages 237–239).

The first group of theories are discussed in Chapter 5, under the title of "the forgiving embrace" (after the work of the Croatian theologian Miroslav Volf).[19] This group of theories cluster around the theme of social restoration, viewing restored *personal* relations (variously defined) as reconciliation's key outcome. These theories overlap considerably with those that place forgiveness at the heart of reconciliation processes, and see this as the key to social change.

In Chapter 6, I then develop a different typology based on liberal approaches to reconciliation. These approaches overlap significantly with current UN-sponsored transitional justice discourses and practices globally, which view the promotion of the rule of law and accountability for political crime as a key feature of reconciliation's theory of change, and increased levels of civic trust as its main outcome.

In Chapter 7, I outline a third approach, the agonist paradigm of reconciliation, in which nonviolent political contestation is seen as the surest sign of progress toward reconciliation. For agonists, reconciliation is a goal that is never fully reachable, while conflict is seen as inevitable and indeed a sign of a healthy political life.

Reconciliation as Interdependence

In Chapter 8 and the Conclusion which comprise the third section, I attempt to draw these many lines of study, practice, and reflection together in a coherent, progressively realized, and nonexclusive approach to reconciliation based on the notion of interdependence: *coherent* because this kind of reconciliation develops a recognizable quality as the basis for comparative analysis between contexts; *progressively realized* because the same core idea is politically, institutionally, *and* socially relevant and productive over the course of an entire political transition, and is thus able to frame a transition process from its fragile political inception during "talks about talks" to its eventual social enactment, a process that may ↳ last decades; and *nonexclusive* because it does not claim to be the only way or the final word on how to conceptualize or implement reconciliation.

Indeed, ongoing reconciliation processes require that theoretical positions be reviewed continuously. At the same time, the approaches followed in different contexts themselves need to be constantly re-evaluated in light of ongoing critical analysis and reflection. Obviously no case study could ever be a "model," nor should any theory ever exude any pretense of permanence. I nevertheless proceed on the assumption that comparative analyses that remain sufficiently sensitive to the particularities and peculiarities of each context, are in fact able to yield cross-cutting insights and lessons, and can contribute to reasonably coherent, if always provisional, approaches to reconciliation. For this reason I am not proposing a particular *method* of reconciliation, but rather the outlines of a theoretical *approach* that remains open-ended.

This is not to say that reconciliation has universal application—that it is the answer for every context or any conflict. For the concept to have integrity, I contend, one needs to be able to acknowledge and identify situations and contexts in which reconciliation is *not* appropriate. For example, I am not sure how one applies reconciliation as a framework for transitioning beyond the classic scenario of interstate warfare, or indeed where states or coalitions of states fight terror groups such as the Islamic State or Al-Qaeda. By contrast, I argue that reconciliation *does* have particular relevance in conflicts in which enemies live in proximity and are contesting key levers of power, rights, and resources within a particular territory, whether through civil war, liberation struggle, or civic rights movements. Reconciliation also has relevance in ideological conflicts that may spread over regions or even globally, but where reasonably coherent religious or cultural groups clash, less for control over physical territories than for control of moral or religio-cultural landscapes. Moreover, reconciliation can conceivably also apply where political transitions signal the end of an era of oppression and a move toward a more inclusive, open and fair society.

Essentially, my aim is to develop a relevant concept of reconciliation in terms of which the outcomes of political transitions can be promoted, pursued, and, ultimately, accounted for. Peacemaking, transitional justice, and social transformation all form crucial elements of an approach to reconciliation based on the central idea of social and political interdependence.
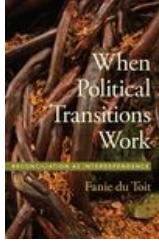
We now turn to the question of how South African leaders articulated realistic possibilities for reconciliation at a time and in a society where it was considered a pipe dream.

Notes

1. Bishara, "Sobering Up after Israeli Elections." Bishara is of course not the first to seek to extract lessons from the South African transition for the Israeli-Palestinian conflict. See, for example, Adam and Moodley, *Seeking Mandela*, in which they compare the two conflicts in relation to economic interdependence, religious divisions, third-party interventions, leadership, political culture, and violence, and conclude that the two contexts have more differences than similarities. Nevertheless, they argue that the South African transition has valuable lessons for the Israeli-Palestinian conflict, of which "preparing an indoctrinated public on both sides for a painful transition by means of a truth commission remains perhaps the most important one", 241; see also Adam and Moodley, *Imagined Liberation*.
2. Thompson, *A History of South Africa*, 241.
3. See IJR, *South African Reconciliation Barometer Survey 2014 Report*, 16.
4. I have worked for the IJR since its inception in 2000, first as a program manager and, from 2008 to 2016, as executive director.
5. See Arthur, "How 'Transitions' Reshaped Human Rights"; and Bell, "Transitional Justice."
6. Transitional justice differs from the more routine ways in which stable societies deal with the past by being particularly concerned with past political atrocities and the challenges these pose for peace and justice in times of political transition or in the aftermath of major civil conflicts. The scope, intensity, and legacies of past political atrocities tend to combine

with the fragility of transitional and post-conflict societies, to shape the characteristics of transitional justice processes and mechanisms.

7. See Rigby's discussion of the Spanish case in his book *Justice and Reconciliation*, 1, 2.

8. In the context of transitional justice, the phrase "dealing with the past" has come to serve as accepted shorthand for dealing with "past atrocities," "crimes against humanity," or "gross human rights abuses."

9. See Huyse, "Justice after Transition"; and *Traditional Justice and Reconciliation*; see also Kritz, *Transitional Justice*; and Offe, "Disqualification, Retribution, Restitution."

10. For important additional considerations of this question, see: N. Dimitrijvić, "Justice beyond Blame: Moral Justification of the (Idea) of a Truth Commission," *Journal of Conflict Resolution* 50, no. 3 (2006): 368–82; L. Fletcher, H. Weinstein, and J. Rowen, "Context, Timing, and the Dynamics of Transitional Justice: A Historical Perspective," *Human Rights Quarterly* 31 (2008): 165–220.

11. C. Bell and C. O'Rourke, "Does Feminism Need a Theory of Transitional Justice? An Introductory Essay," *The International Journal of Transitional Justice* 1 (2007): 23–44.

12. Kritz, "Where We Are and How We Got Here," 21–45.

13. Arthur, "How 'Transitions' Reshaped Human Rights."

14. Doxtader, "A Critique of Law's Violence."

15. See Alexander et al., "Truth Commissions and Transitional Justice," 20; see also Witwatersrand University and South African History Archive, *Traces of Truth*.

16. For example, while it is often claimed that making perpetrators accountable for their past atrocities will prevent a recurrence of political violence and atrocities in future (as against counter-normative claims for the superior virtues of forgiveness and reconciliation), empirical investigation aims to determine the actual (possibly unintended) consequences of both scenarios.

17. See Gibson, "The Evolution of Race and Politics"; IJR, *South African Reconciliation Barometer Survey 2014 Report*; Elster, *Closing the Books*; Mamdani, *When Victims Become Killers*; Nino, *Radical Evil on Trial*; Stover and Weinstein, *My Neighbor, My Enemy*; Van der Merwe et al., *Assessing the Impact of Transitional Justice*; and Wilson, *Politics of Truth and Reconciliation*. Another significant development was the launch of the *International Journal of Transitional Justice* in 2007.

18. The comparative study of transitions from authoritarian rule, known as "transitology," includes much material and discussion relevant to transitional justice, but this is not my main concern. Seminal works include Huntington, *The Third Wave*; and O'Donnell and Schmitter, *Transitions from Authoritarian Rule*.

19. Volf, *Exclusion and Embrace.*

5 The Forgiving Embrace 🔓

Fanie du Toit

Abstract

Moving beyond South Africa into a broader theoretical discussion, this chapter discusses the first of three typologies of reconciliation theory: reconciliation as forgiving embrace. The chapter, like previous ones, develops around three reconciliation-related questions: of inception, transition, and transformation. Those who view reconciliation as largely identical with forgiveness view its inception as a call to moral community; its unfolding as a series of steps toward restorative justice, including repentance, acknowledgment, forgiveness, and redress; and its promise as that of healing of broken relationships. I raise some difficulties with this approach: in many contexts, restorative justice does not seem appropriate, not least when perpetrators remain powerful or unrepentant, and victims vulnerable and traumatized. Moreover, I argue that one can neither prescribe nor "programmatize" forgiveness insofar as it is essentially a gift that may or may not occur. It is therefore essential to imagine reconciliation processes in the absence or not-yet-presence of forgiveness.

Keywords: forgiveness, restorative justice, healing, redress, acknowledgment, Derrida, Philpott, Tutu

Subject: Comparative Politics, International Relations

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Moving beyond the South African case, I now consider how reconciliation has been thought about and enacted more broadly.[1] At face value, reconciliation theories, definitions, and processes have multiplied beyond the point of being categorized easily.

My lawyer friends in the transitional justice arena often complain about this "fuzziness." Some feel that this rules out reconciliation's utility as a policy framework—precisely because of the lack of consensus and clarity on what is meant by the term. My somewhat jocular retort is that reconciliation may indeed be a confusing concept, but then justice is arguably even more contested; that it has generated even more debate, disagreement, and confusion; and yet remains central to policymaking. The more serious point is that conceptual differences about its meaning, should not disqualify reconciliation as a meaningful policy contributor. If handled correctly, the debates generated by what reconciliation does or should mean, may in fact become one of the concept's most meaningful contributions to stimulating progress during political transition. This is precisely where differences become clear but also where common ground may emerge.

For some of the theorists discussed in the pages that follow, it is precisely this diversity in approach and conceptualization to reconciliation that prompts the ongoing search for common themes that could make some sense of the need to compare, inform, warn and evaluate reconciliation processes not only within given contexts, but also across them. It is therefore important, even as differences and contestations are acknowledged, not to give up on pursuing theoretical clarity that at least attempt to account for what can be expected, offered, and hoped for when societies seek to reconcile. But clearly humility is a good place to start with this enquiry. In this section, I use the notion of ideal types or typologies[2] as a means of making the large variety of reconciliation discourses in circulation at least *somewhat* more comprehensible.[3] Max

Weber, the pivotal ↳ German sociologist, explained that an ideal type, "in its purely fictional nature, is a methodological utopia [that] cannot be found empirically anywhere in reality."[4] It is therefore possible, indeed probable, that no individual theorist discussed in the next three chapters would identify wholly or completely with the reconciliation typologies I associate them with. However, I am of the view that it is possible to discern certain "family traits" among existing theories, so as to identify with sufficient accuracy at least the following three "ideal types" of reconciliation (summarized in table format in an appendix on pages 237–239).

The first typology or "ideal type", and which forms the focus in this chapter, is typically associated with the notion of political forgiveness, and developed within a framework which I call "social restoration." The following two chapters focus on two other typologies respectively: reconciliation as "liberal peace" and reconciliation as "agonist deliberation." In each chapter, and in keeping with the structure I developed in the first section, I first examine how that particular framework thinks about the ways in which reconciliation makes a start in hostile, violent contexts, its beginnings.[5] Then I discuss some of the concrete milestones typically associated with this "type" of reconciliation once it broadens into institutional arrangements and processes. Finally, I focus on the promise of, and (therefore also the) justifications for, each "type" of reconciliation. A brief discussion of the first type of reconciliation theory, developed within the framework of social restoration, now follows.

A Call to Communities of Reconciliation

Reporting on South Africa's TRC as a journalist, the author and poet Antjie Krog made the point that reconciliation may have been a misleading term to apply to South Africa's transition in the first place, because there was no bygone era in which racial harmony had ever prevailed and to which society could return as is seemingly implied by the prefix "re-" in reconciliation.[6] Apartheid, Krog explained did not fracture a once-positive relationship between whites and blacks. Instead, it doggedly solidified, in law, politics, and social structure, the exploitative relations that had existed under colonialism. In fact, since Europeans first set foot in the Cape, and possibly even before, South African history had been one of separation, subjugation, and division. This is as true of the genocide against the original inhabitants of the Cape, the Khoi, as it is of Cecil Rhodes's "purchasing" the area known today as Zimbabwe from the bemused Ndebele chief, Lobengula, for a thousand rifles.[7] And it is as true of the 1913 Land Act that rendered black South Africa landless in the country of their birth, as it is of apartheid's outlawing of sexual relations across the color line and refusing black South Africans a decent education, and of countless other examples besides. From trading post to imperial possession to apartheid state, ↳ South Africa proceeded consistently
along lines that ensured the exploitation of the black population by white settlers. Perhaps, therefore Krog's proposed, "conciliation" would have been a better term to use, and it might have captured more accurately the radical changes proposed by Mandela's project.

Historically, Krog's observation is largely accurate. In fact, it holds for most post-colonial societies. Yet, history also testifies to the fact, as I showed in an earlier chapter, that South Africans generally had little difficulty in accepting reconciliation as a national project after Mandela was released and the ANC and other liberation organizations were unbanned in 1990. And this was true despite the obvious fact that no one was able to invoke a golden age to which South Africans could return via the path of reconciliation. South Africans' popular, almost intuitive, acceptance of the notion of reconciliation was true of communities of most, if not all, backgrounds and persuasions and were evident in a succession of opinion polls and even election results.

It is not easy to explain this phenomenon, if as Krog implies, reconciliation may have been a misnomer in the first place. Yet, by adjusting Krog's idea somewhat, reconciliation's popularity post-1990 may become more comprehensible. Is it possible, to think of the call "to reconcile" as a moral rather than a historical call? And that South Africans understood this, namely that Mandela, and other leaders' were issuing a moral rather than historical challenge? Was it perhaps meant, and duly received, as a call to return to a moral community that South Africans could all agree *ought* to have been, instead of one that had in fact existed?

If we pursue this line of thinking, we can postulate that reconciliation processes can be thought of, in principle at least, to begin with a call to "something new" rather than as a return to "something old"; that it is essentially a progressive, forward-reaching call towards a moral ideal rather than a reclamatory, backward-looking call to return to a golden era?

South African political analyst T. O. Molefe seems to think so. Referring to reconciliation's original emergence as an accounting term, Molefe has argued that political reconciliation could be explained as a "reconciling" of the current state of affairs in a country with an ideal one—much as reconciling one's books at the end of a month implies both harmonizing the way that transactions are reflected on paper with the ways in which events actually occurred, as well as structuring transactions in ways that meet auditing requirements. Molefe notes that this process implies a delicate give and take between that which is and that which ought to be.[8]

Similarly, the reconciliation theorists I focus on in this chapter argue that reconciliation begins when visionary leaders call their peers (and, by implication, society at large) to help create a form of community that is morally desirable, whether or not in fact such a community ever existed before. Leaders typically use

imaginative verbal and symbolic gestures, metaphors and imagery to issue ↳ such calls—for apologies, for forgiveness, for expressions of solidarity—but the message amounts to the same thing: reconciliation for these leaders, and the theorists that seek to interpret their actions, is about the restoration of an ideal, a moral community yet to emerge.

Drawing on firsthand experiences during the war in the former Yugoslavia, the Croatian theologian Miroslav Volf produced a study of reconciliation that is often cited as representative of this framework which sees reconciliation as a call to a new moral community—the kind of reconciliation theory I call "reconciliation as social restoration." Appearing just as the South African TRC commenced its work, but describing a distinctly Balkan context, Volf's book *Exclusion and Embrace*[9] made a significant impact in reconciliation studies. Volf's conception of reconciliation invokes the metaphor of the "drama of an embrace, in four acts," mirroring the physical action of two human beings who enter an embrace by opening their arms, waiting, closing their arms around one another, and then opening their arms again. Volf emphasized the importance of the embrace being set in motion by an opening of arms—a signaling of "desire for the other" that is borne of a discontentment with a self-enclosed identity. Opening our arms signals that we have created space for the other, and made the boundary between ourselves and others permeable. The gesture invites the other to enter and, at the same time, it is a "soft knock" on the other's door. Not a storming down of the door, the gesture is a request that respectfully invites another into communion.

This beautiful metaphor paints a vivid picture of reconciliation as entering into community with one's enemy, and yet, evidently harbors real risks at the same time. History illustrates that, all too often, oppression and violence, rather than peace and justice, return in the name of "moral politics" that advocate one form of social restoration or another. Vladimir Lenin in post-Bolshevik Russia was but one example of a political leader who called for unity under a single, moral vision. But to realize his communist "restoration" of society, Lenin also built brutal concentration camps, punished political opponents by engineering famine in their communities, and prevented the emergence of democratic governance, thus ultimately helping to create one of the most oppressive and violent states the world has ever known. Indeed, without Lenin's moral idealism, Stalin would have been unable to reign with the unprecedented levels of terror that he did.[10] As Andrew Schaap put it, "there is good reason to be suspicious of the ideal of community as it is in the name of this ideal that oppression is legitimised."[11] This is anything but an idle, abstract discussion. It is often a critical question facing citizens emerging from terrible periods in their countries as they are trying to evaluate whether or not to follow one or another leader into the kind of community his or she is advocating to restore.

The realization that idealism and totalitarianism are often barely a breath apart has prompted reconciliation

theorists such as Volf and others, to carefully ↳ track some of the implications and conditions attached to calls for the restoration of community in the name of reconciliation. Put simply, they have pointed out that not everyone calling for social restoration is to be trusted or followed, however compelling their arguments and imagery. Social restorationists have been particularly careful to determine how to avoid a return to violence under reconciliation's guise, particularly in contexts of ongoing violence and oppression. Whether they have been successful in producing a theoretical approach that achieves this, will be discussed again in the concluding section of this chapter. Volf emphasizes pointedly that the aim is to enter into an embrace "that is not a bear hug," but rather a gentler, less-threatening touch.[12] Clearly, important implications and assumptions, not only about the nature of society but also about individuals and the link between the two, are embedded in this call to embrace.

Social restoration as a "type of reconciliation" implies a worldview with features that, its adherents claim, does in fact set it apart from oppressive and totalitarian calls for community. To support this claim, it is necessary to unpack carefully certain basic assumptions within the social restoration framework, about the nature of the world and how it all fits together—what philosophers call ontological assumptions. For theorists like Volf, these basic assumptions are precisely the safeguards which protect reconciliation as social restoration from excesses such as those experienced under Leninism, for example.

The basic articles of faith belonging to reconciliation understood as social restoration are found across a wide range of disciplines and thinkers. These include communitarian and multicultural political scientists, social psychologists and narrative philosophers, restorative justice theorists, traditional-culture practitioners, advocates of political forgiveness, peacemakers, and theologians across the religious spectrum, to name just a few. All these traditions have contributed ideas about what the call to reconciliation as social restoration might imply for the fundamental ways in which we understand society or "the world", and vice versa.[13]

So far my argument has been that for social restoration, reconciliation is initiated with a call to restore a moral (not historical) community—a community based on reconciliation as a set of practices of relational restoration.

A *first* key feature that theorists in this line of thinking highlight, that sets communities of reconciliation apart from oppressive, exclusionary and unjust communities, is the key belief or assumption that all relationships are firstly human relationships, including crucially also political relationships, and therefore that political reconciliation happens in broadly the same way as "normal" interpersonal processes of relational healing. Political relations should therefore first and foremost be acknowledged as "thick relations"; that is, the diversity, ↳ individuality, and cultural specificity of identities, and specifically of political relationships, need to be taken into account when countries seek to build a new political community out of the ashes of war and/or oppression. It is when these identities are ignored or buried under calls "for a common humanity," or "universal brotherhood," that things often go wrong, and that totalitarianism raises its ugly head, these theorists claim.

This assumption does enjoy obvious appeal in many post-conflict situations, given the fact that issues of identity often play a crucial role in conflicts. For example, the importance of social identity in Canada's struggles to politically reconcile its French and English-speaking communities, has prompted Canadian Charles Taylor's important work on the concept of *recognition,* which, in turn, builds on the work of Friedrich Hegel. It has become hugely influential in shaping reconciliation theory and political theory more generally.[14]

Famously, the struggle for recognition in Hegel's thought begins with the master recognizing his dependence on his slaves. Prior to this, the master believes himself independent of his slaves and views and treats them as personal property. To confirm his power over them, the master sets out to annihilate his slaves. But in planning this, he comes to realize that he is, in fact, dependent on the slaves for his own identity. After all, he cannot be a master if there are no slaves. In a moment of what Hegel calls "proto-recognition," the master is forced to acknowledge that he cannot do away with the slaves, because his sense of self and self-certainty depends on their existence.[15] The slaves, in turn, also come to understand their power over the master, and this forms the basis for a struggle in which the slaves risk death in order to establish their own sense of self-recognition—as subjects who can shape their own destinies, not objects of the master's supreme will. This process, which Hegel uses to illustrate the reconciliation dynamic, sets in motion a series of events that eventually results in restored, more reciprocal relationships.

Building on these ideas, Taylor argued that recognition consists of an acknowledgment of identity and of the different ways in which identity manifests in society and the restoration of society after conflict. Thus, for Taylor, social identity plays a fundamentally important role in community cohesion. Consequently, Taylor argued, a failure to recognize identity has the potential to harm communities just as much as physical violence does.[16] It is not coincidental that so many dictators, from the former Yugoslavia's Tito, to Spain's Franco, Lenin, Saddam Hussein and many others justified their brutality in terms of calls to some notion of universal identity, whilst denying any acknowledgment of those social and political identities which happened to be viewed as threatening to their regime.

Martinique-born Algerian writer, psychiatrist, and political philosopher Frantz Fanon applied similar ideas to colonial and post-colonial Africa. Taylor credits Fanon with illustrating better than anyone how the

colonial ploy to ↳ convince Africans to accept their role as the colonized not only lent credibility to colonial mastery, but wreaked psychological havoc among the colonized on a par with any level of material exploitation and physical violence Africans may have endured. However, despite appearances to the contrary (including the apparent acquiescence of the colonized), for Fanon, a lack of recognition of the colonized eventually results in counter-violence, as the "native" rebels against the imposition of identity. In typical fashion, Fanon wrote, for example, that

> as soon as the native begins to pull on his moorings, and to cause anxiety to the settler, he is handed over to the well-meaning souls who in cultural congresses point out to him the specificity and wealth of Western values. . . . But it so happens that when the native hears a speech about Western culture he pulls out his knife.[17]

The politics of recognition implies therefore that the unique identity of an individual or group—their distinctiveness from everyone else—is acknowledged. Ignoring, glossing over, or assimilating this distinctiveness into a dominant or majority identity is seen as a kind of violence that militates against the possibility of moral community, even if (as in Leninist Russia) assimilation happens in the name of moral politics. Thus, within the social restoration framework, identity assimilation is a cardinal sin against the ideal of authentic reconciliation,[18] whereas an acceptance of the need to recognize diverse identities produces a sense of multicultural awareness premised on political tolerance, and ultimately gives rise to a moral community. As Fanon so vividly pointed out, the violence of failing to recognize identity often produces counter-violence. To overcome both violence and counter-violence, and establish a reconciled society, the recognition of identity within politics, also the politics of reconciliation, must always have a central role.

A *second* assumption widely shared by proponents of reconciliation as social restoration is that human beings are essentially dialogical and relational; that we live in "webs of interlocution," are "dependent on inter-subjective relations with others," and consequently can be called upon to put ourselves in others' shoes.[19] Others' opinions of us also therefore matter fundamentally, for better and for worse, because these opinions, in the forms of ascribed identity, help to shape our sense of self negatively (as explained above) but potentially also positively; that is, the opinions of others shape us in ways that are foundational to our understanding of ourselves and the world.[20] For this reason, thinkers such as Taylor agree that identity needs to be recognized, not in abstract terms, but as a phenomenon that is shaped by the specificities of particular settings. This idea has often been explained by Desmond Tutu and others as inherent in the

African philosophy of ubuntu, where it is understood that people are fully human only ↳ through their engagement with other people. Humanity is thus both a given and a moral call; one can in fact "lose" one's humanity if one treats the other in inhumane ways. As Tutu remarked to black compatriots, with bitter irony at the height of the struggle against apartheid: "Be nice to the whites, they need you to help them rediscover their own humanity."[21]

Ultimately, therefore, even as reconciliation as social reconstruction insists on recognition of identity, it also acknowledges that human beings live in "overlapping social territories" and that identities are fluid.[22] Reciprocity is therefore established, not simply through mutual recognition (as Hegel and Taylor claim), but as the fruit of self-giving that presupposes a recognition of the other. Hierarchies cannot simply be leveled or *inverted* through struggle, they must be *subverted* in more radical ways, by allowing identities to interact in mutually enriching ways. This is why, in addition to recognition, self-sacrifice is seen as essential. Volf argues that, although an embrace has an undetermined outcome and carries the risk of being misunderstood, despised, or even violated, without this "gamble on the account of grace," a truly human life is impossible.[23]

Implicit here is a *third* assumption: that how individuals reconcile holds important insights for how groups reconcile. In other words, the relationship between the realms of the interpersonal and the social is understood as being characterized by continuity not discontinuity. Because human beings are essentially relational, and because our relationships are fundamentally determined by who we are (in our own eyes as well as in those of others), larger social realities are acknowledged as being ever-present in interpersonal relationships. As an individual white Afrikaner male, for example, I cannot reconcile with my fellow South African (who may be a black female) without acknowledging that historically determined issues of gender and color are real and present, structurally, culturally, and also personally, in how we relate to one another, even though we might have long rejected these as decisive elements of our own individual identities.

For proponents of social restoration, recognizing the inverse dynamic, from the social towards the individual, is equally important: social healing between individuals is believed to be possible only when communities, at a group level, follow the dictates of the forgiving embrace, and abide by time-honored, culturally embedded sequences of interpersonal relational healing and reconciliation. Taylor argued that liberals are mistaken when they describe individual identity as a secondary aspect of political life that is relevant only after rights are established between "rational subjects." Instead, he says, identity makes human rights possible, because it is not possible to understand human rights without reference to the concrete needs, aspirations and ideals of individual and social identities. Furthermore, since language contains the shared life of a community and produces identity and culture, he argues that language is

irreducibly a "social ↳ good." As many of us express our identities mainly through language, identity can also be said to be essentially narrative.[24]

Thus, within the social restoration paradigm, reconciliation begins when a call is uttered with cross-cutting moral appeal, a call to individuals to embrace those they have seen as enemies and to restore ethical moral community based on recognition. But this is not any kind of moral community: individuals' embraces should aim to restore ever-more reciprocal relations between erstwhile enemies, between masters and slaves. The implication is that such a call, backed up by appropriate action, has the potential to precipitate a return to a moral society, and help communities to move away from the ruins of war and oppression.[25] The call to reconciliation is thus essentially not backward looking, but forward looking. Looking ahead, the call challenges, provokes, and nudges people to reconcile what *is* with what *ought to become*, rather than with what *has been*.

Moreover, the call to reconciliation acknowledges the fundamentally relational character of society. This relational focus is premised on a respect for differences, in whatever mode such differences may manifest— often between cultural and religious groups. War and oppression often destroy respect for difference, thus harming the appreciation of relationships on which community ought to be based. Reconciliation is initiated when such destructiveness is recognized, and a moral call is made to adversaries and others to return to a community based on respectful relations that are shaped by an acknowledgment of differences. These respectful relations then set the reconciled community apart from oppressive ones.

The Unfolding of the Forgiving Embrace

A second set of shared features of reconciliation theories within the social restoration framework, regards the question of, how once a call for a return to moral community is heeded, the process in fact unfolds and develops. Which traits and processes characterize reconciliation as social restoration, and how is this type of reconciliation understood to bring about the radical political change that is foreshadowed in the call to a moral community based on a recognition of identity? Put simply, how concretely does the call to return to moral community usher in change?

As indicated earlier, Volf developed the metaphor of an embrace to track the renewal of relationships that, when multiplied across society, constitutes reconciliation. At the same time, his moving account acknowledges the difficulties of embracing those who have caused untold misery (in his case, as a Croatian to Serbs and vice versa). Yet, despite the acknowledgment of how difficult it is to embrace the enemy, Volf

did not balk at setting the moral bar very high for ↳ himself and other victims. For him, reconciliation as embrace demands an extraordinarily high degree of self-sacrifice if citizens are to emerge fundamentally altered by an encounter with "the other." An important question that follows from this, and to which I return later, is if such a moral standard is realistically achievable when prescribed to individuals across an entire society, not least in the context of profound political and social change.

Volf warned, as noted, that it is important to prevent the embrace from becoming an intrusive "grasping." Waiting patiently for reciprocity is important. Coming out of the self and toward the other, the self "postpones desire" and halts at the boundary of the other. "If the embrace does take place, it will always be because the other has desired the self just as the self has desired the other."[26] When the time is right, two pairs of arms enter one embrace—signifying significant commitment—and yet, for such an embrace of mutual giving and receiving, a soft touch is necessary. "At no point may the 'self' deny either the 'other' or itself."[27] For this it is important to develop the capacity, not only to understand the other, but to preserve the "otherness" of the other. Finally, an embrace always ends. Bodies do not become "welded together" in an embrace; the "I" does not dissolve into "we," as often occurs in totalitarian regimes. Rather, the "I"

must let go of the other, acknowledging that the embrace can never produce a final settlement, but requires repeated gestures to have a lasting effect.

Political scientist Daniel Philpott draws on the "overlapping consensus" that he sees as emerging from Islamic, Christian, and Judaic theology, as well as from restorative justice theory, to postulate his own description of the grammar or movement of reconciliation as social restoration. His *Just and Unjust Peace* is an ambitious attempt to graft liberal political outcomes onto restorative justice and theological roots. His compromise endorses liberal approaches to peacemaking, insofar as these involve human rights, democracy, the rule of law, and so forth, but he does not endorse classic liberal philosophical values such as Isaiah Berlin's much vaunted "value pluralism."[28] Despite his nod to the importance of liberal consensus, Philpott's main point of departure is in line with the general assumptions underlying the social restoration model, and concerns the nature and extent of the damage that war typically causes in society. War's fractures create a need for holistic and comprehensive approaches that include restoring a society's wholeness (beyond simply imposing judicial and political rules abstracted from the concrete conditions of the society it seeks to serve). Reversing the logic of classic liberalism, which sees reconciliation primarily as "doing justice," Philpott defines the ethic underlying political reconciliation as

> A concept of justice that aims to restore victims, perpetrators, citizens, and the governments of states that have been involved in political injustices to a condition of right relationship within a political order or ↳ between political orders—a condition characterised by human rights, democracy, the rule of law, and respect for international law; by widespread recognition of the legitimacy of these values; and by the virtues that accompany these values.[29]

Philpott's reconciliation theory, similarly to Volf's, also reflects to some degree he classic approach to the grammar of the embrace within Christian theology—acknowledgment is followed by apology, forgiveness, and reparations, or as Volf put it, the opening of arms, the waiting, the embrace, and the release. This sequence is premised on the model of a divine-human relationship that involves sinners realizing their sins, confessing and repenting of them, and receiving forgiveness, for which they, in turn, dedicate their lives to putting right that which they have done wrong.

Philpott's theory finds its epicenter in the practice of *forgiveness*. For him, this amounts to reconciliation's key contribution within society and the politics of transition. The moment of forgiveness, more than any other, enables and completes reconciliation. This is where reconciliation manifests itself; it is what makes profound renewal possible. Significantly, Philpott argues that forgiveness can be enacted at a political level —be writ large, as it were, across society through symbolic actions such as those often associated with Nelson Mandela and Desmond Tutu.

Along these lines, other scholars too have investigated the role of forgiveness in overcoming broken relationships.[30] For example, Pumla Gobodo-Madikizela is a former South African TRC commissioner and psychology professor who interviewed apartheid-era mass killer Eugene de Kock (nicknamed "Prime Evil"), who was released on parole in 2015 after serving nearly twenty years of his sentence of two life sentences and 212 years in a maximum-security prison. In her writings, Gobodo-Madikizela describes in moving detail how she wrestled with the notion of engaging with De Kock's "human-ness," of what caused him to descend to the level of a mass killer, and subsequently what would constitute a possible restoration to society and of his lost "human-ness." She explores in depth what it means to try to "end the trauma caused by apartheid" when this trauma is constantly revisited as victims and perpetrators try to live together in a post-apartheid society.[31] In a later essay, she argues, contrary to the adage that to "forgive is divine," that to forgive is firstly deeply human. Disputing Hannah Arendt's notion of the unforgiveable, Gobodo-Madikizela develops a case for forgiveness being the most appropriate response to the perpetrators, beneficiaries, and bystanders of serious international crimes in situations where victims have to learn to live together with their violators in the same society.[32]

For Philpott, forgiveness involves neither forgetting nor condoning evil deeds; nor is it an absence of punishment. He states that radical evil may even ↳ provide grounds *not* to forgive. He argues, however, that forgiveness is essential to reconciliation, both individually and politically, because it enables a "letting go" of the hurt of the past. This entails both a kind of liberation for the victims, as well as restoring the "good standing" of the perpetrators—thus forgiveness offers a kind of liberation for perpetrators too. He argues further that forgiveness ultimately serves justice by being uniquely able to facilitate the restoration of

"right relationships." Without forgiveness, he says, the healing of broken relationships and the forging of "right relationships" is impossible.

"Right" relationships in post-war situations involve creating respect for human rights and addressing those wounds typically caused by war. Philpott identifies six such "primary wounds of war," which include the destruction of trust, national loyalty, state legitimacy, and other forms of social capital. The primary wounds cause a range of secondary, subtler but no less serious, wounds through a cause-and-effect chain involving memory, emotion, judgment, and action. As a remedy, Philpott proposes a political/transitional-justice agenda comprising six reconciliation practices meant to address the six primary wounds, namely: institutional reform, punishment, acknowledgment, reparations, forgiveness, and apology. In short, for Philpott, liberal peace as traditionally conceived is not "wide enough" to address the whole range of wounds caused by war, and in shunning humanity's cultural and religious traditions, it cannot be "deep enough" either to make the requisite difference in postwar situations.[33] For this, the restorative power of reconciliation as forgiveness is needed.

Restorative Reconciliation's Healing Promise

From the ideas of theorists such as Taylor, Volf, Gobodo-Madikizela, Philpott, and others, a template emerges for reconciliation theories within the social restoration paradigm. The four areas of commonality between these theories discussed above also help to clarify what this template offers in relation to the *outcomes or promise* of reconciliation processes as social restoration.

First, these theories view the restoration of moral community after war or oppression as a key promise. They tend to draw heavily on theological, philosophical, psycho-cultural, and other normative constructs to offer inspirational images of how a community ought to be: to avoid renewed oppression and ensure a level of tolerance of difference, relations within the healing community are characterized by a recognition of diverse social identities. Furthermore, a distinct ontology is at play within this type of reconciliation theory. Human society is not viewed primarily as an arena of danger and violent competition, but rather as a delicate web of cooperation, through which sufficient levels of trust exist, or can be generated, to fulfill shared ambitions.

p. 135 This view of reconciliation appears to challenge a basic referent of liberal thought—the free and independent individual. Instead, it views human beings as essentially relational rather than atomistic. War is therefore seen as what happens when things go fundamentally wrong in this community of human relations. Unlike liberalism, where violence is often seen as an inevitable consequence of competition between atomistic entities, whether nations or individuals, for social restorationists, violence is primarily understood as a disastrous denial of how the world does and should work. As explained earlier, three assumptions form the backbone of this ontology: first, that human beings are intrinsically relational; second, that interpersonal reconciliation works in a way similar to, and holds important insights for, intergroup reconciliation; and, third, that political and social relations are continuous, implying that political reconciliation has to take into account the "thickness" of cultural and other factors that are particular to a specific conflict.

A second promise involves the "forgiving embrace" as the seminal moment in a restorative sequence of events—acknowledgment, apology, forgiveness, restitution, and/or reparations. These "turning points," although essentially descriptive of individual human (or human-divine) relationships, can affect dramatic *social* and *political* change when their logic is allowed to develop across society. Captured in political practices, declarations, and actions, they can trigger profound and powerful social change. For individuals and groups, everything changes in the event of forgiveness. At the group level, especially, "turning points" may include more outward, ritualistic events or "practices," whether cultural or religious, or indeed a combination of inward and outward events. From the moment or start of a process of forgiveness and its acceptance, relational restoration follows. A core assumption is that reconciliation requires a profound commitment, and that forgiveness is the moment on which this process turns. A review of the literature on forgiveness reveals ongoing debates about whether to conceive of it as conditional or unconditional, and how to tell whether political relations have been restored or not. But can forgiveness really be predicted, programmed, and adapted to function in political contexts? Some say yes, others no. I return to these points later in this chapter, and again in the final section of the book.

The third promise of reconciliation as social reconstruction relates to their fundamental optimism about possibilities for the healing of relations, including political relations, and about achieving justice. This optimism not only stands in stark contrast to the measured pessimism inherent in theories of both justice and reconciliation framed from a liberal perspective, but also turns basic concepts within the liberal paradigm on their heads: instead of classical *retributive* justice, forgiveness leads to a healing restoration of relationships conceptualized as *restorative* justice. Thus, for advocates of social restoration, justice is

achieved not ↳ when abstract judicial principles are implemented with no regard for context, but when damaged relations are restored in ways that enable society to overcome historical injustices. Thus, healing is expected to follow reconciliation, and justice is expected to follow healing in an almost linear way. Howard Zehr writes that working within a restorative justice paradigm offers a lens that reveals injustice to be "the violation of people and relationships. It creates obligations to make things right. Justice involves the victim, the offender, and the community in a search for solutions which promote repair, reconciliation, and reassurance." By contrast, retributive justice views crime as a violation of the state, "defined by lawbreaking and guilt. . . . Justice determines blame and administers pain (just deserts) in a contest between offender and the state directed by systematic rules."[34]

A fourth promise within the social restoration paradigm—and indeed an essential outcome of all restorative justice processes—is the deep healing of victims as a primary goal. "Forgiveness is a power held by the victimised, not a right to be claimed," writes Martha Minow in her important work on this theme.[35] For this and other reasons, restorative justice has developed significant support as an alternative form of justice, even in societies traditionally organized along liberal lines.[36] In Minow's view, restorative justice depends on the restorative power of truth-telling, the presence of sympathetic witnesses, on the placing of suffering in a larger context to help individuals to make sense of their experiences, and, finally, on the acknowledgment and recognition of identity (as described, for example, by Charles Taylor). When one or more of these elements are absent, the whole process suffers. From within this framework, the key question that faces post-conflict societies is not how law and order can be established, but how a moral community can be restored and form the basis of a more just and law-abiding society. The rule of law then becomes an outcome of, not a prerequisite for, reconciliation, and justice is not dependent primarily on the establishment of impartial rules, but on restored relationships. In short, justice is redefined as reconciliation; that is, as the restoring of relationships. Reconciliation as social restoration also promises healing, not only at an individual and interpersonal level but also at intergroup, social, and political levels, following the profound experience of a forgiving embrace, and it can occur at an individual or at the social and/or political levels.

Questions about Social Restoration

As powerful as this vision is, it has also been criticized, not least by liberal theorists. Commenting on the
South African case, Gutmann and Thompson ↳ agree, arguing that if "healing of the nation" is taken to mean forgiveness by the victims and repentance by the perpetrators of apartheid crimes, this is a utopian aim, and not even a positive one.[37] For such critics, the aim of conflict resolution should not be to seek in comprehensive social harmony but to deliver on its promise of mitigating and managing hostilities. Another such critic, Harvey Weinstein, a US-based academic, writes that, whereas the concept of closure is murky, that of reconciliation is even more questionable, and should be carefully reassessed if not dropped from the post-conflict lexicon. He argues that the notion of reconciliation offers opaque, imprecise, and ultimately utopian ideals that may be generations away, and which no political leadership should pretend to be able to deliver.[38]

These criticisms raise three important open-ended questions in relation to the typology that frames reconciliation as social restoration and forgiveness, to which I turn in conclusion. First, to what degree is the restoration of community an appropriate political aim for transitional societies? Second, who gets to define the new moral community and the processes that will take society there? Third, can forgiveness really be translated into political practice in the ways suggested above?

Restorative Reconciliation as a framework for Political Transition

Is it not asking too much to expect erstwhile enemies during times of vast political transition, to engage in socially restorative processes with one another with the aim to heal relationships, historic grievances and deep-seated trauma? Given the realities of perpetrator recalcitrance and denial in any given number of contexts, such an expectation appears, at least to some, as unrealistic, if not also undesired. Even in rare moments where genuine perpetrator remorse is forthcoming, it is also important to reflect on the profound pressure felt by victims when perpetrators request forgiveness from them, especially in public settings. Sometime they are simply not ready; on other occasions they may be wholly unimpressed with the moral sincerity of the perpetrator, or they may simply reserve their right to privacy. In South Africa, the example of apartheid Minister of Police Adrian Vlok comes to mind. Vlok has, since appearing before the TRC and subsequently striking a plea bargain in court related to undisclosed crimes for which he had not received a TRC amnesty, developed extensive relationships with victims of apartheid atrocities, including the former director of President Mbeki's office and prominent cleric Reverend Frank Chikane, who was nearly killed in

an attempt by Vlok and others to poison him during the struggle years. In meeting ↳ victims, Vlok insisted on washing their feet as a symbol of his repentance. This ritual impressed some victims, Chikane included, but angered others immensely. There is simply no guarantee of how victims will react when confronted with someone who had destroyed significant parts of their lives. Nor indeed, one could argue, should there be such a guarantee, for to prescribe forgiveness is arguably to violate victims' dignity afresh by robbing them of their individual moral agency.

I recall a personal encounter with a former Liberian warlord, now evangelical preacher, who was known as "Colonel Butt Naked," in reference to his habit, before combat, to strip down naked in the belief that this would make him invincible. He eventually received amnesty from the Liberian TRC and subsequently attended a conference in Kenya which I also attended. On first meeting him, he struck me as an exceedingly jovial fellow. At a reception one evening, he was in a particularly good mood and insisted on being the resident photographer, moving around the table and chatting with everyone. As we were socializing, I noticed another colleague from Liberia next to me not participating. I struck up a conversation, and asked her how she was and why she had been so quiet. "To be honest," she said, "I have a headache. I have had a headache ever since I arrived here. I guess I am not coping that well with the colonel's presence here. You see, one of the groups associated with him killed my father back during the civil war."

It is one thing to succeed to convince former mass murderers to confess. Often they simply do not. But if and when they do, sometimes in a haze of religious escapism, it can leave survivors and victims even more confused, upset and traumatized than before. Without necessarily passing judgment on whether the perpetrator's transformation had been genuine, victims may feel, as did my colleague at the Nairobi conference dinner, that they are not ready even to face the perpetrator, let alone engage in a process of restorative justice, not least when the perpetrator now seems so utterly convinced of his own redemption and is seemingly getting on with his life with a joy thoroughly unmatched by that of the victim herself.

If these kinds of facilitated engagements face such tremendous difficulties, then, on a large scale, it would seem that this model taken to its extreme, sets transitional societies up for failure. I would suggest that, at the very least, the reality of moral failure ought to be factored into reconciliation processes from the start. Key to this would be to find ways to "move on" with political and social redress even if victims are not prepared or able to forgive, or perpetrators are unable or unwilling to rise to genuine remorse. They should never be allowed to hold the healing of a nation hostage. And what is social restoration's "Plan B"? It seems that when "Plan A" falters—and it very often does—social restoration in its classic form does not seem to offer an alternative.

Others, such as Charles Villa-Vicencio and Ernesto Vedeja, have responded by redefining the outcome or

promise of reconciliation within the social restoration ↳ paradigm in more "modest" ways.[39] Instead of speaking of healed relations as the outcome of reconciliation, they use terms such as "respect" or "trust." Ernesto Verdeja, for example, developed his theory of political reconciliation largely on the premise of social restoration, but his account is less outcome-driven, more process-oriented, and less dependent on whether or not forgiveness actually takes place, than some of the examples discussed earlier.[40] Verdeja also provides a distinctly secular justification for reconciliation.

Drawing on Latin American post-dictatorship experiences of the 1980s and 1990s, Verdeja entitled his study of reconciliation *Unchopping a Tree*, borrowing a phrase from poet William Merwin to describe the

impossibly delicate nature of reconciliation. "Which pieces go where? Will they grow together or collapse with the first soft wind?" asks Verdeja. His theory is a good example of political reconciliation that has social restoration as its point of departure but does not demand forgiveness, or posit the high social ideals of restorative justice as nonnegotiable prerequisites for reconciliation. Rather, it seeks to shape these ideals to accommodate what is politically realistic.[41] There is good reason, as discussed, for such modesty. Verdeja argues that reconciliation cannot wait for the day that all differences have been resolved before it can begin or indeed progress. Reconciliation has to be a process that is based on the commitment of former enemies to work together nonviolently, despite historic differences and the unfinished business of the past, on the understanding that issues will be resolved over time. He accepts that forgiveness, as a prerequisite for reconciliation, can put unfair pressure on victims to put the past behind them in the name of the greater good, and that confessions and remorse from perpetrators may not always be realistic. However, if neither victims nor perpetrators can find the moral courage to confess or forgive, national reconciliation processes can be designed in such a way that society can move on with the majority of its citizens.

For Verdeja, reconciliation as normative goal therefore involves restoring a "condition of mutual respect among former enemies, and it requires a reciprocal recognition of the moral worth and dignity of others. It is achieved when previous, conflict-era identities no longer operate as the primary cleavages in politics, and when citizens acquire new identities that cut across those earlier fault lines."[42] He also accepts that reconciliation is an "uneven, disjunctured, and multi-levelled" process, which includes political and institutional reform, civil society activism and individual change.[43] He emphasizes too that although his theory is normative, it is essential to be context-sensitive when embarking on political reconciliation, not least in situations (to which Verdeja limits his account) in which extreme violence has occurred between sides occupying the same territory. Thus, as an inter-subjective, reciprocal norm, respect is the proper goal

of political reconciliation. Respect as a normative goal, for Verdeja, includes truth-telling and ↳ truth seeking, the recognition of victims, accountability, and the rule of law; it is more than resigned acceptance but less than Volf's notion of embrace.

Reconciliation On Whose Terms?

Another concern with culturally and theologically driven reconciliation processes, for all its talk of reconciliation's non-coercive "soft embrace" as opposed to oppression's straight jacket-type, remains the extent to which such processes can produce truly participative, inclusive communities. Traditional restorative justice processes in Africa for example have sometimes been accused of reinforcing gender injustice or other forms of chauvinism, even as they seek to restore communal relations after conflict under the watchful eye of the (male) Chief. Thus, the second critique concerns the question on whose terms reconciliation ought to be advanced—whose morality should determine the shape of the restored community and identify the steps that will take society there? Who issues the call to moral community, who decides about its implementation and who are required to follow? If one accepts that reconciliation should be a moment for profound moral renewal, for wider and deeper participation than ever before, and for shaping a radically more inclusive and fair future, it can then be profoundly counter-productive when the processes and goals for reconciliation are too closely predetermined, especially from within the moral universe of one of the participating identity groupings or traditions. There is a danger (at least in principle therefore) that carefully circumscribed restorative justice processes, despite the very best of intentions, stall the very change they wish for.[44]

An associated danger is that the recognition of identity, so fundamental to reconciliation as social reconstruction, may in some cases be dependent on what can be described as an essentialist view of "culture" where identities of the other and the self are presupposed (by the self) and ascribed unilaterally. This act, ostensibly an act of recognition, often in the name of multiculturalism, in fact may simple promote the self at the cost of the other, in so far as it imposes an identity on the other that it pretends to "recognize." This kind of oppressive "recognition" was of course part and parcel of colonialism and apartheid, which both in their own ways professed respect for the "difference" of the natives they encountered and sought to rule. Andy Schaap, for one, agrees, and makes the point that initiating reconciliation via a politics of recognition often depends on those very identities according to which past wrongs have been committed and which it seeks to overcome: "In order to overcome our perception of the other as enemy—the transgressor of our values—we are called upon to "understand him [*sic*] as he really

is."[45] Yet this very act of imposing the understanding of ↳ one side on the other risks renewed violation of the other's dignity, even if the imposition consists of refusing to see a perpetrator for the intolerant,

violent, and bigoted individual he or she in fact is. The most extreme version of such an ascription of identity is found in genocide and crimes such as ethnic cleansing or apartheid, where identity is used as the basis for wholesale subjugation or even annihilation.

The question remains, not whether individuals are essentially relational, but whether and how, when identity is understood in essentialist terms, reconciliation can become an oppressive or even violent imposition that is enforced by powerful actors.[46] In this respect, Fanon's warning against ascribed identity rings out as loud as ever.

Reconciliation as Political Practice

The danger therefore persists that a moral vision becomes a form of violence and that the requirements of a forgiving embrace lose the "soft touch" that Volf describes, solidifying into a moral code that has to be followed, as if the steps from enmity to reconciliation were simply formulaic. If this occurs, forgiveness can be instrumentalized in deeply damaging ways—specifically on the political terrain, which raises the third area of concern.

Interestingly, in the Abrahamic traditions, "two contradictory logics are in dispute" about how forgiveness functions.[47] The one makes forgiveness conditional on apology and restitution, whereas the other views forgiveness as unconditional, regardless of the attitude or reactions of the guilty party.[48] A central claim in theories of reconciliation within the social restoration paradigm is that forgiveness is facilitated by specific political practices that can be replicated when the will exists to do so. Jacques Derrida famously questioned this "grammar" of forgiveness, arguing that both traditions of forgiveness—the unconditional and the conditional—should be retained, but with due understanding of each and their subtle interdependence. For Derrida, while forgiveness has to find concrete form in political contexts, it must always also remain something wholly "other"—from beyond, unexpected— "the madness of the impossible."[49] Perhaps this is the real source of the forgiving embrace's potential to influence society and help it overcome self-defeating violence.

For Derrida, the restoration of interpersonal relations foreshadows the mending of intergroup relations, yet forgiveness is not predictable or replicable; it cannot be forced, and is, more often than not, not forthcoming. In its worst incarnation, during public forgiveness processes one set of political dictates simply replaces another. To avoid this, it is vital that those who attempt to implement theories of

reconciliation based on social restoration keep Derrida's distinction ↳ between conditional and unconditional forgiveness in mind. If forgiveness has an unconditional, "other" character, at least to some extent, any moral codes associated with reconciliation seem unlikely ever to become fixed, unalterable sets of principles that preempt the spaces and processes that reconciliation seeks to create and set in motion. Morality ought to develop incrementally and iteratively as we occupy spaces with those who are radically different from ourselves, and as we find respectful ways of engaging with one another to carve out space for a moral community.
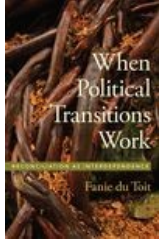
Notes

1. This is not to say that reconciliation first appeared in South Africa. As a literary concept it has a varied history, and it figures prominently in various sources of the three major Abrahamic faiths, in different strands of philosophy (Friedrich Hegel's idealism, for example), and throughout political history. However, there are good reasons to view the studies of political reconciliation that have emerged since the South African case as a relatively coherent subset, not only because they tend to be in conversation with one another, but because they all use the relatively recent rise of the notion of transitional justice as a crucial point of reference. In addition, the studies I refer to deliberately offer comparisons, rather than focus on one specific case; they include, but are not limited to: Brouneus's *Rethinking Reconciliation*; Bloomfield et al., *Reconciliation after Violent Conflict*; Eisikovits, *Sympathizing with the Enemy*; Lederach, *Moral Imagination* and *Building Peace*; Murphy, *A Moral Theory*; Philpott, *Just and Unjust Peace*; Rigby, *Justice and Reconciliation*; Schaap, *Political Reconciliation*; Shriver, *Ethic for Enemies*; Tutu, *No Future without Forgiveness*; Verdeja, *Unchopping a Tree*; and Villa-Vicencio, *Walk with Us*.
2. According to Weber, "an ideal type is formed by the one-sided *accentuation* of one or more points of view" according to which "*concrete individual* phenomena . . . are arranged into a unified analytical construct"; see Weber, "Objectivity in Social Science," 90. The notion of ideal types was an important tool that Weber used to organize and elucidate his sociological method. One of his fundamental premises was that diverse actions develop into "social action," which in turn congeals into patterns or types of actions. These patterns then delineate group boundaries, since they resist or react to

other behavior patterns. Ideal types thus indicate patterns of action. As Stephen Kalberg wrote, "ideal types conceptualise as groups the patterned meaningful action shared by persons"; see Kalberg, "Perpetual and Tight Interweaving," 275.

3. For a provocative analysis of transitional justice as a "non-field," see Bell, "Transitional Justice"; see also Arthur, "How 'Transitions' Reshaped Human Rights."

4. See Weber, "Objectivity in Social Science," 90.

5. It is important to note that the phrase "within the framework of . . ." shifts in meaning across the next three chapters. In some cases, there is a virtual identification between reconciliation and the particular theory within which it is framed; in other cases the relationship is not of identification, but rather of mutual influence. In other words, the degree of influence that reconciliation, as a coherent concept, has on each theory differs across the three theoretical types.

6. Krog, *Country of My Skull*, 143.

7. For a historical account of this event, see Meredith, *Diamonds, Gold and War*, 207ff.

8. Molefe made this remark at an IJR workshop on August 1, 2014.

9. Volf, *Exclusion and Embrace*.

10. Remnick, "Vladimir Ilyich Lenin," 43.

11. Schaap, *Political Reconciliation*, 85.

12. Volf, *Exclusion and Embrace*.

13. USIP, "Social Reconstruction." As another example, USIP describes social restoration (which they equate with reconciliation) as "a condition in which the population achieves a level of tolerance and peaceful co-existence; gains social cohesion through acceptance of a national identity that transcends individual, sectarian, and communal differences; has the mechanisms and will to resolve disputes non-violently; has community institutions that bind society across divisions; and addresses the legacy of past abuses . . . simply put, reconciliation is a process through which people move from a divided past to a shared future, the ultimate goal being the peaceful co-existence of all individuals in a society . . . reconciliation programs seek to promote tolerance and mutual respect, reduce anger and prejudice from the conflict, foster intergroup understanding, strengthen nonviolent conflict resolution mechanisms, and heal the wounds of conflict."

14. Taylor, *Hegel*; see also Doxtader, "The Faith and Struggle"; and Verdeja, *Unchopping a Tree.*

15. Taylor, *Hegel*, 152ff.

16. A similar emphasis on a "politics of difference" drove the efforts of Will Kymlicka, also a Canadian, to come to terms with the phenomenon of minority groups within Western democracies. In Kymlicka's view, liberal democracies ought to accept the idea of "multicultural citizenship," based on a wide range of group-differentiating rights for national minorities and ethnic groups, without sacrificing their core commitment to individual freedom and social equality; see Kymlicka, *Multicultural Citizenship*, 126.

17. Fanon, *Wretched of the Earth*, 43.

18. Taylor, "Politics of Recognition," 38.

19. Schaap, *Political Reconciliation*, 42.

20. What distinguishes right-wing Hegelians from left-wing Hegelians is the desire to derive and formulate synthesis—the dialectical process produces "the third definite synergy." For left-wing Hegelians, the dialectical process is never resolved; so recognition does not end but remains a calling, a vocation.

21. As quoted in the *New York Times*, October 19, 1984.

22. This implies accepting not only the other who is a potential friend, but also the other who is an enemy.

23. Volf, *Exclusion and Embrace*, 147.

24. Taylor, "Irreducibly Social Goods," 127ff.

25. In religious and cultural discourse, calls to establish or uphold moral communities are well known, and feature in expressions such as "*ummah wahida*," "one holy Catholic Church," "the holy land," or "*itai doshin*."

26. Volf, *Exclusion and Embrace*, 143.

27. Ibid.

28. See Philpott, *Just and Unjust Peace*, 79.

29. Ibid., 58.

30. See Gobodo-Madikizela, *A Human Being Died That Night*. In a similar vein, Harvard psychology professor Herbert Kelman described reconciliation as "mutual acceptance of the other's identity and humanity"; see Kelman, "Reconciliation from a Social-Psychological Prespective," 16. Kelman's view of reconciliation as "identity change" is in line with Taylor's communitarian approach in "Politics of Recognition" and involves mutual acknowledgment of the other's nationhood and humanity, confrontation with history, acknowledgment of responsibility, and the establishment of patterns and institutional mechanisms of cooperation. These initiatives aim to break, if possible, what Cypriot-born psychiatrist Vamik Volkan calls the transmission of intergenerational trauma. See Volkan, "Transgenerational Transmissions"; see also Kalayjian and Paloutzian, *Forgiveness and Reconciliation*; and Potter, *Trauma, Truth, and Reconciliation*.

31. Gobodo-Madikizela, *A Human Being Died That Night*.

32. Gobodo-Madikizela, "Radical Forgiveness," 37–38.

33. Philpott does not reject liberalism but redefines it in terms of social restoration without sacrificing those values that liberalism holds dearest, namely: human rights, the rule of law, and democratic participation.

34. Zehr, *Changing Lenses*, 181.

35. Minow, *Between Vengeance and Forgiveness*, 17.

36. It is also true, however, that in transitional-justice contexts restorative justice is often still seen as a "second best" option if "full justice" (prosecution) is not available. Restorative justice advocates challenge this assumption and point, for example, to the very low rehabilitation rates in prisons in post-conflict societies such as South Africa. In fact, South African prisons are often blamed for further corrupting young offenders, and for inducting them into formalized and highly

influential crime networks when many land in jail for relatively petty crimes. By contrast, in São Paulo, authorities are experimenting with restorative justice as an intrinsic part of community development in the hope that this has a better chance of rehabilitating young offenders within the social reach of the community, rather than in a hostile prison environment far away from where the crime was committed. In this context, reconciliation between the criminal and the victim has a real chance of succeeding.

37. Gutmann and Thompson, "Moral Foundations," 32–33.

38. Weinstein, "The Myth of Closure."

39. The notion of modesty in this context was first put forward by Villa-Vicencio in his book *Walk with Us*, 171–2.

40. Verdeja, *Unchopping a Tree*.

41. Verdeja, *Unchopping a Tree*. Philpott and Verdeja are colleagues at the Kroc Institute for International Peace Studies at the University of Notre Dame in Indiana, USA. They have taken up this debate within the discipline of political studies, developing reconciliation theories that respond to the liberal charge of moral overreach without losing the main tenets of social restoration. Their theories represent related yet different attempts to conceive of reconciliation as social restoration. They have in common an attempt to rethink liberalism from a restorative-justice angle, but also to challenge some conventions within restorative-justice theory by positioning their arguments in close proximity to international liberalism. Essentially both attempt to move toward a position more acceptable to classic liberalism, but from a social restoration position. Both regard liberalism as making important contributions toward a systematic theory of reconciliation, and they acknowledge the large measure of "overlapping consensus" that seems to exist within the international community on liberal democracy as the preferred outcome of political transition, but also on reconciliation as a means toward such an outcome.

42. Verdeja, *Unchopping a Tree*, 3.

43. Ibid., 21.

44. See Philpott, *Just and Unjust Peace*, 111.

45. Schaap, *Political Reconciliation*, 54.

46. The risk is entrenching oppressive identities just as political reconciliation begins to challenge and overcome theses. This is precisely the debate in many South African organizations that have adopted affirmative action or black economic empowerment as part of their human resources policies. Reserving positions for members of communities that were systematically disadvantaged by apartheid seems necessary. Yet many young South Africans who have grown up with, at least officially, a measure of non-racialism speak of their confusion at still being classified along racial lines if they apply for university or a job in the civil service. But for communitarians such as Taylor ("Politics of Recognition"), the risk of identity reification is worth taking. He argues that a liberal denial of identity leads to a superficial politics of reconciliation. If identity is fundamental to politics and to the art of living together peacefully, and if identity is essentially relational, it follows that restoring relations is a crucial task of reconciliation.

47. I am indebted to Barnard-Naude, "Forgiveness as Happenstance" for important input into this analysis.

48. Derrida and Roudinesco, *For What Tomorrow*, 161.

49. Derrida, "On Forgiveness," 45.

6 Restoring the Rule of Law 🔓

Fanie du Toit

Abstract

The second typology theorizes reconciliation as restoring the rule of law. Typical of the international liberal consensus exemplified by the UN, this approach views the inception of reconciliation as synonymous with the call to join the family of liberal democracies. Its unfolding is characterized by holding perpetrators of political crimes to account and the security that judicial processes are supposed to generate; its promise is one of civic trust based on the acceptance of equality before the law. I identify difficulties with this approach, including the lack of an adequate theory of change; it is not empirically established if prosecutions lead to a cessation of conflict and enhanced security. Emphasis on equality before the law may mask ongoing power relations and subtle forms of subjugation if "rule of law" is taken prematurely to exclude redress and transformation. A final concern relates to what reconciliation may look like in non-liberal societies.

Keywords: ICC, liberal reconciliation, civic trust, transitional justice, rule of law, international crimes
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> In this new age of accountability, those who commit the worst of human crimes—be they rank-and-file foot soldiers or top political leaders—will be held responsible.
>
> —Ban Ki-moon, ICC Review Conference, Kampala, October 2010

As shown in Chapters 3 and 4, South Africa's TRC tried to achieve a careful balance between restorative and retributive justice. But this nuance was often lost on observers, and the South African reconciliation process came to be viewed as largely synonymous with an attempt at political forgiveness, not least because of the inexcusable lack of political will, subsequently, to pursue those prosecutions recommended by the TRC.

The drive to establish truth commissions internationally following South Africa's experience has given rise to further debates about social restoration, political forgiveness, and restorative justice—all of which tend to be associated with political reconciliation "the South African way." Such developments did not sit well with many liberal observers, however. Reed Brody, an American human rights lawyer and spokesperson for Human Rights Watch, argued in 2001 that the human rights movement was facing a "South Africa problem":

> It seems that because of South Africa, the international community has become blindly besotted with truth commissions, regardless of how they are established and whether they are seen as precursors or complements to justice or, very often now, as substitutes for justice.[1]

Consequently, those who accept liberalism as a theoretical framework were left with a choice either to reject the South African model or to reframe reconciliation in terms acceptable to key tenets of liberal thought. In

2000, Amy Gutmann and Dennis Thompson developed a strong argument for why reconciliation ↳ "the

South African way" is potentially illiberal. They expressed concern about Desmond Tutu's references to "healing the nation" as a goal of reconciliation, contending that this was both utopian and misleading. Since healing is not, in their view, a legitimate aim of political reconciliation, they argued that the TRC's "trading criminal justice for general social benefits such as social reconciliation requires a[nother] moral defence if it is to be acceptable."[2] Although left unsaid, Gutmann and Thompson clearly meant that reconciliation's alternative moral justification would have to be acceptable to a liberal framework.

Taking up the challenge of developing a moral justification for reconciliation that does not depend on Tutu's promise of healing, liberal thinkers began seeking alternatives. A decade-long conversation ensued, resulting in a range of studies broadly outlining what I identify as a second "type" or theory of reconciliation, namely reconciliation as liberal peace, which is achieved primarily through the establishment of the rule of law.

At the outset I would like to acknowledge the limits to my discussion of liberal reconciliation in its various theoretical guises. The first is that my focus is on liberal ideals as *they function in reconciliation frameworks*, not on liberalism as such. Thus my criticism of liberal reconciliation does not imply a rejection of the liberal paradigm or of particular values popularly associated with it—including human rights, the right to privacy, the rule of law, gender equality, etc. These, in my view, ought to remain key outcomes of peace processes, regardless of what theories of reconciliation might prevail at any given time.[3] I am more interested in the intersection between theories, policies, and practice, and how liberal goals are pursued in the wake of post-authoritarian and post–civil war societies, who stands to benefit from these processes, and how they relate to ongoing power struggles in society. The discussion is therefore crucially informed by the urgency that the need for practical conflict resolution brings to political theory and policy formation.

This chapter is furthermore structured along lines similar to the previous one. First I focus on the beginnings of liberal reconciliation, then I focus on the concrete processes that are seen as typical of how this kind of reconciliation unfolds, and finally I examine what it promises as outcomes, and how its proponents therefore justify its use.

A Call to the Community of Liberal Democracies

Liberal theories of reconciliation enjoy significant traction internationally. They form a key constituent of the international transitional justice frameworks that are driven by international organizations, NGOs, and governments that subscribe, at least formally, to the tenets of liberal democracy.

Philpott developed a useful working conception of liberalism for the purposes of investigating its influence on the ways in which reconciliation, and more specifically the inception of reconciliation, is conceptualized. First, he argues that liberalism implies a concept of justice that is closely associated with human rights, equality, and the rule of law. Second, he notes that reconciliation within a liberal framework is promoted by the international system of institutions and actors who have internalized this concept of justice. Most notable here is the UN, which "is arguably the most prominent promoter and espouser of liberal peace," together with other international agencies and professionals that constitute the international transitional justice community.[4] Third, political engagement by these actors tends to be characterized by distinctive activities—often called "best practices," "principles," "benchmarks," or "pillars." These include establishing and securing ceasefires; facilitating the development of political dispensations premised on human rights, free markets, and a free press; and finally, creating specialized mechanisms to find the truth about, and hold accountable, those guilty of mass atrocities.[5]

It is almost trite to remind ourselves that, seen from a liberal perspective, reconciliation can have no other goal than the establishment of liberalism. Liberal reconciliation politics is always a prelude to the spread of liberal ideals. Reconciliation is the tune to which those who seek to leave mass violence behind must march, ending supposedly in a triumphant crescendo of a fully "liberated" (read liberal) society. For advocates of this process, it does not really matter who plays the instrument as long as the correct tune is played, and the grand finale takes the form of a liberal state.

Liberalism as the preferred outcome of political transition clearly enjoys unmatched influence among the more powerful players in the international community. As Kora Andrieu, a human rights officer employed at the time by the UN in Tunisia, remarked, the international outcry when the Libyan National Transitional Council announced its desire to anchor the first post-Gaddafi constitution in Islamic law, and the reluctant

acceptance of the results of Tunisia and Egypt's first elections (which were won by Islamic parties), were powerful indicators of the normalization of liberal democracy.[6] "In the thought and practise of the international community," she argued, "liberalism is indeed the only criteria of political acceptability, the *telos* of any 'normal' political progress."[7]

Liberal peace, that is, peace premised on the entrenching of "human rights, democracy and the rule of law" is therefore the unquestioned goal of liberal reconciliation.[8] As Bashir and Will Kymlicka wrote:

> On this view, reconciliation should be understood as a juridical and legal approach that is primarily concerned with the prosecution of perpetrators of crimes, restitution (where possible) to the victims of ↳ these crimes, and the establishment of the rule of law. . . . This is an influential approach particularly among international organisations, who find it easier to accept politics of reconciliation when it is cast primarily as the upholding of universal human rights.[9]

Within this framework, reconciliation's *inception*, the way it makes a start in conditions hostile to its enactment, is therefore understood to be the act of political persuasion that brings errant leaders in line with international liberalism, and that is thought to provide the basis for a more just and peaceful society. More generally, we can assume that liberal reconciliation is born when local adversaries agree to use international benchmarks and standards for political best practice, and accept the assumption that liberal democracy, marked chiefly by adherence to the rule of law, is the principle outcome of political transition.[10]

But the call to comply with international benchmarks may not be as simple as it sounds. To begin with, there is no single example of "pure" liberalism. Thus, while liberalism in its more classic political form is found in the writings of John Locke, John Stuart Mill, Immanuel Kant, and in some respects John Rawls, these authors all differ on key points. The conclusions of any one of these thinkers might not apply to others in the group, and making general comments about the group as a whole is difficult.[11]

The writings of John Rawls offer an example of how complex liberalism is. Many take his *Theory of Justice* (published in 1971) to be an authoritative statement of liberal political theory. Yet, as is well known, Rawls developed the notion of justice as inclusive of both freedom and redistributive equality, and his inclusion of fairness and equality brought him into conflict with classic libertarians such as the American philosopher Robert Nozick. Thus various criticisms of "classic liberalism" may not even apply to Rawls.[12]

While contemporary liberalism may have further complicated efforts to define liberalism precisely, this has never been a simple exercise. As Hannah Arendt pointedly observed, private rights had their origins in efforts to enable social and political life, not, as Hobbes and Locke would have us believe, the other way around.[13] In other words, politics did not develop solely for the purpose of protecting private property. Locke viewed political society as existing for "no other end but to secure every man's possession of things of this life."[14] Arendt however, turned this logic on its head by demonstrating that, in classical Greece, private property operated *as means to a public life.* The domestic scene, Arendt reminds us, was one of survival and necessity, whereas it was in the social sphere that relative freedom existed:

> Without owning a house a man [*sic*] could not participate in the affairs of the world because he had no location in it which was properly his own.[15]

Private property was therefore not always, Arendt contended, understood as the means to relentless material acquisition, as it has become. Her analysis implies that social and political institutions in ancient Greece did not exist to guarantee private possessions. To the contrary, the right to private wealth existed to enable a more inclusive and fairer social and political life.

These and other conceptual ambiguities and complexities within the liberal tradition are mirrored in its political role across the world. Under some regimes, to be liberal is to be regarded as progressive or "leftist." In socialist environments, the same principles are deemed to be sure signs of conservatism. To get a feel for the latter perspective, one need look no further than a comment by liberation theologian Miguez Bonino, who wrote that "the ideological appropriation of the Christian doctrine of reconciliation by the liberal capitalist system, in order to conceal the brutal fact of class and imperialist exploitation and conflict, is one —if not the—major heresy of our time."[16] And in South Africa, where liberalism was once considered progressive, liberalism is now routinely branded as the embodiment of conservatism and angrily dismissed. Much to their dismay, many erstwhile anti-apartheid liberals are now finding themselves accused of preserving white privilege under the guise of individual rights.

Internationally, too, powerful nations are often accused of manipulating the discourse of human rights and the rule of law for the purpose of maintaining international power relations. This is especially true when crimes committed by the powerful against the less powerful are overlooked by the international community, while less powerful nations are sometimes held accountable—or at least those over which the fledgling International Criminal Court (ICC) has some leverage. Of course, there are instances when such accusations function simply as pretexts for "big fish in small ponds"—the developing world's rich assortment of dictators and war criminals—to try to claim the moral high ground as victims of imperialism so that they can escape accountability for the injustice and abuse they have inflicted on their compatriots. Nevertheless, liberalism is clearly a deeply complex and contested paradigm on the international stage, as indeed in many national contexts.

As in the case with approaches to reconciliation as social restoration, a distinct ontology (or world view) lies at the heart of the kinds of liberalism that inform reconciliation discourses and initiatives in many contexts across the world. These assumptions are often overlooked when local leaders are called upon to reconcile, and because some of these assumptions appear antithetical to local values, reconciliation can find itself dismissed as a "Western import" alongside transitional justice and other values associated with international liberalism. There are, therefore, compelling reasons to examine what these often unspoken assumptions are all about.

And so, as in the previous chapter, our focus shifts to the nature of the kind of community into which one is invited in the name of liberal reconciliation. If reconciliation begins when the call to international liberalism is heeded, what kind of society is presupposed?

A *first* assumption is revealed in Andrew Schaap's treatise on political reconciliation. Schaap observes that Locke saw human beings as "driven into political society by insecurity."[17] This observation points to one of liberal reconciliation's most prominent assumptions, namely its inherent pessimism about the kind of societal change that is possible, or even desirable, through national reconciliation processes. Locke's fundamental mistrust of the public realm—as a sphere of intrinsic hostility, rather than shared morality—stands in stark contrast to social restoration's pronounced optimism.

Judith Shklar identified this as "the liberalism of fear," and has argued that its deepest grounding is also "the conviction of the earliest defenders of toleration, born in horror, that cruelty is an absolute evil, an offense against God or humanity."[18] For many, this has made liberalism the de facto (and almost unquestionable) conceptual framework for transitional justice, as well as for efforts to establish accountability and respect for human rights after mass violence. After all, human rights were originally designed primarily to protect individuals and groups from violence, and few would deny that the 1948 Universal Declaration of Human Rights was a watershed moment in establishing a safer world.

Locke's sober world view results in theories that draw a sharp distinction between political and social relations, with the latter requiring strong protection from the former. Discontinuity, rather than continuity, marks the relationship, with strong limits being placed on what political relations may legitimately seek to accomplish. As we have seen, social restoration theories by contrast focus instead on the cultural contexts within which political relationships occur and the continuities, rather than discontinuities, between culture and politics.

Locke formulated his views when trying to separate the realms of church and state amid the excessive violence of the Reformation and the Counter-Reformation in seventeenth-century Europe. His aim was to contribute to the evolution of a more peaceful society, based on containing and managing irresolvable religious differences. Church and state are "absolutely separate and distinct," he declared, and he went on to argue that much discord would be avoided if the church stuck to the salvation of souls and the state to the welfare of the commonwealth.[19] Consequently, liberal notions of reconciliation, if not quite as stark and absolute as Locke's, still tend to hold that political relations and affairs of state, not cultural or social relations, ought to be the sole focus of political reconciliation.

US-based academic Colleen Murphy argues that political reconciliation "is fundamentally a question of how to transition towards the realization of ↳ normatively desirable political relations," which includes centrally the rule of law.[20] Murphy then describes reconciliation as the cultivation of reciprocal agency. In a similar vein, UN Special Rapporteur Pablo de Greiff developed a theory of reconciliation as civic trust, also based largely on a liberal premise. De Greiff identified a number of "limitations" that a (liberally) acceptable notion of reconciliation has to respect, to ensure that reconciliation operates within a strictly political

realm, and does not transgress in undesirable ways into the cultural, social, or religious spheres. These limitations run, to some degree, counter to religious and cultural notions of reconciliation, including moral ideals such as forgiveness or apology. They also ensure that, for De Greiff, reconciliation is confined to the sphere of the civic rather than the personal; complements rather than replaces or transforms formal justice processes (into restorative justice initiatives, for example), does not transfer responsibility from perpetrators to victims (by expecting victims to forgive); does not pretend to "wipe the slate clean"; does not demand extraordinary moral behavior from citizens (that would be "akin to sainthood" in his view); and does not depend exclusively on any particular set of religious beliefs.[21]

A *second* assumption inherent in liberalism's more proscribed, or as De Greiff put it, "deflationary" notion of reconciliation is that the focus shifts away from repairing personal relationships to building institutions that uphold the rule of law, thereby producing fair and democratic political relationships. The implication is that genuine reconciliation does not arise first as a result of attitudinal rapprochement between adversarial groups (although attitudinal change may of course result from reconciliation), but from a call for thorough institutional reform heeded by leaders who are committed to liberal democracy, *thereby* changing attitudes and relationships.

For theorists such as Murphy and De Greiff, democratic institutions—that is, institutions capable of guaranteeing the rule of law—form the basis of what reconciliation demands from post-conflict societies and their leaders. Reconciliation commences when leaders commit themselves to building such institutions. Attitudinal change is seen as a secondary outcome that will come about as long as the "right" institutions are built. That is, national reconciliation processes should aim to correct political systems, and personal reconciliation, as a desirable but inessential outcome, might then follow. Thus, even if victims and perpetrators never reconcile personally, political reconciliation based on developing liberal institutions that, in turn, enhance civic trust ought to be able to prevent a relapse into mass violence.

Thirdly, in addition to their inherent pessimism about the measure of social change one can expect from reconciliation, their separation of the political and the socio-cultural relations, and their focus on institutional transformation rather than attitudinal rapprochement, liberal reconciliation theories assume a

particular sense of self or identity. Reams have been written on this, but essentially this theory tends ↳ to assume what has become known in the literature as the "liberal subject."[22] That is, for liberals, human beings harbor a sense of self that exists in some ways prior to entering into relationships with others. The implication is that human beings do not need community at any existential level, and that we are human because of our own, internal core identities, not because of our relationships. Of course, this refutes another basic premise of reconciliation as social restoration—that human beings are *essentially nonessential*, that we are both dialogical and relational.

This individual "core," which many pre-Enlightenment and Enlightenment thinkers identified as the "image of God" in us, and which secular twentieth-century activists then claimed as the "rights-bearing subject," makes the liberal project both possible and necessary. As the cornerstone and ultimate guarantor of the liberal peace, "right-bearing subjects" deserve unqualified respect. Among other things, the right to respect includes the right to protection from abuse. This is especially relevant, of course, where groups are targeted for systematic exclusion, violence, or discrimination.

Finally, reconciliation theories conceptualized within a liberal framework, not surprisingly given the previous assumptions, place a high premium on individual accountability and reparation after mass violence. The core assumption is that human beings who inflict violence on others must be called to account, not as agents of a system or members of a group, but first as individuals who can and must take responsibility for their actions. Within this paradigm, justice is less about repairing damaged relationships or social restoration than it is an effort to rehabilitate damaged individuals on both sides of a violation— perpetrator and victim. Perpetrators can be rehabilitated only through a process that establishes and punishes their personal failure to live up to their own inner sense of responsibility; victims are rehabilitated through efforts to repair the damage done to their personal dignity by abuse they have suffered, and through a process that involve the restoration of damaged relations.

Put simply, reconciliation as a dimension of liberal peace is restrained in the personal realm. Instead it focuses on truth-seeking and establishing perpetrator accountability for human rights violations, on redress for victims, and on institutional guarantees of non-recurrence. Through such processes, its proponents hope, this type of reconciliation will help institute the principles of legal justice, regulate political power, and forge or strengthen democratic institutions—all key indicators of a liberal society.

Peace and Justice as Markers of Liberal Reconciliation's Unfolding

In what follows, I draw attention of the some of the primary political and institutional milestones identified for reconciliation framed as liberal peace. The ↳ question is, what do liberal theorists look for when they seek to determine whether a particular political transition qualifies as reconciliation?

Since this model of reconciliation is so closely associated with establishing liberal democracy, the early signs of a genuine reconciliation process would be the efforts to establish accountability for mass atrocities and crimes through criminal trials, truth-telling, and formal apologies, as well as reparations and institutional reforms. The International Centre for Transitional Justice (ICTJ) provides a good standard definition of this kind of theory that links liberal notions of reconciliation to transitional justice:

> ICTJ works to help societies in transition address legacies of massive human rights violations and build civic trust in state institutions as protectors of human rights. In the aftermath of mass atrocity and repression, we assist institutions and civil society groups—the people who are driving and shaping change in their societies—in considering measures to provide truth, accountability, and redress for past abuses.[23]

According to this theory of reconciliation, increasing levels of civic trust result from instituting accountability measures for past atrocities. Since the transitional justice movement's advent during the early 1990s, much debate has taken place about how to balance and sequence the institutionalization of these key milestones, rather than about the constituent parts themselves—truth, accountability, and redress have remained fairly uncontroversial. These largely uncontroversial goals correspond closely to the mandate of the UN' special rapporteur for transitional justice, which includes encouraging "truth, justice, reparations and guarantees of non-recurrence." If accounting for and redressing past abuse are the key goals, then the key reconciliation activities are truth commissions, criminal trials, and reparations, as well as institutional reforms designed to foster liberal democracy, and all these activities should be marked by growing levels of civic engagement and trust as the primary outcome.

However, if liberalism is concerned with establishing *both* security and accountability, the tensions in the classic transitional justice agenda become clearer. Indeed, the need for stability or security is a quintessential liberal concern. Yet, this concern is not so easily married to accountability, another of liberalism's key commitments. As became clear earlier when discussing the South African negotiations, there are often profound tensions between establishing accountability and establishing stability, not least early on in reconciliation processes. The ways in which this particular tension is conceptualized and resolved have implications for the actual processes leading to civic trust. And so, within the typology or family of reconciliation theories shaped by a liberal framework, there has been a debate about the more precise relationship between these two key milestones of reconciliation, security and accountability—a debate largely ↳ driven by the many concrete situations where these milestones appear in direct opposition to one another as a country seek to find its way during a protracted political transition from conflict or oppression towards liberal democracy.

As to the more precise relationship between stability and accountability as core liberal markers at least three alternative combinations have been hotly debated within the transitional justice field, all of which use peace as a proxy for stability in the classic liberal sense. These are: *peace versus justice, peace and justice*, and *peace as justice*. To outline the current thinking in liberal circles about what concrete reconciliation processes look like, I briefly describe the evolution of the debate.

While it is tempting to associate these approaches with distinct periods in the evolution of transitional justice over the past two decades, and to see one approach as following from and building on a previous one, the reality is that the debate did not occur in a neat linear way. Even if a measure of temporality is evident in the progression, and if, conceptually, there appears to be a level of evolution from one to the next, in fact the three approaches often overlapped or circled back on themselves.

The *peace versus justice* approach can be traced far back into historical political debates. In recent years, heated exchanges followed widespread perceptions that, as noted earlier, the South African TRC embraced restorative justice as its primary modus operandi and had thus been "soft" on prosecutorial justice. Interestingly, this perception spread, despite the fact that the TRC's mandate was actually quite muted in its embrace of restorative justice and had in fact demanded retributive justice for those who failed the test of

conditional amnesty. In no small way, this perception was the result of the way that the process had played out, rather than a fault in its design—but in many commentaries this distinction was lost. An overriding sense that the perpetrators "got away with it" pervades this critique.

Typically, peace-builders and mediators sympathetic to liberal democracy took a more defensive stance toward the South African approach, and faced off against human rights activists and lawyers with similar overriding biases towards liberalism in this debate.[24] The peace-builders accused the human rights activists of being high-handed idealists, and of not being attuned to the actual dynamics of peace-building, arguing that when negotiating between parties who both have blood on their hands, some measure of clemency or amnesty has to be accepted before talks can even begin. Often the underlying charge was that human rights activists were unwittingly promoting a crude form of neoliberal imperialism by demanding that prosecutorial justice (the "Western way") be a nonnegotiable constituent of reconciliation.

In turn, human rights activists accused peace-builders of being "soft on justice," of turning a blind eye to human rights violations in their efforts to bring ↳ adversaries to the negotiating table, and thereby offering victims an inferior form of peace. The "peaceniks" were also alleged to be proffering "cheap" reconciliation when, for example, victims were requested to forsake retributive justice in favor of perpetrators' accepting their crimes and seeking forgiveness.

Over time, these debates became increasingly acrimonious. Participants were almost forced to "take sides" and "show their credentials" one way or another as debates became intensely polarized, not least within international human rights circles. More seriously, processes on the ground began to be impacted by this impasse too, with lobby groups staking their claims and rushing to outdo one another in offering advice to parties implementing transitional justice.

The consequences of this stand-off have been felt not only in academic circles and "on the ground," but also in the newly created international institutions established to implement global justice. The genesis of the ICC, in the signing of the Rome Statute in 1998, represented, in some ways, the zenith of international liberalism—the idea of an international legal and political regime governed by the rule of law, human rights, collective responsibility for security, and the principle of social equality and economic justice. Soon, thereafter, however, liberalism's main international sponsor, the United States, and its key ally, Israel, withdrew their commitment to ratifying the Rome Statute. Following the events of 9/11, realpolitik hit back at what was perceived by conservatives as "liberal idealism" in the form of the ICC and other human rights instruments and agreements, with unexpected ferocity. This backlash took the form of an adherence to a largely unbridled Cold War–era style of national interest positions justified by recourse to political "realism" that seemed increasingly to justify regular, even systematic, use of violence and coercion to ensure security, and the flouting of international law. The United States has, for example, variously over the last decade defended its use of torture and detention without trial, of killing enemies extra-judicially, "collateral" damage as a result of targeted drone killings, and its nonparticipation in the ICC—reaching new heights under the Trump administration's blatantly anti-internationalist, anti-liberal stance. This ongoing defiance from important international players such as the United States, but also Israel, Russia, China, and increasingly the African Union, has left the ICC, and indeed the entire project of liberal internationalism, searching for support.

It has also left the ICC with a near-impossible mission. As a court based in Europe yet with a mandate that has involved almost exclusively African countries, and with no means to enforce arrests and limited means, it now has to "do justice" in an environment where power relations remain fundamentally skewed. While speaking the language of principled human rights, it operates in an international system very much dominated by the powerful, ruthless, and well-resourced.[25] No wonder, then, that after more than a decade

of existence, the ↳ ICC has managed to round up forty-two indictees and nine convictions, with all defendants coming from relatively weak African countries.

This situation engenders deep concern in those who would like to see the ICC become a universally relevant and capacitated institution, not only as a last resort for holding to account the world's most heinous and powerful criminals, but also as a crucial source of pressure toward ensuring that peace-building processes take accountability and justice seriously as a key component of guaranteeing the non-recurrence of violence, even where this is not the ICC's direct mandate. At the very least, it is felt that the ICC should not be reinforcing established power relations that keeps the world such an unequal place. Thus, ever more prominent international figures are calling for a serious overhaul of the ICC system, whereas African states have at times argued in favor of a wholesale withdrawal from the Rome Statute.[26] This would, of course, be a

devastating blow for efforts to build global justice, but it is also, arguably at least, partly an outcome of the polarization and propaganda that has dominated the transitional justice field.

The simplistic handling of the peace-justice debate as a zero-sum trade-off between justice and reconciliation, happily, is not the only way the topic has been discussed. In some circles, the conversation has morphed into a more complementary mode, with collaboration between peace-builders and human rights advocates seen as a non-negotiable starting point. Here it is possible to talk of peace *and* justice as mutually enhancing goals without one party being accused of being soft on justice, and the other careless about peace.

Advocates of this rapprochement between *peace and justice* promote the idea that organizations and processes can "have it all," that is, both peace and justice can be simultaneously present from the onset in (liberal) reconciliation processes. The inference is, "we have heard one another and accepted the validity of both justice and peace aspirations, and we should promote both goals." In this spirit of mutuality this approach favors inductive methodologies—observing closely what people were doing "on the ground" instead of imposing normative hierarchies from above.[27] To give concrete expression to this complementarity, the peace and justice discourse further typically produces lists of three, four, five, or more "constituent elements" or "pillars" of both reconciliation and transitional justice, which cover a diverse range of goals and outcomes straddling both peace and justice.

Thus transitional justice or reconciliation "experts" are expected to subscribe to a list of "building blocks," "principles," or "practices." It seems that marrying peace and a justice agenda primarily takes the form of listing them next to one another as parallel processes that would theoretically work together to produce both justice and reconciliation for societies in political transition. Often-cited examples of such "pillars of transitional justice" include prosecutions, ↳ reparations, truth-telling, and institutional reform. By working inductively, studies along these lines seem to identify inventories of transitional justice practices, and then declare the transitional justice agenda as inclusive of all these practices—*but crucially* without producing convincing theoretical positions or indeed developmental pathways that link these often-opposing initiatives with one another or indeed with a larger, more comprehensive political transition.

In 2008, the *Nuremberg Declaration on Peace and Justice* emerged from an international meeting sponsored by the governments of Finland, Germany, and Jordan. The conference that gave birth to this declaration sought to highlight this more complementary, collaborationist stance between peace and justice. The declaration listed the "complementarity of peace and justice" as its first principle, and then listed four further principles, namely "ending impunity," "a victim-centred approach," "legitimacy," and "reconciliation."[28]

In fact, a commitment to complementarity was already visible in embryonic form, in the UN's 2004 *Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-conflict Societies*, which sought to establish a "common basis in international norms and standards" for the UN's approach to this issue, while avoiding "one-size-fits-all formulas and the importation of foreign models."[29] The report stated that "justice, peace and democracy are not mutually exclusive objectives, but rather mutually reinforcing imperatives." Consequently, the document conceded that advancing all three imperatives in fragile post-conflict settings requires strategic planning, careful integration, and a sensible sequencing of activities. Importantly, however, the report did not provide more concrete direction about how such an agenda ought to be realized.

Sierra Leone bought into this dual peace and justice approach in 2002, when it established both an international criminal tribunal (the Special Court of Sierra Leone, which was set up jointly by the government and the UN) and a Truth and Reconciliation Commission. These were expected to work in a complementary way. Unfortunately, reality did not quite match up to expectations. The often-vexed relationship, and the contradictory claims and counter-claims, between the court and the commission in Sierra Leone have been well documented, and arguably pointed, then already, to the need for a more integrated, systematic methodology, rather than the simple "both justice and peace" approach. Ozonnia Ojielo, who was Officer-in-Charge for the TRC in Sierra Leone, wrote that the TRC had been subjected to "haphazard funding" while for many supporters in the international community the Special Court was "the more important mechanism."[30] The Sierra Leone case made clear that, instead of loose building blocks or pillars placed next to one another, there is a need for a more concise idea of how these notions should hang together, lest complementarity becomes a guise for hidden hierarchies and biases within the international system.

Aside from expressing a formal commitment to the ideal of complementarity, most of the debates and discussion documents, and even various official policy documents, have provided scant practical guidance on ways of integrating the mutually competing interests of peace and justice in a complementary way. It gradually became clear that this new inclusive agenda merely imported the conceptual and practical tensions of the peace versus justice debate into one framework, without resolving the contradictions between them, and without integrating the kinds of practices associated with peace on the one hand and justice on the other into a single complementary process. Put differently, although acknowledging the need for prosecutorial justice and political negotiations, the peace and justice approach failed to provide sufficient guidance on how to sequence these processes in ways that strengthen reconciliation.

Key theoretical questions re-emerged, including what kind of societies transitional justice was aiming to establish, and for which atrocities it would demand accountability. Should transitional justice investigations include socioeconomic discrimination and exclusion? Should all those guilty of human rights violations be prosecuted, and if not, which perpetrators should be excused, and on what basis? How were diverse practices (such as judicial prosecutions, community reparations, and truth-seeking commissions) best integrated to benefit communities and societies at various stages of recovery from harrowing violence?

These larger questions of how to integrate processes meant to further peace and justice, both conceptually and operationally, became increasingly difficult to ignore. A presidential task team commissioned to set up a TRC for Burundi, for example, posed precisely these kinds of questions to me as one of a advisers present at an intensive planning session near Bujumbura. For these officials, integrating peace and justice into a coherent reconciliation process was not an academic exercise. To this small, impoverished, and landlocked republic in the heart of Africa, it meant the difference between a more peaceful and just future or returning to a dreadfully violent past. Their forthright questions tore through some of the glib "both and" doctrines about peace and justice which claimed that one could have both peace and justice by simply instituting parallel processes and institutions. Yes, they said, we support an end to impunity, and we recognize that no international crimes can go unpunished, but tell us how? How is this done in a context of extreme fragility, with one rebel group still in the bush, a government that consists largely of leaders from a rival group, and with abject poverty all around?

What became clear was the need for grounded, experience-based theory, for a thorough and systematic integration of the two seemingly contradictory goals of peace and justice into one coherent and locally driven transitional-justice agenda. There was, and remains, a clear need to think through how post-conflict
interventions can not only reflect the best of various different political traditions, ↳ in self-aware, internally consistent and inclusive ways, but also, and most important, how such initiatives can benefit those who stand to lose the most if they fail.

A third paradigm therefore emerged, which can be called the *peace as justice* approach. As the name suggests, this approach acknowledges the tensions inherent in the peace and justice framework, and, in attempting to resolve this, it conflates reconciliation with justice, but crucially as understood in liberal terms and not in a restorative framework. Simply put, the dictum is: "if in doubt, do justice and reconciliation will follow." In some ways, therefore, the debate about peace and justice has come full circle, with a more hard-line emphasis on justice gaining the upper hand, if not in the practice of international diplomacy, then at least in the official rhetoric within some international agencies. Finally it seems, the "South African problem," as perceived by Reed Brody, has been overcome, at least as far as transitional justice discourses within the international community are concerned.[31] Instead of pursuing *justice as peace*, as the South African was erroneously portrayed as having done, the notion of *peace as justice* has become a dominant approach.

The overt privileging of justice as accountability for past abuses over peace or stability includes, not surprisingly, a renewed emphasis on theory. The shallow mutuality of the second approach was becoming evident as theorists and practitioners alike were prioritizing their chosen "pillars," paradigms, and models on the transitional justice landscape. It became a game of co-option by stealth, as classic political theories and frameworks reasserted themselves against the unsettling novelty of transitional justice. Frustratingly for some but reassuringly for others, familiar schisms opened up—including the classic communitarian-liberalism debate—and discussions retreated back into enclaves where only the like-minded talked to one another.

A shift to a stronger insistence on justice, is also evident in the UN Secretary-General's 2011 report *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*. Assessing progress made in the

implementation of the 2004 report cited earlier, the 2011 report states that the UN's "rule of law initiatives are indispensable to international peace and security."[32] The focus of the report is almost exclusively on establishing the rule of law as the goal of transitional justice. Little attention is paid to reparations, reconciliation, or more informal truth-seeking mechanisms, or to the raft of other practices that are associated with transitional justice.

The negative impact risked by this second wave of theorizing is twofold. First, new transitional justice theories are in danger of forfeiting the innovation that the notion of transitional justice promised precisely because of its original hybridity, and tend to reproduce simply that which had been said before in other disciplines, whether that be development, gender, or rule of law work. The catchphrase has become: "transitional justice is full justice"—which could be taken to mean: "transitional justice is full (liberal) justice," or indeed, full prosecutorial ↳ justice. While it is undoubtedly true that transitional justice ought never to offer second-hand or watered-down justice to victims, it is equally important to interrogate what we mean by "full justice," and what the contextual demands are specifically within transitions that may require adjusting methods and expectations to achieve realizable outcomes. For this very reason, transitional justice practitioners have always sought to bring together the concerns of justice and peace in on-the-ground processes and mechanisms, and to really think through how concerns for peace and justice can best be balanced.

Second, and closely related, transitional justice theories simply cutting and pasting from the liberal handbook may appear internally consistent but run the risk of being unfit for purpose. Post-conflict societies are complex and multifaceted, as are the demands they make in relation to transitional justice. To some degree, expectations of what reconciliation and transitional justice might deliver seem to be falling in the context of what the more traditional disciplines such as international law, peace-building, and various disciplines in political science seem to promise. Increasingly, a kind of schizophrenia is emerging between what the international community professes and what it does when it comes to tricky post-conflict questions, such as whether or not to grant amnesty.

Meanwhile, initiatives to pursue individual accountability and justice, and, above all, *prosecutions*, have become the primary markers of reconciliation processes within the liberal paradigm. Nowadays, if one wants to know whether international agencies consider a country to be engaged in a fully fledged reconciliation process or not, one need only ascertain whether the country is involved in efforts to: learn the truth about past violations; prosecute war criminals; develop reparations packages related to individual violations; and institute institutional reforms that try to "guarantee" non-recurrence. Concerns for relational rapprochement, beyond that which is required (or perceived to be required) as part of the processes thought to lead to liberalism, remain strikingly absent from this list.

In this prosecution-focused context, Pablo de Greiff, the UN Special Rapporteur for Truth, Justice, Reparation, and Guarantees of Non-Recurrence, has played an important role to recapture some of the important considerations within the United Nations at least, on how a balance between justice and peace is best achieved. In what can be seen as representing an important development in this regard, De Greiff has presented a thoughtful series of reports to the General Assembly on the four different aspects of his mandate.[33] Arguing for a comprehensive *and more integrated* approach to transitional justice, the Special Rapporteur, especially in his report on "Guarantees of Non-Recurrence," makes mention of societal, cultural, and individual interventions in addition to institutional interventions as part of a comprehensive set of measures designed to prevent the recurrence of violent conflict.[34] Although not explicitly linked to the concept of reconciliation, this is clearly an attempt to overcome the ↳ peace versus justice debate in a more theoretically integrated way than has been the case in previous similardocuments.[35]

Despite these positive developments, much work remains in theorizing more precisely and with reference to concrete developments in given political contexts the complementarity, sequencing and mandates of key reconciliation institutions to have become associated with political transitions towards liberal democracy, such as international and hybrid tribunals, truth-seeking and truth-telling processes, reparations programmes and various kinds of institutional reform. In keeping with previous chapters, I now turn from these institutional milestones and arrangements to outline the specific promises made in the name of liberal reconciliation.

Liberal Reconciliation's Promise of Civic Trust and Reciprocity

De Greiff's (earlier) notion of reconciliation projects civic trust as its major outcome. More than mere reliability, civic trust "involves an expectation of shared normative commitment that can develop at different levels of intensity."[36] As such, it is a "scalar concept," argues De Greiff, and can be less "thick" than interpersonal trust.[37] At the same time, it involves the trust that citizens have for one another as part of a single political community that subscribes to roughly the same basic values.

Trust then unfolds horizontally between groups of citizens, as well as vertically between citizens and their state institutions. Reconciliation, for De Greiff, amounts to the conditions under which citizens can trust one another as citizens again (or anew). That is, they are sufficiently committed to the norms and values that motivate their ruling institutions, sufficiently confident that those running the institutions do so on the basis of those same norms and values, and sufficiently sure that their fellow citizens will abide by the rules laid down by their institutions.[38] An unreconciled society, he proposes, is filled with resentment and anger because norm-based expectations between citizens or between citizens and their institutions have been threatened or defeated. Transitional justice initiatives such as prosecutions, truth-telling, reparations, and institutional reform work together to foster civic trust and thus reconciliation.[39]

As with De Greiff, Colleen Murphy's theory of political reconciliation as reciprocity and respect for moral agency is not dependent upon forgiveness.[40] She claims that the strength of her theory is its eye for what is distinctively political (as opposed to interpersonal or psychological). Yet, taking a line of argument in some ways different from that of De Greiff, for Murphy, "to evaluate whether ↳ policies will facilitate desired change, one needs to know what such change would look like."[41] Politics therefore requires a normative framework that makes clear where and how things have gone wrong in society, not just in political institutions, and thus what kinds of goals ought to be valued in rebuilding society, and how these goals could best be achieved.

Murphy thus addresses institutional *and* interpersonal or social dimensions of *political* transition. In keeping with liberal sentiments, however, Murphy understands political relations in minimal terms, and claims that civil war and/or oppression systematically erode these relations by undermining reciprocity and respect for moral agency. Drawing on three existing moral frameworks—rule-of-law theory, political-trust theory, and capabilities theory—Murphy's notion of reconciliation is deeply complex and multifaceted, a process that simultaneously restores respect for the rule of law, builds political trust, and creates capabilities for change on the ground.

Reconciliation's first goal is to restore the rule of law, thereby "maintaining a framework for interaction premised on reliable and stable mutual expectations of how others will behave."[42] Murphy argues that reconciliation then has to involve the rebuilding of civic trust between citizens and officials.[43] Finally, owing to the fact that conflict undermines ordinary people's opportunities to achieve central "relational goods"—such as being respected, joining the political party of their choice, and participating in the social, economic and political life of a society—reconciliation has to entail restoring these capabilities. In each area, the restoration of reciprocal agency forms "the theoretical core" of Murphy's argument, leading her to claim that her theory is internally consistent. Cultivating citizens' agency and ability to act reciprocally arguably also provides criteria for measuring the success of a reconciliation program and the advancement of democracy. For Murphy, TRCs and international tribunals both have a contribution to make, and prosecutions can advance but do not depend on political reconciliation.

To varying degrees, theories like Murphy's, which build on, but then move beyond the classic liberal constraint with regard to societal change, tend to accept that reconciliation offers something new to politics, and often seek to align this new element with liberalism as its extension into the developmental realm. Along these lines, reconciliation theories now range from the full liberalization of reconciliation (as in the work of Timothy Garton Ash, for example)[44] to the grafting of a fully fledged communitarian agenda onto liberal roots (as in the work of Philpott, for example).[45] Philpott also refers to this range of views as "variances" in the internal arguments within the liberal peace tradition.[46]

Liberally inclined reconciliation processes thus project values such as civic trust and political (and increasingly developmental) agency as their main outcomes. Beginning with a clear sense of where it is headed, liberal ↳ reconciliation assumes a formal equality among citizens, and sets out to ensure an equal exchange of views, perspectives, and contributions in order to create a more inclusive political dispensation.

Questions about Liberal Reconciliation

Intent upon the importance of achieving its desired outcomes, liberal reconciliation displays a penchant for *outcome-orientated thinking.* My claim, though, is that an adequately developed *process-based orientation* that probes the ethos and means through which measures are established and outcomes are achieved, is too often absent from liberal theories of reconciliation. This brings into view an inherent inconsistency often present in liberal notions of reconciliation. On the one hand, liberalism builds a strong case for refraining from moral or normative overreach. That is, by remaining firmly within the political ambit, and leaving room for democratic deliberation between different viewpoints, irresolvable moral and religious differences are managed but not arbitrated. On the other hand, an analysis of Murphy and De Greiff's theories reveals that liberal reconciliation processes are in fact also strongly normative and outcomes orientated. Thus, while remaining skeptical of moral overreach, supporters of this approach show little hesitation about suggesting normative choices of their own, albeit secular ones, for post-conflict societies. However, there is nothing in principle to suggest that secular norms are necessarily imposed less hegemonically, or preached with less dogmatism, than religious ones.

At face value, private/public discontinuity is liberal reconciliation's main defense against accusations of inconsistency. It acts normatively on the political terrain by prescribing the values of civic trust, and reciprocity or agency after conflict or political oppression, but refrains from engaging with the domain of private morality, thus declining to tackle issues such as deep-seated attitudinal change or indeed systemic exploitation. The key rationale for maintaining this private/public split is the protection of individual freedom. Thus, advocates of liberal reconciliation seek the restoration of trust and reciprocity because they claim that these values enable, assert, and defend the individual freedoms that become all the more important when freedom has been abused through oppression or war.[47]

The problem is that while we might all be able to agree that a transitional society ought to establish some measure of individual freedom to safeguard citizens from the ongoing impact of a conflict (such as identity-based victimization, ideological hegemony, material looting, etc.), liberal reconciliation theories, thus far, have offered little by way of *theories of change* that challenge or transform root causes of a particular conflict (other than, of course, political abuse). Focusing on inherent power relations at the root of a conflict would

fundamentally ↳ challenge liberalism's cherished private/public split. Presumably, the individual freedom that liberal reconciliation pursues can follow only *after* full political and socioeconomic empowerment has taken place, and only to the extent that more private issues, such as patterns of belonging or wealth accumulation, have been challenged by an essentially *public* politics—but this leads us back to what the nature of a responsible politics of reconciliation ought to be about.

If restoring relationships, including political relationships, is to mean anything at all, a careful balance of political and economic power has to be worked out, not only between political adversaries, but also between those who have inherited power (by virtue of simply who they are, or through having benefited materially from the past) and those who have inherited powerlessness.

It can therefore be counterproductive to limit political change to traditional (liberal) boundaries, during or after a political transition. Apartheid was a political system with intensely private and personal implications that cut deep into, and radically shaped, individual but also social and cultural identities. It promoted not only systemic racism but also systematic impoverishment, and both factors remain crucial in determining the identities of millions of South Africans. But as we saw in Chapter 4, perhaps in their eagerness to answer the call to join the family of "mature" nations subscribing to the strict tenets of international liberalism, South Africans did not remain in the "transitional moment" for long enough to deal with economic restructuring effectively, thereby squandering a possibly unique opportunity to harness the momentum of political change toward more radical social transformation.

This illustrates furthermore the problem that the "liberal subject," whom liberal reconciliation seeks to restore, cannot be taken for granted as a basis for change in transitional contexts. Reconciliation comes under great strain when a political dispensation is created in which identity becomes invisible in the name of human rights, or is rendered visible only as an incidental trait of a liberal subject. To address such issues, reconciliation politics has to reach deep into what is usually considered the private sphere of attitudes, perspectives, motives, and even personal wealth accumulation. For this very reason, reconciliation's elasticity—its ability to stretch its meaning across multiple layers of society, from the political to the personal and into issues concerned with social transformation itself—is an asset, not an embarrassment,

even if processes like these take generations to complete. After all, conceptually, reconciliation's continuum from the personal to the political and into the social implies both difference and continuity and follows the double injunction of inclusivity and fairness.

On one level, of course, Murphy and De Greiff are correct that the depth, texture, and profound personal commitment associated with personal ↳ reconciliation is not appropriately determined from within the public realm. They are also correct, as I stated in my critique of social restoration, in claiming that too strong a focus on the personal may set the bar too high for ordinary citizens, not to mention war-crime perpetrators, warlords, and other political criminals, who are not exactly renowned for their moral standards. Thus, the failure of political criminals to live up to reconciliation's purported standards of genuine remorse could stall reconciliation, and a strong case can be made that such individuals should never be allowed to obstruct peace. Expecting victims to forgive also brings a whole set of well-debated moral problems into play that need not be repeated here, but suffice to say that the importation of personal reconciliation into the public realm can, and indeed sometimes does, constitute exactly the kinds of moral overreach that liberals fear.

At the same time, though, a strictly public notion of reconciliation does not seem to offer nearly enough to societies making the transition from a terrible past to (hopefully) a better future, because it does not retain enough continuity between reconciliation as both political *as well as* economic and socio-cultural transformation. The strict demarcation that Murphy erects between personal and political forms of reconciliation ultimately renders her theory of reciprocity somewhat impotent given the kinds of changes— of heart as well as politics—that are essential in post-conflict situations, even considering her important inclusion of developmental outcomes as part of reconciliation.

While the various outcomes identified by De Greiff and by Murphy (trust, rule of law, capabilities) are crucial to the success of political reconciliation, it is my view that reconciliation theories based on a strictly liberal framework *crucially underestimate what it takes to achieve real reconciliation.* That is, liberal reconciliation is big on ideals and outcomes, but falls short when it comes to providing context-specific and process-oriented guidance to help individuals and societies move away from the devastation of mass atrocities and toward the values of liberal democracy. In other words, liberal theories present clear goals but tend to suggest hazy processes based on uncertain and untested chains of causality.

As I explain in the final section of the book, my counter-claim is that a special kind of politics, *a politics of reconciliation*, is needed to help steer divided and traumatized societies through the processes of initial peacemaking, negotiating a shared normative framework, instituting radical yet progressively realized institutional reform, and, ultimately, facilitating social transformation toward a mutually agreed, manifestly inclusive, and fair society.

Given the dominance of the liberal paradigm, reconciliation initiatives increasingly focus on prosecutorial justice, and law courts seem to be the preferred instruments of reconciliation. Although other measures may be included, it is ↳ widely assumed that judiciaries should take precedence as arbiters and architects of new dispensations. The failure to fully appreciate the difficulties that transitional societies face is inadvertently magnified by its ambition to limit political power. As the legal specialist Bert van Roermund has commented, "law . . . can only be enacted and enforced between parties whose identity is mutually related to their respective roles in the past. For all of them, to live under the rule of law is to engage in the daily effort to find good reasons to do so."[48]

Van Roermund points to the need to take into account, and make explicit, identities that have played a negative role in the past. However, if politics is limited from the outset, reconciliation can stand powerless against other forms of deeply destructive power that challenge societies in transition, and that may count among the root causes of the conflict. Referring to John Locke's call for reasonableness in the context of sixteenth-century religious conflict in Europe, Andrew Schaap points to the need for reconciliation to include substantive conversations about morality, values, the worth of things, and so forth. Failing to bring these issues into the conversation (as strictly liberal practitioners would propose) leaves too much unsaid and can undermine the justifications that tend to help former enemies to live together.

As acknowledged above, Murphy's emphasis on restoring capabilities as part of a reconciliatory agenda goes some way toward acknowledging the need for such "substantive" conversations. Her focus is always on restoring reciprocity and the capacity to engage; basic living conditions form an important part of this. However, the abiding contribution of liberal theory is to remind us to respect the limits of what is possible

when developing public ideals. Yet if we acknowledge the need for deep social transformation that both exposes and transforms the patterns of "belonging" and "having" that are shaped by, and in turn influence, conflict situations, political reconciliation has to offer more than reciprocity or trust.[49] It needs to include substantive discussions about the future, and about normative frameworks that can guide the shared realization of this quest, including the deepest memories, assumptions, and aspirations of groups and individuals seeking to reconcile.

Liberal preoccupations at the onset of reconciliation processes might, in fact, produce a kind of "benign indifference," as Schaap put it,[50] rendering reconciliation largely impotent in the face of existing power configurations in conflicted societies. If reconciliation is to be truly transformative, it has to be both essentially public and deeply private at the same time. Perhaps the gross violence associated with war and political oppression scrambles the personal and the political to such a degree that simply restoring these boundaries cannot provide sufficient transformation. Reconciliation politics provides an opportunity for specific continuities between the private and public to be asserted in order to create or recreate a fairer and

more inclusive society, and making time for communities ↳ to draw on existing moral resources to help them move toward commonly held values and ideals.

As Schaap writes, the point is not "to debunk security, impartiality and limited government as important values of public life but to show the limits of toleration as an ethic that might animate political reconciliation."[51] When confronted with Schaap's idea of reconciliation as a process of founding a political community prior to the formulation of a shared morality, Murphy responded that providing no norms at the onset of a reconciliation process carries bigger risks than providing some norms, as she proposed. This raises two final questions.

The first is whether it is correct to view the considerable consensus on liberalism (supported as it is by many democratic states, international agencies, media houses, and influential intellectuals) as evidence that the liberal paradigm should be the unshakeable normative framework for political transitions globally. Can the framework itself not be questioned, adapted, or improved upon? And are existing liberal democratic models the only, or even the best, way to guarantee human rights in post-conflict societies? To my mind, the liberal paradigm as it functions in major international agencies especially, in fact tends to obscure liberalism as a *political tradition*, as a school of political thought with different trends and histories, legacies, and possible applications and the ability to evolve and self-correct, thus stultifying a rich legacy within overly fixed and prescribed categories. In so doing, some of reconciliation's most creative possibilities are foreclosed—as was evident at various stages of the evolution of the *peace-versus-justice* debate cited earlier.

So much creative potential exists within the liberal paradigm that its transformation, beyond what the fragmented, consumer-driven, "Western" democratic model currently offers, must be possible. This is especially so when secular liberalism meets societies characterized by different cultural assumptions and ideals, some of which might be more communitarian. For example, Locke's "state of nature" argument forms an important element of liberal thought, but it is often forgotten that Locke *also* presented a picture of society living "together according to reason, without a common Superior on Earth," and advocated social connectivity and interdependence.[52] Locke's sense of interconnectedness is often lost in modern versions of liberalism.

The second question is whether contemporary liberalism closes down not only deliberation about liberal values and their evolution but indeed *all* debate between liberals and other schools of thought. At present, open, non-coercive debates with hardline liberals can be very difficult, like any conversations between fundamentalists and nonbelievers tend to be. Hard-line liberalism runs the danger of producing a deeply

ironic form of intolerance (albeit offered in the ↳ name of tolerance) to societies trying to break with oppression or war. The tendency seems to be to either try to "solve" dilemmas by closing down difficult questions and silencing dissenting voices in favor of predetermined international orthodoxy or best practice, or to sink into silent indifference and despair when overwhelmed by the magnitude of what is involved in political transitions.

Deliberative democracy and liberalism may not always have a straightforward relationship. It is one thing to allow for as much participation as possible in creating a new society from the ruins of war; its quite another to afford all contributions equal importance. So who gets to decide which contribution is more equal than another, and how are such decisions taken? Gutmann and Thompson, in the article referred to earlier, recognized that deliberation has to sit uncomfortably next to decision-making, but they do not help us understand how decisions are actually taken. Somewhere, somehow a first draft of a new constitution has to

be drafted, others need to comment on and amend it, and someone has to sign the document into law. A line has to be drawn somewhere, decisions have to be made and laws drafted.

If moral pluralism is to be genuinely facilitated, on what basis should a post-conflict society make choices? On this point, too, liberal notions of reconciliation have been critiqued. Communitarians, for example, ask whether all visions for a post-conflict society can be equated normatively, and on what basis moral pluralism allows for consensual decision-making that holds normative value. Does the practice of moral pluralism not undermine the possibility of making moral decisions on behalf of society, not least when a society emerges from war or political oppression?[53] Such questions seem to point to a fundamental inconsistency within liberal politics, namely, that its formal commitments to human rights stand in unresolved tension with its commitment to moral pluralism.

Deliberative democracy allows for participation, but under conditions shaped exclusively within the liberal crucible. Agonists too are critical of this approach, and accuse liberals of double standards. On the one hand, liberals are unwilling to allow religious claims on the public domain on the pretext that this is morally prescriptive, yet they also try to prescribe the ground rules that determine the morality of a new society. Should liberalism not simply submit its assertions and values into the public domain as one possible way forward, rather than as the self-evidently correct way? In one sense, Murphy's and De Greiff's theories of reconciliation are excellent examples of the kind of hybridity that follows when concerns for peace and justice are equally pressing, as they tend to be in times of political transition following large-scale violence. In another sense, it appears that they do not go far enough in addressing the root structural and cultural causes of a conflict. In the next chapter I offer an analysis of theories of reconciliation that prioritize the goal of political community building in radically diverse contexts over seeking consensus on (liberal forms of) justice.
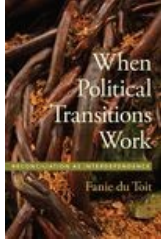
Notes

1. Brody, "Justice."
2. Amy and Dennis, "Moral Foundations of Truth Commissions," 22. Such a moral defense would require that a TRC should be moral "in principle"; that is, it should offer sufficient moral reasons for forgoing criminal justice. It should also be moral in perspective; that is, inclusive of as many people seeking social cooperation. Finally, it should be moral in practice; that is, it should practice what it preaches and be manifestly fair and consistent in its operations. Gutmann and Thompson identified three possible responses to this "moral burden" of having to sacrifice prosecutorial justice, namely the realist, compassionate, and historicist responses, all of which they find wanting. In their view, Tutu's "compassionate" approach overemphasized Christian forgiveness.
3. My specific focus means therefore that general discussions of liberalism, including the well-trodden debates between liberals and communitarians, for example, are beyond the scope of this discussion.
4. Philpott, *Just and Unjust Peace*, 19, 70.
5. Ibid., 19, 70–72.
6. The rejection by some of the Palestinian legislative election results in 2006, when Hamas won a majority, can be seen in a similar light.
7. Andrieu, "Political Liberalism," 85ff.
8. Philpott, *Just and Unjust Peace*, 9.
9. Kymlicka and Bashir, *Politics of Reconciliation*, 16.
10. Definitions of the "rule of law" proliferate. A popular definition is that those making the law also live under it. Lon Fuller identifies the following eight principles of legality that, according to Colleen Murphy, capture the essence of the rule of law:

   > (i) Laws must be general by specifying rules prohibiting or permitting behavioor of certain kinds. (ii) Laws must be widely promulgated and publicly accessible. (iii) Laws must be prospective, specifying how individuals ought to behave in future rather than focusing on past behavior. (iv) Laws must be clear to citizens. (v) Laws must be noncontradictory; one law should not contradict another. (vi) Laws must not ask the impossible. (vii) Laws should remain relatively constant. (viii) There must be congruence between the written laws and how officials enforce them. See Fuller, *Morality of Law*, 39; Murphy, *A Moral Theory*, 43.

11. This is also true of the more recent and variously opaque theories of political economy associated with neoliberalism and the so-called Bretton Woods institutions.
12. Nevertheless, the critique I develop here *does* in fact apply to theories of reconciliation built on Rawlsian or, indeed, other liberal arguments. The trend toward accommodating communitarian concerns within once staunchly liberal positions becomes clear in Rawls's restatement of his position in his book *Political Liberalism,* which is commonly known as "the new Rawls"; for more on this, see Mulhall and Swift, *Liberals and Communitarians*, 1–33.

13. Arendt, *Human Condition*.

14. Locke, "Concerning Toleration," 44; see also Schaap's extended argument in this regard in *Political Reconciliation*, 32ff.

15. Arendt, *Human Condition*, 30.

16. Bonino, *Doing Theology*, 121. ANC intellectual Pallo Jordan pins liberals' rapid shift (in the eyes of some) from the left to the right of the political spectrum in South Africa on "their perceived betrayal of the principles that they claim to uphold." Jordan, "Disdain for Liberals." Communitarians, too, accuse liberals of a kind of egotistic individualism that shuns community and, in the name of security, makes society a competitive and socially hostile place. Utilitarians, who measure political success by the whether the greatest good is accrued by the largest number of people, are also critical, accusing liberals of raising the interests of (empowered) individuals above that of the common good.

17. Schaap, *Political Reconciliation*, 33.

18. Shklar, "Liberalism of Fear," 23. I am indebted to Andrew Schaap for drawing my attention to this quote, which also appears in his book *Political Reconciliation*, 26.

19. Locke, "Concerning Toleration," 26, 53.

20. Murphy, *A Moral Theory*, 28.

21. De Greiff, "The Role of Apologies," 120–37.

22. See as one example Hall, "Question of Cultural Identity." Hall usefully distinguishes between three conceptions of identity: the "Enlightenment subject" (corresponding roughly to what I call the "liberal subject"); the "sociological subject" (which corresponds roughly to social restoration's idea of "dialogical" identity); and the "postmodern subject" (which can be understood as having no fixed, permanent, or essential identity). He explains that the Enlightenment subject is "based on a conception of the human person as a fully centered, unified individual, endowed with the capacities of reason, consciousness, and action, whose 'center' consisted of an inner core which first emerged when the subject was born, and unfolded with it, while remaining essentially the same—continuous or 'identical' with itself—throughout the individual's existence," 597.

23. See www.ictj.com.

24. See Holkeboer and Villa-Vicenzio, "Rights and Reconciliation."

25. The result, over the past decade, has been a targeting of those who, although powerfully destructive in their own contexts, are relatively powerless internationally.

26. For example, Jendayi Frazer, US assistant secretary of state for African affairs from 2005 to 2009, wrote that "the ICC indeed has fallen far from the high ideals of global justice and accountability that inspired its creation." Frazer, "ICC Has Fallen." Meanwhile, in 2013 the African Union debated a continent-wide withdrawal from the ICC. Although the pressure to withdraw was led by Kenya, and strongly supported by Ethopia, the African Union decided instead to ask the UN Security Council to defer cases against sitting presidents. See Akande, "How Nigeria, Others Averted AU's Withdrawal from ICC"; and *Mint Press*, "As African Governments Threaten to Leave."

27. Of course, the notion of "people on the ground" can mean different things: it can refer to communities, or to officials tasked with designing and steering transitional justice processes, or, indeed, to the various institutions created for this purpose.

28. The declaration is available at http://www.peace-justice-conference.info/download/Nuremberg%20Declaration%20A-62-885%20eng.pdf (accessed December 19, 2012).

29. See the report at http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/395/29/PDF/N0439529.pdf?OpenElement (accessed December 19, 2012).

30. Ojielo, 2009, 124.

31. Brody, "Justice."

32. Ban, *Rule of Law*.

33. Available at http://www.ohchr.org/EN/Issues/TruthJusticeReparation/Pages/Annual Reports.aspx (accessed October 16, 2015).

34. "Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation, and Guarantees of Non-Recurrence, Pablo de Greiff." Available at http://www.ohchr.org/EN/Issues/TruthJusticeReparation/Pages/AnnualReports.aspx (accessed October 16, 2015).

35. See, for example, the UNDP office in Cyprus's work related to the so-called SCORE measurement index for social cohesion. Available at http://www.cy.undp.org/content/cyprus/en/home/operations/projects/action_for_cooperation_and_trust/social-cohesion-and-reconciliation--score--index-.html (accessed May 22, 2016). Another example includes the UNAMI initiatives in Iraq. Available at: http://www.iq.undp.org/content/iraq/en/home/presscenter/pressreleases/2016/02/27/parliament-members-and-civil-society-come-together-to-promote-community-reconciliation-in-iraq.html (accessed May 22, 2016).

36. De Greiff, "The Role of Apologies," 120ff.

37. Ibid., 126.

38. Ibid., 126, 127.

39. Ibid., 15, 16.

40. Murphy, *A Moral Theory*, 8, 20.

41. Ibid., 22.

42. Ibid., 188.

43. Ibid., 189.

44. Garton Ash, "True Confessions," 37.

45. An example would be Philpott's *Just and Unjust Peace.* Presumably the aim of this type of theory is to describe ways in which communitarian practices (that try to address the deep wounds of a postwar society) can usher in a liberal

democracy, but the value of liberal democracy as such remains uncontested.

46. Philpott, *Just and Unjust Peace*, 71.
47. Precisely how individual freedom is conceptualized remains an area of considerable debate within liberalism, and, as indicated earlier, is beyond the scope of this discussion.
48. Van Roermund, "Rubbing Off and Rubbing On," 187.
49. Villa-Vicencio, *Walk with Us*, 95, 96, quotes Govan Mbeki, South African struggle veteran and father of Thabo Mbeki, speaking of the need to balance "having" and "belonging" in the South African nation-building process and elsewhere.
50. Schaap, *Political Reconciliation*, 4.
51. Ibid., 35.
52. See Locke, *Two Treatises of Government*, 32.
53. For an introduction to this conversation, see Hirsch, "The Agon of Reconciliation," 2, 3.

7 Valuing Political Difference 🔓

Fanie du Toit

Abstract

Embracing risk and ambiguity, rather than closure and certainty, a third typology of reconciliation theorists have emerged. Calling themselves agonists, they emphasize that reconciliation is fundamentally open-ended, deliberative, and has to strive consciously to include "conflict through other means." Seen through this lens, reconciliation is more a process-oriented activity than an outcomes-driven one. Agonist reconciliation understands its inception as the call, amid conflict, to political community. Its unfolding is described as incessant discourse and debate, and its promise is understood as the commitment never to stop debating the terms of togetherness in a given context. My criticism of this position rests on two points: underestimating what it takes to overcome violence, and its one-sided emphasis on process at the expense of any predetermined outcomes—a situation that would, I argue, be unacceptable especially to those victims of oppression who correctly demand redress and justice as definite predetermined outcomes of reconciliation.

Keywords: agonism, Arendt, civic friendship, plurality, political responsibility

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The largely opposing views of the social restoration and liberal theorists (reflected in the last two chapters) are rooted in long-standing debates that exceed the boundaries of any one academic discipline. Each position has been shown to harbor important weaknesses as well as obvious strengths. What they share, however, is a desire for certainty amid radical change, consolidation amid transition. Both sides seek to mitigate the risks associated with uncertain, volatile, and challenging circumstances, and to deal with a volatile past once and for all in order to usher in more secure, more predictable times.

Frustratingly, however, reconciliation is often slow to yield certitude. It tends to emerge slowly, unevenly, and messily. It often fails to produce the hoped-for outcomes against agreed timelines, and remains unfinished decades after it began. This raises a question: shouldn't reconciliation processes rather engage the uncertainties associated with political transition more openly, in which risk and ambiguity, rather than closure and certainty, are prominent features?

Taking this position, a third typology of reconciliation theorists are gaining prominence. Called agonists, they emphasize that reconciliation is fundamentally open-ended and deliberative and has to strive consciously to include "conflict through other means."[1] Seen through this lens, reconciliation is more a process-oriented activity than an outcomes-driven one. It draws a line against violence, not through recruiting opposing sides into a shared moral vision facilitated by forgiveness, or by converting them to international liberal norms and standards in the first place, but primarily through asking them to commit to sustained, nonviolent, and deliberative engagement that makes uncertainty a virtue rather than a vice.

Agonists seek ways of ensuring that political transitions can accommodate irreducible differences and uncertainties, and sustain adversarial debate on those agreements that bind a body politic together after conflict. For agonists, it is misguided to attempt to eliminate social divisions, no matter whether these are based on class, culture, gender, or ideology. Instead, they propose a mode of political ↳ engagement that enables people to contain their differences, while relating to one another in new and less violent ways, and highlights the conditions on which their differences can coexist as central to their ongoing debates.

Erik Doxtader has written that

> when distanced from the divine, released from the notion that it is strictly a gift and action of God, the faith of reconciliation appears poetic. Reconciliation promises a beginning, the creation of that which we can neither hold nor control. It is something that goads our imagination and extends our knowledge. We quantify reconciliation at the risk of rendering it banal.[2]

It is precisely because attempts at political reconciliation so often extend no deeper than the superficial and banal, fed by the quest for control and quantification over what is to be expected at the expense of imaginative beginnings which may surprise us with their creative potential, that agonists question the usefulness of social restoration and liberal theories of reconciliation. For agonists, respect and understanding for the nature of history and politics, and for what constitutes genuine change, must be central to any theory of reconciliation.[3]

The following section draws together the main points in the standoff between social restoration and liberalism to explain why agonists see the resulting stasis as a sign of opportunity, rather than defeat; in line with previous chapters, this illustrates how agonists conceptualize reconciliation's beginning—born as a constructive response to the moment of stasis when radical opposites meet. A subsequent paragraph then look more closely at agonists' sense of how reconciliation unfolds concretely over time, including those indicators that would reassure agonists that a productive form of reconciliation may be in progress. And finally, as before, the spotlight falls on reconciliation's promise—its outcomes and goals—also from an agonist perspective.

When Approaches Clash: An Opening for a Different Type of Reconciliation?

As discussed, social restoration theorists tend to view human society as an intricate web of interaction and interdependence, and see human beings as inherently dialogical. From this perspective, political relations are first and foremost *human* relations. Accordingly, the public/private split is especially difficult to maintain in the wake of conflicts that typically scramble such divides—and groups can be expected to reconcile much as individuals do.

Advocates of liberal models of reconciliation, by contrast, view insecurity and hostility as "natural" tendencies in any society. The liberal "subject" is seen as ↳ primarily self-contained rather than dialogical. Political and public relationships are viewed as distinctly different from social or private relationships; hence the public/private split is marked by a fundamental discontinuity. Liberals thus conclude that groups and individuals do not reconcile in similar ways, and assume that private and public reconciliation processes are fundamentally different. They argue, therefore, that political reconciliation processes should focus primarily on institutional reform rather than prioritize attitudinal rapprochement.

When adherents of these two schools of thought face one another across conference halls, policy workshops, or "in the field," their approaches, are often so different that a kind of stasis, marked by procedural confusion, policy impasse, and recrimination, often follows. Concretely, this impasse may give rise to opposing and unconnected reconciliation initiatives that operate in isolation or at cross purposes of one another.

In Chapter 6, I discussed the peace versus justice standoff, and showed how disagreements within the formal policy discourses of UN agencies that deal with transitional justice evolved into a peace-as-justice position. This position largely reflects the tenets of liberal reconciliation and, in my view, was developed at the cost of not taking social restoration theories sufficiently seriously. Essentially, in the absence of an elegant and widely acceptable philosophical compromise, practitioners went with the framework they knew

best, and behind which they could rally the most supporters, namely liberal reconciliation. Even though truth commissions (with the incorporation of some restorative justice features) remain firmly part of the UN "toolkit" for postwar reconstruction, such mechanisms are now required to work within the ambit of, and in deference to, tenets of justice understood the liberal way.

This option for liberalism has not resolved matters, however. For example, at international level, the checkered operational record of the ICC and the controversies around its activities in Africa bear testimony to the lingering and somewhat debilitating presence of the debate. The main protagonists—the advocates of liberal internationalism, on the one side, and various African leaders, on the other—have engaged in lengthy debates, much mutual recrimination, and very little constructive discussion. Africans claim that the ICC is targeting their leaders because they are "easier to get to" than the superpowers, which they claim tend to operate with impunity. And it cannot be denied that Russia, China, and the United States (that is, at least three of the "P5" in the UN Security Council) are unlikely to sign the Rome Statute any time soon— while at the same time not hesitating to invoke the ICC to impose sanctions on leaders of countries they have quarrels with.

Implicit in the dispute about the ICC is an accusation of inherent racism in the attitudes of international bodies toward Africa, but liberals point out that if African leaders improve their domestic records on
accountability, it would be unnecessary for the ICC to intervene. They argue that thirty-three African ↳ countries signed the Rome Statute and should therefore cooperate with the ICC, and point out that the ICC took up some of its cases at the invitation of Africans themselves.

Despite the evident, if selective, truths behind both sets of arguments, the ICC's ongoing silence about conflicts in which the world's major powers have strong, vested interests and military histories—Iraq, Gaza, Chechnya, Sri Lanka, and Syria—speaks loudly indeed. Meanwhile, the ICC's vulnerability to criticisms of geopolitical favoritism has become a significant drawback in its mission to serve the cause of justice. For all these reasons, the relationship between the African Union and the ICC remains "embattled," and the stasis between social restoration and liberalism remains solid.[4]

This stasis is evident in national contexts too. As mentioned, in Sierra Leone, a truth commission and a criminal tribunal famously operated alongside one another, with no integrated political or legal framework to guide meaningful cooperation between them. The result was not only an obvious lack of cooperation, but, at times, a mutual undermining. As one commentator observed:

> the different mandates of the TRC, intended to render restorative justice as a substitute for criminal proceedings in the light of the amnesty granted by the Lomé Agreement, and the Special Court whose mandate swept away the amnesty bore a potential for conflict: although the establishment of the TRC and the Court had different objectives, the jurisdiction of the latter overlaps with the competence of the former.[5]

Despite the real potential for overlap and conflict in jurisdiction, no integrated framework, legal or political, was created to ensure that the goals of social restoration and liberalism could complement one another in an integrated effort to realize both reconciliation and justice. The result was confusion, impasse, and stasis. In its final report, Sierra Leone's TRC remarked that some perpetrators had refrained from testifying before the TRC for fear of prosecution.[6] In other cases, those implicated by the courts, but nonetheless willing to testify at the TRC, were prevented from doing so. For example, in 2003, Chief Samuel Hinga Norman, a prominent political leader in Sierra Leone and indictee of the Special Court, requested permission from the court to appear before the TRC. Ultimately the Special Court rejected Hinga Norman's request, arguing that TRC hearings conducted in public before the conclusion of trial would "severely weaken the position of an accused pleading not guilty and end up in a 'spectacle' detrimental to the proper administration of justice."[7]
Sierra Leone's TRC, one could argue, operated largely in a vacuum alongside the criminal tribunal. The ↳ TRC worked from within a social restoration paradigm, whereas the tribunal ascribed to a notion of reconciliation based on liberal values.

Another startling illustration of the stasis between social restoration and liberalism, as it manifests this time at the community level, occurred in Northern Uganda. In one of the world's most vicious conflicts, communities in Northern Uganda suffered enormously as a result of a brutal insurrection led by the Lord's Resistance Army [LRA] and the counter-insurgency measures adopted by the Ugandan army. Untold thousands lost their lives, and approximately 1.8 million people were internally displaced, many of whom were tortured, raped, and left destitute. Close to 30,000 children are estimated to have been abducted and

forced into serving as soldiers and sex slaves to the LRA. Meanwhile, at one stage, it was reported that 1,500 people were dying per week in government camps for displaced persons.[8]

In 2004, the ICC's chief prosecutor Luis Moreno Ocampo announced that, at the government's invitation, the ICC would investigate crimes committed in Uganda. The announcement was made at a public news briefing held jointly with the Ugandan president, Yoweri Museveni, who thus publicly endorsed the ICC indictments of his enemies, as of course he would. Yet because many Ugandans believed that, as commander-in-chief of the Ugandan defense force, Museveni was also responsible for serious human rights violations, they found the ICC's appearance alongside him at the media briefing as absolving the one side of the conflict while indicting the other—and this before a proper investigation into government conduct had even been launched.

In addition, the indictments came at a time when there were signs that the conflict was beginning to unwind. Amnesty was already being granted to child soldiers returning to their communities—many of whom were indisputably both perpetrators and victims of gross human rights violations. In addition, an important mediator between the LRA and the Ugandan government, Betty Bigombe, was preparing the ground for high-level peace talks between the adversaries, which when it finally began became known as the "Juba Talks."

Yet in what is now widely acknowledged as a failure to integrate formal justice with ongoing peace efforts, the ICC arrest warrants issued by the ICC for five LRA leaders put the peace talks under severe pressure. Speaking from Bujumbura, Burundi, where she was based at the time, Bigombe said:

> [Y]ou can no longer talk to the LRA as before, the dynamics have changed. The situation is different and I would not like to talk to the LRA now because the ICC has not yet given me details of the warrant.[9]

p. 172 It was no surprise, therefore, when it emerged that community leaders were beginning to voice their outright opposition to the ICC across much of the region, ↳ calling instead for amnesty, forgiveness, and a ritualistic form of cultural reintegration of all former combatants into their communities of origin. Not only did the indictments seem to jeopardize the regions' best chance at peace for decades, but on the ground it became abundantly clear that that the ICC's presence was markedly slowing down the rate at which former LRA soldiers were willing to come forward to reintegrate into their communities. Ultimately, the Juba Talks, which lasted for two years from 2006 to 2008, failed—at least partly as a result of the warrants of arrest issued by the ICC against the leadership of the LRA. This unresolved tension between two competing visions of reconciliation, social restoration and liberalism, so painfully felt in Northern Uganda's communities, prompted Lino Owor Ogora, who has worked extensively with victims of this conflict, to ask pointedly, "if the arrest warrants issued by the ICC for the LRA commanders played a role in denying victims the right to a lasting peace, can we conclude that the ICC is in fact promoting the rights of victims?"[10]

Current efforts of Ugandan civil society to promote and systematize traditional reconciliation practices, combined with government efforts to develop a national capacity to prosecute war crimes, are some of the more innovative attempts yet to move beyond the impasse between social restoration and liberalism.[11] By 2014, a fifth draft of a National Transitional Justice Policy was being debated in Uganda. Ultimately, this legislation seeks to provide guidelines, in ways not dissimilar to those adopted in South Africa, to combine both retributive and restorative justice elements within a single integrated framework.

What should we make of this stasis between social restoration and liberal approaches to reconciliation, so keenly felt in places like the AU headquarters in Addis Ababa, or in Sierra Leone and Uganda, and many other places besides? At a continental level, the promise of justice, equality, and fairness for Africa after centuries of racism, slavery, colonialism, and economic exploitation appears to clash head-on with the "rule of law" as embodied by the ICC—at least for those who claim that the ICC is unfairly targeting Africans. At national level, the culture of the forgiving embrace, which Sierra Leone's TRC sought to foster as a national metaphor for reconciliation, contradicted the efforts of other mechanisms to establish a sense of accountability and liberal order after the chaos of the civil war in that country. In Northern Ugandan communities, the call to restore a moral community encompassing both victims and perpetrators in the battered communities of Acholiland seemed to contradict the call to isolate, charge, and punish offenders while embracing international liberalism as represented by the ICC.

For those who seek certainty after the chaos of war and political oppression, the stasis between different interest groups and their theories of reconciliation becomes a crisis when reconciliation is promoted as the road to certitude, predictability, and control. In their efforts to manufacture this predictability,

international ↳ support agencies understandably try to impose fairly fixed frameworks as well as core practices or "pillars" that are meant to guarantee progress toward the desired goal. What is missing in this approach, however, is a sense of how these practices ought to be sequenced and coordinated so that they work together rather than in isolation or in opposition to one another. Regularly absent, too, are channels through which local communities can integrate peace initiatives into their own transitional "stories" and support these processes with their own tried and tested community resources, rather than having primarily national or international processes imposed on them.

In many respects, this stasis has created uncertainty and volatility. For advocates of forgiveness and liberalism alike, the deadlock symbolizes reconciliation's absence. All too often, this contestation about reconciliation becomes politicized, as adversaries view one another across ideological lines as being as guilty of prolonging the postwar status quo and undermining concerted moves toward the "ideal reconciliation process" as those who perpetrated violence in the first place. The intensity of the ideological battles between liberals and social restorationists is perhaps exceeded only by their desire to bring some certainty and predictability into post-conflict situations, and this may go some way toward explaining why their exchanges have been, at times, so fierce and so bitter.

Cognizant of this standoff, we earlier discussed the way by which Dan Philpott attempted a synthesis between the two schools of thought. The restoring of "right relationships," which is central to Philpott's socially restorative approach, is, he claims, also compatible with liberalism—in that it grafts redress, and the healing of the multiple "wounds of war," onto the restoration of human rights typically associated with liberal peace. As noted, Philpott argued that "one can converge with liberal peace insofar as it endorses human rights, democracy, the rule of law, punishment, etc., but without sanctioning philosophical values such as autonomy or Berlin's value pluralism."[12] However, Philpott did not work out in sufficient detail how this convergence is possible without endorsing the liberal view of individual autonomy. Indeed, a certain tension runs through, and remains present in, Philpott's argument—a tension he appears to acknowledge when he writes (with reference to religion's public role within liberalism) that, as noted earlier, it appears impossible to find a balance between excluding what is allegedly inimical to liberal democracy, but including enough to allow what is essential to it.[13]

By contrast, and instead of attempting an overarching synthesis as Philpott sought to do, agonists' reaction to the stasis and the conflict it has created has been to embrace the differences between the two positions as a sign of the opening of precisely the kind of space for engagement in which, what they regard as a more

genuine form of reconciliation has a chance of being born. For ↳ agonist thinkers, reconciliation is first and foremost a *verb*. Unfinished and open-ended, reconciliation, for them, sets in motion a kind of politics that is concerned with the founding conditions of societies, thus raising fundamental questions about both the liberal and restorative paradigms. In answering these questions, the only unacceptable outcome is the cessation of debate. No holy cows are tolerated, uncertainty is embraced, and what is important is robust engagement between erstwhile enemies as they search for a shared peace. In this sense, a certain level of political reconciliation is not an outcome of justice, but an essential prerequisite to it.

A Call to Political Community

While liberal and social restoration theories are premised on the eventual overcoming of difference, agonists offer an alternative. Sarah Maddison explains that "a central task of reconciliation is the (re) constitution of deeply divided societies through the creation and expansion of political spaces in which the full range of views and perspectives can be heard,"[14] so that, as Erin Daly and Jeremy Sarkin warned, this kind of coexistence never amount to assimilation, integration, absorption, or forced unification.[15]

Together, the agonist charge goes, liberals and social restorationists fail to respond usefully to the messiness of political transition, because they set fixed goals, and have no "Plan B" should their best options fail. The agonist critique is not that the ideals of forgiveness and the rule of law are undesirable, as such; rather, it is that by preemptively positing these as "the ideals worth pursuing," their achievement is actually jeopardized. Agonists argue that encouraging the open-endedness of true political engagement can

help guide a society away from mass violence and toward more peaceable modes of coexistence, while simultaneously developing a robust ability within that society to prevent a return to mass violence.

In the wake of the Holocaust, Hannah Arendt developed a theory of politics in which the *prevention* rather than the *punishment* of mass violence stands central. In fact, politics, for Arendt, is nothing other than the refutation and sustained prevention of genocide.[16] She argued that genocide has as its goal the disappearance of people from public life into the black hole of oblivion. Politics, by contrast, enables people to appear (or reappear) in the public space through political engagement. Politics is thus a space for public *appearance*, for talking to one another in refutation of the mute violence characterized by the forced "*dis-appearance*" of the other. Crimes against humanity are therefore crimes against human diversity, whereas politics, properly understood, affirms diversity.[17]

These Arendtian views have played an important role in shaping what is increasingly recognized as an agonist "type" of reconciliation theory. Drawing on Arendt, Andrew Schaap argues that "our sense of reality depends on the disclosure of the world as an object held in common but perceived from a multitude of perspectives."[18] Politics is, therefore, not only the act through which we appear publicly, but also the activity through which a common, inter-subjective sense of reality is created. To achieve inter-subjective insight into how the world works, reconciliation depends on a particular kind of civic friendship that consists of "an openness to others" and "pleasure in the other person."[19] This civic friendship requires more than (liberal) tolerance, Schaap observed, "it entails a passionate and potentially agonistic encounter with the other . . . [and] a willingness to engage in *incessant discourse* in which difference and lack of consensus is understood not as an obstacle to communication but as a precondition for it."[20] In other words, agonists see reconciliation as a passionate endeavor, indicating a sustained willingness to step into direct, confrontational debate with those whom one once fought, in order to work out not only how it might be possible to live together but also how to construct a common understanding of the world.

Arendt argued that the disappearance of anyone from political life—whether through self-censure or violent imposition—entails "an almost demonstrable loss to the world."[21] Each person prevented from contributing their insights represents a setback in terms of efforts to construct a common understanding of the world. What Arendt famously called "dark times" ensue when withdrawal from the world (and from politics) is widespread, as is often the case during mass violence, genocide, or political oppression. By contrast, reconciliation makes politics possible (again), "by framing a potentially agonistic clash of worldviews within the context of a community that is 'not yet'."[22]

This means that reconciliation is not ushered in by calls for restored community or liberal peace, but by the willingness of enemies to "appear" before one another in the name of a community that is yet to be born. This is obviously risky; we are called to determine how it might be possible for us to live with others, with no concrete guarantees. Not anchored in the surety of moral vision or liberal consensus, the call to reconcile agonistically is conditioned by *plurality, intersubjectivity, frailty*, and *contingency*, each of which I now explore in a little more depth.

Agonist reconciliation calls on enemies to recognize the fundamental and irreducible *plurality* of the political sphere, and this acknowledgment lies at the heart of the call towards agonist reconciliation. However, this is not what sets agonists apart from liberals. After all, John Locke's idea of tolerance also emphasizes moral plurality. The distinction is that, for liberals, deeply held moral differences should be restricted to the private domain and tolerated as a guarantee against sectarian violence.

For agonists, however, the private sphere is a means of enriching and sustaining public life. Thus, agonists maintain that a desire for peace and security is not all that enemies have, or ought to have, in common. Out of care for the world and for one another, they ought also to bring their deeper, existential differences into the public sphere (and into reconciliation processes) in an effort to contribute to a more informed common public life. Maddison agree that agonist reconciliation entails

> a very cautious approach to developing a unified national identity . . . (i)nstead, agonistic reconciliation suggests a transformative view of citizen identification, implying vibrant contestation over belonging and identity, but acknowledging that these contests may only lead to democratic outcomes if there is some limited consensus that binds the diversity of citizens.[23]

In an agonist framework, differences are not only tolerated for the sake of security, but faced head-on in the name of what agonists call civic friendship, in the interests of creating a shared world for citizens who agree

on the need to engage one another in continuous debate about how to live together. For these reasons, agonists claim that the liberal view of tolerance, largely concerned with cooperation for the sake of security, "conceives of human interdependence too narrowly," because it does not take into account the profound creativity that resides in political engagement conceived of along agonist lines:

> [P]olitical interdependence is based not only on the need for mutual protection but on the desire for meaning, for a sense of the reality and worth of things. The possibility of reconciliation depends on this world-disclosing potential of politics.[24]

For social restoration theorists, the clash of moral views is acknowledged, but their aim is to overcome this in favor of an existential harmony ushered in by the forgiving embrace. As Maddison explains, agonism "takes a decisive step away from community harmony as a goal, instead prioritising the pursuit of just enough respect to allow democratic contestation without violence."[25] For liberals in turn, moral clashes ought to be largely private affairs, and as such, should be, in principle, irrelevant to politics. Agonists claim that both of these views underestimate and unduly limit the creative potential of political engagement in the aftermath of serious conflict:

> [B]y limiting politics to the end of security, toleration forecloses a politics that would enable citizens to call into question (and so potentially ↳ discover reasons) why they should want collectively to secure the conditions that make society possible between them in the first place.[26]

Agonists maintain that the "world in common" appears differently to parties that engage in political discourse via a reconciliation process, and that the aim ought not to be to overcome or harmonize such differences. They argue that human commonality is not revealed in shared or consensual insights, but in reaching consensus via the kinds of politics that allow for contestation between radically different perspectives. Maddison drew on William Connolly's work to put forward the position that "an agonistic view of this type of coexistence insists on relations of 'adversarial respect' between 'interlocking and contending constituencies'[27] rather than pursuit of communitarian ideas of consensus."[28] In Schaap's elegant description, "plurality is not a condition of politics, but its achievement."[29]

An acknowledgment of the inherently plural character of the political sphere invites enemies to consider and formulate *intersubjective* insights—that is, conclusions that draw on different, often-opposing views to make plain how the world appears from varying perspectives and how, collectively, it might be possible to shape the world in more peaceable ways.

As Arendt noted, the inherent *frailty* of reconciliation processes is accepted as the result of being dependent upon "unrealiable and only temporary agreement of many wills and intentions."[30] She also pointed out that totalitarianism, by contrast, displays a profound lack of concern for sustaining the web of human relations, trying to remake the world not as a product of frail agreements but as the product of an idea. In so doing, totalitarianism destroys the fragile web of human relations, and with it, one assumes, society.

Contingency acknowledges that things can go wrong, but also entails the freedom to do the unprecedented and unnecessary, or that which could have been left undone, because "things could always have been otherwise."[31] The contingent nature of reconciliation is inseparable from the gift of freedom, which is the main concern of so many societies emerging from conflict.

For agonists, reconciliation's outcomes are contingent, open, and uncertain, and it is precisely this uncertainty and openness that is radically novel, that creates fresh possibilities, and that helps society draw a line under past violence—not least in situations where public participation has been violently stifled. Enemies engaged in violent conflict, in Uganda or Sudan, for example, have the option of becoming political adversaries instead, thereby investing in the creative potential of their future together, while understanding the risks involved in outcomes that are fundamentally uncertain, fragile, and risk-prone. After periods of hardened and violent opposition, even such uncertainty can signal that reconciliation is possible.

Importantly, therefore, this paradigm can work not only for political antagonists on a battlefield, but also for ideological adversaries squaring off over what form reconciliation should take—whether these are community elders or international agencies. The point is that in an agonist process, all groups understand the relativity of their own positions. They do not impose solutions, but commit to developing intersubjective insights, drawing on the perspectives of all sides to design self-consciously *provisional* solutions for how a post-conflict environment ought to look.

Agonists see their take on reconciliation as transformative, creative, constructive, and able to create new risky and adversarial *political* relationships, where only violence existed before. These relationships presume no preexisting moral values, nor are they forced to submit to the powerful international consensus that sees liberal democracy as the "best way to go." Instead, the protagonists acknowledge that the finely threaded and fragile web of human relations is a resource that can be used to help them weave a more plural society.

Agonistic Reconciliation's Unfolding

So if it is inaugurated as a call to civic friendship in taking care of a common world, of joining a fragile pre-moral political community, how does agonist reconciliation manifest itself over time? In his book *Sympathising with the Enemy*, published in 2010, Nir Eisikovits set out to "provide some concrete guidance for designing" a process of agonist reconciliation.[32] Differentiating "reconciliation as sympathy" from forgiving, forgetting, and recognition, he argued that "reconciliation must be understood neither in legalistic terms nor through the metaphorical language of healing and restoration."[33] Instead, agonistic reconciliation manifests in self-consciously open-ended dialogue. As an institutionalized form of political humility, this approach to reconciliation appears via processes of dialogue that have undetermined and even indeterminable outcomes. Thus, agonism offers a possible response to the liberal accusation of the normative overreach of social restoration, but also to those who criticize reconciliation as an uncritical extension of liberalism, and as such, normatively hegemonic. Schaap outlined four traits that can be considered characteristic of agonist reconciliation's unfolding through concrete processes of political transition.

The first mechanism that marks a milestone for agonist reconciliation is the adoption of constitutional politics, meaning processes that encourage all sides to reflect on what it would take to constitute an acceptable, shared political life after war. This occurs by *constituting* or constructing a space for politics (as described by Arendt and others), by bringing to life the *legal institutions* that guarantee this space for politics going forward, and by constituting the "we" in an *ethical* ↳ sense—"we" being the postwar society that is to occupy the political space.[34] This is fundamentally a future-focused effort to create a political and social covenant, wrote Audrey Chapman, on the basis of which a shared existence becomes possible.[35] However, within this triad of politics, law, and ethics, politics takes precedence over the law because ultimately a "we" can emerge only on the basis of politics, and not through legal decree. Furthermore, a community cannot precede the engagements that shape its existence; a community emerges from political interaction. The existence of a "we" thus fundamentally depends on the continued political will of a group of people to live together. Therefore, "the ethical constitution of a 'we' . . . depends on forsaking the certainty of law for the risks of politics."[36] "The challenge," wrote Maddison,

<p. 179>

> as with the making of agreements, is to ensure that the process of (re) making a constitution creates enough stability to allow new political spaces to open up, while resisting the sense of closure or completion that such an endeavour may engender, which would effectively close such spaces down.[37]

This point helps to clarify how liberal frameworks often underestimate what it takes to make peace. War destroys not only the rule of law but also the social fabric of society—the sense of a world held in common—as citizens withdraw from common space. To revitalize society takes considerably more than re-establishing a legal regime. It requires meetings of citizens in public spaces at a time when such meetings feel risky or even impossible. This is where politics proper has to begin afresh, where institutional arrangements can be agreed upon (always provisionally). Then, gradually a "we" becomes a reality, and one can talk of reconciliation having begun. This constitutional dimension of reconciliation—of establishing a space for politics, legal institutions, and a sense of "we"—entails both "beginning and promising."[38] More akin to revolution than restoration, reconciliation makes a radically new beginning possible by drawing a line under a violent past, proclaiming that such violence should never recur, and promising that ways of living together that were previously thought impossible or even unthinkable are achievable.[39] This promise is not based on a prior golden age, or even on any visible sign that a new community is emerging. The promise itself becomes the primary symbol of reconciliation, an assumption that the present denotes the beginning of a community that is not yet visible or concrete. Reconciliation implies the faith to begin

speaking of a "we" before this is a political or social reality. The faith to make such a promise is found in boldly declaring "never again" and beginning anew.[40]

Forgiveness, which can be defined as relinquishing a just claim and setting aside resentment, is the second trait of agonist dialogue. As reconciliation unfolds ↳ between the memory of a bad past and a future that is not yet realized, forgiveness is essential. The agonist defines forgiveness as a willingness to stop judging others as enemies, and to release them from the consequences of their actions in order to enable them to act (politically) differently in future. This clears the way for citizens to resume political responsibility—that is, to act freely in a political space—which is essential to reconciliation. Forgiveness involves acknowledging the obligation to repair harm wrongfully inflicted, and a willingness to explore ways of living with "the other."

Experiences in contexts of political transition indeed seem to suggest that there is a need "to reverse the order of our moral thinking."[41] Forgiveness does not signal a closure of contestation or disagreement, but instead opens new possibilities for political disagreement and nonviolent discussion. Instead of ushering in closure and social harmony, Schaap thus suggested, and Maddison concurs, that forgiveness facilitates and opens up possibilities for people to resume political responsibility.[42] Forgiveness also brings to light the world that victims and perpetrators hold in common, and that needs to be rebuilt through political engagement. Political reconciliation is thus sustained by a willingness to forgive, again and again. It then also opens the way for those implicated in state wrongs to assume (political) responsibility. Forgiveness is not based on just reasons to release wrongdoers from the consequences of their actions (the liberal rationale), nor on necessity as an irreplaceable social good (the social restoration rationale), but rather acts as an offer to the other to assume responsibility for past wrongs and enter into remaking the world held in common.

The third marker of agonist reconciliation is the assuming of *political responsibility* by citizens. This feature of the risky encounter between enemies in pursuit of a common society concerns the ways in which ordinary citizens may be collectively held responsible for tacitly supporting or benefiting from an unjust regime. Karl Jaspers and Hannah Arendt, who wrote mainly with reference to Germans during the Second World War, argued for a distinction between moral blame and collective responsibility. For them, collective responsibility relates to political failings, whereas personal responsibility operates at the legal and moral levels. Claiming collective responsibility for the kinds of crimes committed during war and oppression amounts to a plea of irresponsibility, and, from the perspective of future generations, this failure to take responsibility can seem like an ongoing injustice.

Reparations, if executed correctly, demonstrate precisely the illegitimacy of past acts, and for this if no other reason, they constitute an important symbolic benefit, argued Jaco Barnard-Naudé.[43] Given that we cannot bring back the dead or undo the suffering of victims, reparations have value in acknowledging wrongdoing, but no amount of reparations can ever presume to repay or settle such debts.[44] In other words, assuming political responsibility is not about ↳ purifying a tainted identity through demonstrating one's good intentions, it is about acknowledging that one is implicated in past wrongs as a "consequence of one's entanglement in history."

The fourth and closely related trait of agonist reconciliation occurs via the *collective remembrance* of past wrongs. The "never again" dimension of constitutional politics depends on the revelation of the facts of what went wrong. Verdeja suggests that in this context, official apologies can help to promote the restoration of victims' sense of moral and civic value, generate debate about new social norms, and reframe the past by undermining apologist historical accounts.[45] At the same time, the power of redemptive narratives, which reveal how isolated acts formed part of a larger whole, opens new possibilities for debating the past, for discovering new ways of living together, and for affirming the possibility of achieving freedom in the present. But for Schaap, remembrance creates a regard for the past that emphasizes moments of greatness, and this attests to the possibility of greatness in the present. Revealing our roles in history as part of a larger narrative redeems the past, and demonstrates how the past continually re-emerges from actions in the present.

Reconciliation's Agonist Promise: To Remain Forever "Not Yet"

Having outlined its inception and concrete manifestation over time, we turn to what agonist reconciliation promises, and (therefore) the outcomes against which it ought to be judged. Agonists maintain that embarking on a reconciliation process means being willing to be confronted with the utter fragility of political processes every step of the way. As soon as fragility gives way to too much certainty, alarm bells should ring. Agonist reconciliation resists closure at every turn. Provocatively, Schaap wrote that political reconciliation is only a "good" as long as it is not realized; it is not sustained by striving for a desired, premeditated end or goal, but by the "will to live together" and by "incessant and continual discourse."[46]

As a fragile politics of plurality, agonist reconciliation ceases to operate the moment it appears to have been realized. To be present, it must, by definition, not be present *yet*. It requires accepting the risk of encounters in which differences are not harmonized, and in which adversarial (but nonviolent) political relations can be fostered. This is not only an invitation to courageously embrace political humility, but a reprimand to anyone who thinks that the public sphere can belong to them or be dominated by their ideas.

A major contribution of agonist theories of reconciliation is their focus on the nature of political transition, and their insistence that reconciliation is a process ↳ of transition that must be locally owned, and should be expected to unfold in unexpected and challenging ways. This rings true to those embedded in transitions the world over. Hardly ever does a political transition usher in expected results in good time; profound disappointments, positive surprises, and completely unexpected outcomes are almost inevitable.

Social restoration theories tend to reduce politics to a moral agenda. Liberal theories of reconciliation tend to underplay the need for politics in favor of criminal justice. Neither view is able to fully account for transition in the sense of moving from one political system to another. Agonists, meanwhile, point out that what takes a society through such a transition, and into a better (more inclusive and less violent) dispensation, is the cultivation of a particular kind of politics. Such politics are more likely to encourage the emergence of communities that can accommodate radical differences, acknowledge their agency, and develop radically new solutions.

Interestingly, Schaap suggested that forgiveness is what provides sustenance for such a political community. Conceding that forgiveness is more often associated with the moral ideals of social restoration than with agonistic politics, he nevertheless argued that forgiveness lies at the heart of reconciliation—that it renews political relations and makes it possible for former enemies to work together, not as victims or perpetrators but as political opponents engaged in a robust exchange of ideas. In other words, forgiveness is portrayed not as the basis for the restoration of *moral* community but of *political* community and, moreover, not as helping to reclaim a historical community that once existed but of helping to shape a community that has yet to be born. Forgiveness, he argued, ushers in the unexpected in ways that create possibilities for renewed political relations.

Questions about Agonist Reconciliation

Agonists seem to presume that politics is always an arena of robust and forthright engagement between confident adversaries, but in reality post-conflict societies are much more often dominated by fear and insecurity. One needs only to visit the Kitgum district of Northern Uganda, or the small city of Yei across the border in neighboring South Sudan, or any number of villages in rural Burundi, to realize how devastating and destructive of human agency civil conflict can be. If this rules them out of agonist reconciliation processes, and if agonist reconciliation is relevant only in situations where an agency-deficit is not a problem, then it raises serious questions about agonism's relevance to post-conflict societies.

That mass violence silences and traumatizes has been well documented; often it is not a cacophony of well-articulated political perspectives that dominates a post-conflict landscape but an eerie silence. Into this void, advocates of reconciliation try to invite, nurture, and facilitate a reclaiming of political voice. Schaap does admit that "so long as people's lives are dominated by fear or struggle for sheer survival, they are not free to engage agnostic politics."[47] This is underscored by Daly and Sarkin: "desperately poor people have neither the time, the energy, nor the hope to participate in programmes designed to foster democracy, reconciliation or justice."[48]

And this is precisely the problem. The lives of most people who have lived in areas of intense conflict are dominated by fear and struggle. A lack of agency is radically exacerbated where mass violence is linked to crimes against humanity or genocide. In such cases, social devastation is related not only to concrete conditions, such as the loss of home, family, and livelihood, but also cuts to the heart of people's social and cultural identities. Dealing with the violence suffered as a result of genocide or crimes against humanity, and engaging in a transition process, calls into question the very identities on which such societies, for better or worse, have been built.

At a practical level, therefore, agonist reconciliation faces a problem of inception: how can this kind of politics be introduced in arenas that are radically devoid of agency at so many different levels? Colleen Murphy placed this question at the center of her theory of reconciliation, and, as noted in Chapter 6, she concluded that reciprocity is best invoked through establishing the rule of law, creating political trust, and enhancing certain basic capabilities. But here, too, the question of inception remains: who decides what the "rule of law" should look like, and how will it be implemented? Political trust and reciprocity are fine goals, but they are also notoriously elusive in post-conflict settings. How are such ideals best cultivated?

The question deepens when one considers that, to develop agonist reconciliation processes takes time and farsighted leadership skills, two commodities that are often scarce in post-conflict settings. Ideally, political leaders need to consistently and truthfully reflect (and reflect on) their constituencies' interests, but also understand that the security and prospects of both sides depend on the security and prospects of the other. Such leaders have to be prescient enough to step back or step up, and to contest elections fairly when the time comes. Thus, it is necessary not only to empower ordinary citizens to enter the political arena, but also to persuade military leaders to make the shift from strategizing militarily to organizing politically. Schaap's answer seems to be that leaders need courage to embrace the risks of agonism. But what if such courage is lacking?

Again, Murphy's answer, creating political trust, seems sensible but offers too little sustenance for what is essentially such a fragile process. Reconciliation processes have to be able to proceed when trust is at a breaking point, such as when the ANC broke off talks with the government in South Africa over ongoing police brutality, and the state denied having anything to do with the attacks. What motivates former enemies to overcome setbacks and forge a way back to the negotiating table against all odds? Perhaps it does take a level of faith, as Schaap observed, but I suspect that more has to be at play, for even the most faithful doubt the outcomes of political transitions from time to time. In this context, an open invitation to continuing a risky encounter is unlikely to be enough: a more compelling and less fragile set of reasons have to be available to validate and justify ongoing political engagment with the enemy. In fragile post-conflict situations, the overwhelming need is not for risk and fragility, but for security, certainty, and consolidation. In situations where political, economic, and social frameworks have been destroyed, an invitation to embrace a deliberate (and indefinite) suspension of certainty seems unlikely to win much support.

In this regard, Eisikovits developed agonist theory in important ways, explaining that, in protracted negotiation processes, the notion of political generosity plays a key role. His view is that generosity, born of a sympathy with those you once fought against, and of the ability to place yourself in their shoes, is contingent on detailed exposure to the enemy. And yet there is a problem with this too: Eisikovits seems to confuse outcomes with requirements. Some form of prior engagement seems necessary for the development of compassion and generosity. So the question of inception remains: when security and trust are radically absent, how can enemies be persuaded to engage with one another for long enough to develop any measure of mutual compassion? If institutional arguments in favor of establishing a liberal peace, and moral arguments in favor of social restoration, cannot impress hardened political foes, how likely is it that an invitation to participate in a risky agonistic process will succeed?

My second major concern with agonist reconciliation is its emphasis on process at the expense of any or all stated outcomes. Certainly, given the goal-orientation of liberal peace and social restoration, agonism's emphasis on process is a welcome innovation. However, agonists appear to emphasize process at the cost of identifying any goals, or making any promises at all. Reconciliation is posited as a regulative ideal—that is, an ideal "whose realisation would undercut the conditions that constitutes its possibility."[49] This seems to come extremely close to admitting that reconciliation is little more than an empty promise. And even if agonist politics does become institutionalized, what does this mean for those outside the privileged circles of top leadership, and what does reconciliation promise for them?

Liberal peace and social restoration both make concrete, albeit radically different, promises. But what does agonism undertake to deliver? It appears to promise sustained debate about the terms of political association, thereby forging new political relations. Schaap's theory does not, to the best of my understanding, assure the establishment of concrete outcomes up front. Yet, the promise of some outcomes are crucial to whether reconciliation will be accepted popularly, or not. Furthermore, the longer-term credibility of any reconciliation process (as opposed to the violent overthrow of an oppressive regime or reaching the kinds of accommodation with such regimes that involve a blanket denial of atrocities) is crucially dependent on the degrees of institutional and social transformation achieved in its name.

Eisikovits added the idea of fair coexistence to his notion of sympathy as minimum requirements for reconciliation. His view is that attitudinal shifts have to be accompanied by structural fairness. This echoes Murphy's threefold requirement for reconciliation. Yet socioeconomic justice seems to be something of an afterthought in both Eisikovitz's notion of sympathy and in Murphy's idea of reciprocity. That is, its importance is recognized but it is not systematically integrated into either theorist's primary arguments. Murphy comes closest to saying that political reciprocity is, to some degree, premised on socioeconomic capacity, but apart from this, I fail to detect a coherent picture in her theory of how political and socioeconomic outcomes are related.

Does agonism take sufficient account of justice? Or does this approach lean too far toward the kinds of transitional politics that are unable to deliver on the expectations vested in them: expectations such as a just, credible, and inclusive political dispensation or indeed a transformed society? Can the agonist approach accommodate criticisms such as those leveled by Mahmood Mamdani and Robert Meister that reconciliation is essentially a tactic used by those in power to distract the "chattering classes" from the revolutionary approach demanded if they are to achieve social justice, redress, and equality?[50] Agonism does not approach conflicting parties with narrowly conceived arguments about achieving security through institutional reform or introducing human rights. It does not appeal to cultural or religious values, or to any form of morality. It also does not enjoy the kind of diplomatic clout that could match the liberals' so-called overlapping consensus. It simply seeks to persuade with the promise of a new political community, one that can accommodate radical differences without seeking to integrate these into one moral code that can acknowledge and encourage the agency of all parties in the production of radically new, home-grown solutions. Importantly, this promise carries no guarantees, and this is a point that agonists belabor. The outcomes cannot be certain. Essentially it is an invitation to risk displaying vulnerability toward former

enemies in the conviction ↳ that this has the potential to produce a better dispensation characterized by a different kind politics.

I have argued that this approach runs a major risk with reference to the inception of reconciliation. Much can go wrong when enemies make a promise such as this. The challenge here is twofold: first, the process needs to provide more guarantees for adversaries to be willing to make themselves so vulnerable. "Trust me, this is for your own good" may not be a strong enough argument. Second, the agonist assumption that political community ensues when agency is exercised across lines of division has to be addressed in light of the patent lack of agency prevalent in so many conflict zones. It is tempting to conclude that reconciliation is simply not possible where groups are not strong and organized enough to enter into meaningful political relations. Yet, peace remains elusive, and violence remains present in so many contexts precisely because agency is either severely diminished or subverted.

Agonists argue that reconciliation exists only as long as it cannot be reached, and so refuse to name concrete goals at the start of a reconciliation process. This departure from normativity is a double-edged sword. On the one hand, it avoids the pitfalls of potential moral overreach and intolerance discussed with reference to liberalism and social restoration. On the other, it weakens its own case, especially when trying to gain the support of aggrieved and previously disadvantaged groups.

Notes

1. Alexander Hirsch reminds us that the term *agonism* is derived from the ancient Greek word *agōn* "signifying a brand of struggle and in particular an athletic contest between contending agents in the midst of a religious festival"; see Hirsch, "The Agon of Reconciliation," 3. Several philosophers, from Machiavelli and Nietzsche, to Hannah Arendt, Max Weber, Carl Schmitt, and Michel Foucault, all refer to some form of agonist politics as essentially conflictual. This contrasts with how others see struggle: for example, deliberative democrats seek consensus through democratic institutions while liberals

"leave precious little space for initiatory or expressive modes of political action" (Dana Villa, quoted by Hirsch in "The Agon of Reconciliation," 4.)

2. Doxtader, "Is It Reconciliation?"

3. Seminal works on political transition per se are O'Donnell and Schmitter, *Transitions from Authoritarian Rule*; and Huntington, *The Third Wave*.

4. As Tim Murithi writes: "By examining each African case individually one might be able to come up with a rational explanation of why all the current cases of the ICC are in Africa. One might even argue that, to a neutral observer, if one critically analyses the facts, it is possible to reach the conclusion that the ICC was established with the sole purpose of prosecuting cases from Africa. At the same time, though, one could also identify a combination of domestic and international political interests behind the submission of, for the time being, only African cases and behind UN Security Council referrals to the ICC." See Murithi, *The African Union*.

5. Goldmann, "Sierra Leone," 510.

6. Sierra Leone TRC, *Witness to Truth*, Vol. 2, Ch. 2, para. 568.

7. Quoted by Goldmann, in "Sierra Leone," 513. Goldman also quotes the following from a letter that Hinga Norman wrote to his legal counsel: *"I have long been in receipt of copy of your letter . . . expressing the inappropriateness for me (your client) to appear before the Truth and Reconciliation Commission while I remain an indictee before the Special Court. Well, I was arrested, charged and detained on the 10th March 2003, thinking that by now, 25th August 2003, my trial would have started long ago; but I thought wrongly. Since there is no news about the start of the trial and there are signs that the TRC may soon close its sittings, I would prefer to be heard by the people of Sierra Leone, and also be recorded for posterity, especially where my boss, the President of Sierra Leone, who appointed me and under whom I served as the Deputy Minister of Defence and National Coordinator of the Civil Defence Force (CDF/SL), has already testified before the Commission. As my solicitor, I am applying through you, and requesting you as a matter of urgency, to please inform the necessary parties of my willingness to appear and testify before the TRC without any further delay."*

8. Ogora, "The Rights of Victims," 15.

9. Irin News, "Uganda."

10. Ogora, "The Rights of Victims," 15. At the time, Ogora worked for the Justice and Reconciliation Project based in Gulu, Northern Uganda. For more information on the organisation's current programs, visit http://justiceandreconciliation.com (accessed May 22, 2016).

11. In addition to the Justice and Reconciliation Project, see also the Refugee Law Project, which has done outstanding work in this area. For more information on this work, visit http://www.refugeelawproject.org/ (accessed May 22, 2016).

12. Philpott, *Just and Unjust Peace*, 79.

13. See Philpott, *Just and Unjust Peace*, 111.

14. Maddison, *Conflict Transformation and Reconciliation*, 78.

15. Daly and Sarkin, *Reconciliation in Divided Societies*, 205; as quoted by Maddison, *Conflict and Transformation*, 78.

16. Arendt, *Eichmann in Jerusalem*, 1977. Arendt's well-known book, with its famously provocative subtitle (*A Report on the Banality of Evil*), explored German and Jewish relations in the aftermath of the Holocaust.

17. Arendt, *Eichmann in Jerusalem*, 268, 269.

18. Schaap, *Political Reconciliation*, 2.

19. Arendt, *Men in Dark Times*, 15.

20. Schaap, *Political Reconciliation*, 2 (emphasis added).

21. Arendt, *Men in Dark Times*, 4–5.

22. Schaap, *Political Reconciliation*, 4.

23. Maddison, *Conflict Transformation and Reconciliation*, 79. To develop this argument, Maddison draws on Wingenbach and Chantal Mouffe, who wrote that the aim is a pluralism "that valorizes diversity and dissensus" and recognizes the contests between diverse communities as "the very condition of possibility for a striving democratic life." Quoted from Wingenbach, *Institutionalising Agonistic Democracy*, 63; and Mouffe, "Democracy as Agonistic Pluralism," 44.

24. Schaap, *Political Reconciliation*, 80.

25. Maddison, *Conflict Transformation and Reconciliation*, 97.

26. Schaap, *Political Reconciliation*, 35.

27. Connolly, *Identity/Difference*, x.

28. Maddison, *Conflict Transformation and Reconciliation*, 78.

29. Schaap, *Political Reconciliation*, 61.

30. Arendt, *Human Condition* 201.

31. Schaap, *Political Reconciliation*, 62.

32. Eisikovits, *Sympathizing with the Enemy*, 56.

33. Ibid., Eisikovits also recognizes three other theories of reconciliation, namely: Trudy Govier's notion of *reconciliation as trust* in the mold of social restoration that is developed through forgiveness and acknowledgment; Susan Dwyer's account of *reconciliation as weaving back together the narratives* of our lives after the traumatic disruption caused by mass violence; and Andrew Schaap's notion of *agonist reconciliation* (ibid, 25ff).

34. Schaap, *Political Reconciliation*, 92.

35. Chapman, "Truth Commissions as Instruments of Forgiveness and Reconciliation," 265, 273.

36. Schaap, *Political Reconciliation*, 101

37. Maddison, *Conflict Transformation and Reconciliation*, 116.

38. Schaap, *Political Reconciliation*, 87.

39. The never-again moment of reconciliation is its "world-delimiting" dimension, and its promise of a new beginning

together, its "world-rupturing" dimension; political reconciliation consists of a "fragile holding together of the world-delimiting and world-rupturing moments of politics," *Political Reconciliation*, 87.

40. What animates political reconciliation is "not the anticipation of community as an absolute end according to which we ought to regulate our present relations. Rather it is the will that the present be remembered by a possible future community as the moment in which it originated," *Political Reconciliation*, 90.

41. Schaap, *Political Reconciliation*, 115.

42. Maddison, *Conflict Transformation and Reconciliation*, 227, 228.

43. Barnard-Naudé, "For Justice and Reconciliation to Come," 200.

44. Schaap, *Political Reconciliation*, 131.

45. Verdeja, *Unchopping a Tree*, 157.

46. Schaap, *Political Reconciliation*, 61, 77.

47. Ibid., 74.

48. Daly and Sarkin, *Reconciliation in Divided Societies*, 228–9.

49. Schaap, *Political Reconciliation*, 77.

50. I discuss Mamdani's critique in Chapter 5. Robert Meister's view is found in his book *After Evil: A Politics of Human Rights*.

Notes 🔓

> **Subject:**　Comparative Politics, International Relations
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> **Collection:**　Oxford Scholarship Online

Introducing the Argument

1. Bishara, "Sobering Up after Israeli Elections." Bishara is of course not the first to seek to extract lessons from the South African transition for the Israeli-Palestinian conflict. See, for example, Adam and Moodley, *Seeking Mandela*, in which they compare the two conflicts in relation to economic interdependence, religious divisions, third-party interventions, leadership, political culture, and violence, and conclude that the two contexts have more differences than similarities. Nevertheless, they argue that the South African transition has valuable lessons for the Israeli-Palestinian conflict, of which "preparing an indoctrinated public on both sides for a painful transition by means of a truth commission remains perhaps the most important one", 241; see also Adam and Moodley, *Imagined Liberation*.

2. Thompson, *A History of South Africa*, 241.

3. See IJR, *South African Reconciliation Barometer Survey 2014 Report*, 16.

4. I have worked for the IJR since its inception in 2000, first as a program manager and, from 2008 to 2016, as executive director.

5. See Arthur, "How 'Transitions' Reshaped Human Rights"; and Bell, "Transitional Justice."

6. Transitional justice differs from the more routine ways in which stable societies deal with the past by being particularly concerned with past political atrocities and the challenges these pose for peace and justice in times of political transition or in the aftermath of major civil conflicts. The scope, intensity, and legacies of past political atrocities tend to combine with the fragility of transitional and post-conflict societies, to shape the characteristics of transitional justice processes and mechanisms.

7. See Rigby's discussion of the Spanish case in his book *Justice and Reconciliation*, 1, 2.

8. In the context of transitional justice, the phrase "dealing with the past" has come to serve as accepted shorthand for dealing with "past atrocities," "crimes against humanity," or "gross human rights abuses."

9. See Huyse, "Justice after Transition"; and *Traditional Justice and Reconciliation*; see also Kritz, *Transitional Justice*; and Offe, "Disqualification, Retribution, Restitution."

10. For important additional considerations of this question, see: N. Dimitrijvić, "Justice beyond Blame: Moral Justification of the (Idea) of a Truth Commission," *Journal of Conflict Resolution* 50, no. 3 (2006): 368–82; L. Fletcher, H. Weinstein, and J. Rowen, "Context, Timing, and the Dynamics of Transitional Justice: A Historical Perspective," *Human Rights Quarterly* 31 (2008): 165–220.

11. C. Bell and C. O'Rourke, "Does Feminism Need a Theory of Transitional Justice? An Introductory Essay," *The International Journal of Transitional Justice* 1 (2007): 23–44.

12. Kritz, "Where We Are and How We Got Here," 21–45.

13. Arthur, "How 'Transitions' Reshaped Human Rights."

14. Doxtader, "A Critique of Law's Violence."

15. See Alexander et al., "Truth Commissions and Transitional Justice," 20; see also Witwatersrand University and South African History Archive, *Traces of Truth*.

16. For example, while it is often claimed that making perpetrators accountable for their past atrocities will prevent a recurrence of political violence and atrocities in future (as against counter-normative claims for the superior virtues of forgiveness and reconciliation), empirical investigation aims to determine the actual (possibly unintended) consequences of both scenarios.

17. See Gibson, "The Evolution of Race and Politics"; IJR, *South African Reconciliation Barometer Survey 2014 Report*; Elster, *Closing the Books*; Mamdani, *When Victims Become Killers*; Nino, *Radical Evil on Trial*; Stover and Weinstein, *My Neighbor, My Enemy*; Van der Merwe et al., *Assessing the Impact of Transitional Justice*; and Wilson, *Politics of Truth and Reconciliation*. Another significant development was the launch of the *International Journal of Transitional Justice* in 2007.

18. The comparative study of transitions from authoritarian rule, known as "transitology," includes much material and discussion relevant to transitional justice, but this is not my main concern. Seminal works include Huntington, *The Third Wave*; and O'Donnell and Schmitter, *Transitions from Authoritarian Rule*.

19. Volf, *Exclusion and Embrace*.

Chapter 1

1. See, for example, Adam and Moodley, *The Negotiated Revolution*; Callinicos, *The World That Made Mandela*; Max du Preez, *Pale Native*; Esterhuyse, *Endgame*; Friedman and Atkinson, *The Small Miracle*; Graybill, *Truth and Reconciliation in South Africa*; Lodge, *Mandela*; Lodge, *South African Politics since 1994*; Mandela, *Long Walk to Freedom*; O'Malley, *Shades of Difference*; Saunders, "Of Treks, Transitions, and Transitology"; Sparks, *Beyond the Miracle*; Sparks, *The Mind of South Africa*; Sparks, *Tomorrow Is Another Country*; and Leonard Thompson, *A History of South Africa*.

2. Harold Wilson's much maligned policy of appeasement toward Hitler during 1938 and 1939 comes to mind as an example of a leader who sought reconciliation with an opponent who had no intention of meeting him halfway. Wilson's actions thus carried considerable risk for the United Kingdom.

3. John Paul Lederach's notion of "moral imagination" describes this type of visionary thinking compellingly. See Lederach, *Moral Imagination*.

4. Mandela, *Long Walk to Freedom*, 624. The word "mealies" is derived from the Afrikaans word for corn—"mielie."

5. Mandela, *Long Walk to Freedom*, 624.

6. The fact that some beneficiaries of the apartheid regime have remained silent, distrustful, and cocooned in middle-class comfort in the face of such magnanimity, and that the legacy of apartheid inequality is still destroying lives, cannot detract from the obvious grace in this kind of politics. Mandela is rightly honored as one the twentieth century's greatest leaders.

7. Freud, *Civilization, Society, and Religion*. In this regard the phrase "narcissism of petty differences" was coined by Freud (and draws on the work of British anthropologist Ernest Crawley) to describe the oversensitivity to "details of differentiation" (a "taboo of isolation") that often arises between communities that occupy adjoining territories. The more general point about valuing the universal in the local was made by Scott Appleby in personal correspondence with the author.

8. Mandela, *Long Walk to Freedom*, 525.

9. Ibid., 526.

10. Mandela, "I Am Not Prepared to Sell the Birthright of the People."

11. Mandela, "Notes for His Meeting with P. W. Botha."

12. See, for example, O'Malley, *Shades of Difference*, 501ff.

13. Mandela, "I Am Not Prepared to Sell the Birthright of the People."

14. OAU, "Harare Declaration."

15. Alexander, *An Ordinary Country*, 22ff.

16. See Asmal et al., *Legacy of Freedom*, 1.

17. Du Toit and Doxtader, *In the Balance*.

18. See Doxtader, *With Faith in the Work of Words*, 35–126; and Doxtader, "The Potential of Reconciliation's Beginning."

19. The Anglo-Boer War was fought between British and Boer forces from 1899 to 1902. The conflict was essentially a battle for control of South Africa's lucrative gold fields, which were inside Boer territory. Some 28,000 British soldiers and 4,000 Boer guerrillas died in the war. Many Afrikaners still deeply resent the Scorched Earth Policy used by the British, which included the systematic destruction of crops, the slaughtering of livestock, the burning down of homesteads, and the poisoning of wells. In addition, tens of thousands of women and children were forcibly moved into concentration camps, where they were terribly mistreated, and where an estimated 26,000 women and children died.

20. By the same token, it is important to remember that many apartheid hardliners never really needed such philosophical justifications in terms of reconciliation, however flawed, to affirm their belief that black and white people were inherently unequal, and accepted that the material interests and systemic advantages secured by the white minority through centuries of colonialism and decades of apartheid should be legally and militarily entrenched.

21. Esterhuyse, *Endgame*, 20.

22. Soko and Villa-Vicencio, *Conversations in Transition*, 42.

23. Botha, *The Afrikaner's Emancipation*, 175.

24. Waldmeir, *Anatomy of a Miracle*, 63–83.

25. Giliomee, *The Afrikaners*, 621.

26. Ibid.

27. Sparks, *Tomorrow is Another Country*, 21–36.

28. The mandate for building a strong "middle ground" between De Klerk's and Mandela's teams was constructed on painstaking political argumentation within each group that gradually extended into spaces where real rapprochement became possible.

29. Brody, "Justice." Brody's view is discussed in more detail in Chapter 6.

30. Philpott, *Just and Unjust Peace*, 270.

31. Ibid., *Just and Unjust Peace*, 257.

32. Sparks, *Tomorrow Is Another Country*, 131.

33. Mandela, "Response to the Speech by the State President."

34. CODESA: Opening Statement by State President F. W. de Klerk, December 20, 1991; available at http://www.anc.org.za/show.php?id=3976. Accessed May 31. 2015.

35. Mandela, "Response to the Speech by the State President."

36. Ibid.

37. De Klerk, *The Last Trek*, 241.

38. Ibid.

39. Carlson and Dee, "My Hands Are Clean." See more on the interaction between De Klerk and Boraine in Chapter 3.

40. De Klerk, *The Last Trek*, 169.

41. Mandela, "Address at the European Parliament."

42. Tutu, *No Future without Forgiveness*, 17.

43. Quoted in O'Malley, *Shades of Difference*, 523.

44. Mandela, *The Struggle Is My Life*, 210.

45. Padraig O'Malley, *Ramaphosa and Meyer in Belfast*, 18.

46. "A Document to Create a Climate of Understanding," forwarded by Comrade Sipho (Nelson Mandela) to F. W. de Klerk on 12 December 1989, quoted in Padraig O'Malley, *Shades of Difference*, 523–5.

47. De Klerk, quoted in Soko and Villa-Vicencio, *Conversations in Transition*, 44.

48. See De Klerk, "CODESA: Opening Statement." In his opening speech at CODESA, De Klerk specifically mentioned: i) the protection of the established economic interests of investors, landowners, businessmen, professional people, and salaried workers against demands for better living conditions for the less-privileged; ii) participation by minorities, and their

protection from domination against demands of the majority (however constituted) for democratically obtained power; iii) the recognition and accommodation of diversity against the ↳ need for a single nation; and iv) the need for education to be linked to language and culture against demands for a single educational system.

49. Philpott, *Just and Unjust Peace*, 269.

50. See, for example, South African History Online, "How SA Emerged as a Democracy"; and *Roca Report,* "New Political Force Formed."

51. Constand Viljoen, telephonic interview.

Chapter 2

1. Talks followed by formal negotiations were taking place from 1987 to 1993. Political power changed hands in 1994, and South Africa adopted its new Constitution in 1996. Yet, the Truth and Reconciliation Commission (TRC) was arguably the last of the transitional mechanisms that had as its sole mandate to address some of the issues outstanding from the negotiations processes, including how political violence would be dealt with before and during the transition.

2. Of course, this does not imply a denial of the importance of top leadership, but, even the famed Mandela–De Klerk axis depended heavily on many less-prominent individuals and organizations *before, around, and after* them that painstakingly helped to translate the ideal of reconciliation into viable political strategies.

3. It is vital, too, to acknowledge the key role played by the TRC—an institution that a majority of South Africans regard as having helped avert a civil war. See, for example, Gibson and Macdonald, *Truth Yes, Reconciliation Maybe* as well as the discussion in Chapter 3.

4. In similar vein, Mahmood Mamdani has compared the CODESA process with the TRC; see Mamdani, "Historic Significance of the Post-Apartheid Transition."

5. See Consultative Business Movement, "A Submission." The Consultative Business Movement aimed to bridge the growing gap between business and politicians.

6. To keep matters as low-key as possible, and to avoid politicking in the runup to the event, arrangements were kept secret. Eventually, twenty organizations confirmed their willingness to attend. The major ones included COSATU, the South African Communist Party, the ANC, the Azanian People's Organisation, the Pan African Congress, the NP, the Democratic Party, and the IFP. Meanwhile, 336 people died in political violence in May 1991 alone, making it the deadliest month since Mandela's release.

7. The Conservative Party, the Afrikaner Weerstandsbeweging, and the Herstigte Nasionale Party were the three organizations that boycotted the event on the principle that negotiations of any kind were unacceptable.

8. For a deeper analysis of the NPA, see Collin Marks, *Watching the Wind*; and Gastrow, *Bargaining for Peace*.

9. Peter Gastrow, a former National Chairperson of the liberal Progressive Federal Party who played a key role during the formation of the NPA, remembers that: "Delegates were asked to list issues that were obstacles to peace or issues that caused political violence. Instead of the many issues that were raised by delegates being debated, these were all simply written down on flipcharts stuck on the wall. During the tea break someone then grouped the numerous points that were raised under a few headings. Following a discussion of the headings and the way forward, a preparatory committee was appointed to take the initiative forward by establishing working groups that would address the issues that had been grouped under five or six headings. No details were discussed on 22 June and no drafting was done; that all happened later, and was done by the working groups under the auspices of the preparatory committee." Personal communication.

10. For a brief description, see the insert by Theuns Eloff in Christopher Saunders's chapter "Engaging the Other," 79. Eloff played a crucial role in enabling this meeting to succeed.

11. Gastrow, personal communication.

12. Personal communication.

13. For an exposition on reconciliation as trust, see De Greiff, "The Role of Apologies," 120ff.

14. With the insights offered by the TRC's findings, it is possible to identify at least three forms of ongoing violence that were interspersed with one another. First, public violence ↳ between political factions engaged in turf wars was sometimes mischievously stirred up by "third force" provocateurs. Second, clandestine dirty-tricks campaigns were carried out by apartheid hit squads. And third, a series of disjointed right-wing terrorist incidents, including assassinations, bomb attacks, and intimidation, took place. On at least two occasions (in June 1991 and again in June 1992) the ANC broke off talks, accusing the government of orchestrating public violence through so-called third-force activities.

15. O'Malley, *Ramaphosa and Meyer in Belfast*, 23–24. Ramaphosa was then the ANC's secretary-general and chief negotiator, and was thus Meyer's counterpart. The Record of Understanding is available at http://www.anc.org.za/show.php?id=4206&t=Tranistion%20to%20Decmocracy. For more information, see also "Record of Understanding Is Agreed to by the SA Government and the ANC." http://www.sahistory.org.za/dated-event/record-understanding-agreed-sa-government-and-anc (accessed May 2015).

16. See Waldmeir, *Anatomy of a Miracle*, 200, 201; see also Sparks, *Tomorrow Is Another Country*, 182, 183.

17. For more information, see https://www.nelsonmandela.org/omalley/index.php/site/q/03lv02039/04lv02046/05lv02097/06lv02099.htm. Subcouncils were constituted in seven areas where the Transitional Executive Council would have real power, namely law and order, stability and security; defense; intelligence; foreign affairs; the status of women; finance; and regional and local government and traditional authorities.

18. Of the twenty-six negotiating partners, nineteen were represented on the Council.

19. O'Malley, *Ramaphosa and Meyer in Belfast*, 27.

20. Ibid., 33.

21. Ibid., 14.

22. The IFP, for one, remained a fringe player, never sure of whether or not they would participate fully. Some of the more extremist groups on both sides also chose not to participate, including elements in the Afrikaner right wing who refused to accept the leadership of Constand Viljoen, and cadres in the liberation forces who rejected the ANC, such as the military wing of the Pan Africanist Congress.

23. Quoted in Villa-Vicencio, *Walk with Us,* 66.

24. O'Malley, *Ramaphosa and Meyer in Belfast*, 14.

25. Ibid., 21.

26. Fanie du Toit, *Negotiation, Transition, and Freedom*, 11.

27. For a discussion of the antecedents to the TRC's amnesty regime, which dates back to efforts to address political violence during the CODESA process, see Doxtader, 2003, 121.

28. For a discussion of the first indemnity bill, see Sparks, *Tomorrow Is Another Country*, 123, 124. On the second indemnity bill, see Adam and Moodley, *The Negotiated Revolution*, 155.

29. Boraine, *A Country Unmasked*, 11.

30. See Doxtader and Salazar, *Truth and Reconciliation in South Africa*, 81–83.

31. Ibid., 83.

32. Boraine, *A Country Unmasked*, 14.

33. Roelf Meyer, interview.

34. Lederach and Appleby, "Strategic Peacebuilding," 25.

35. Based on the acceptance of an interdependent future, the MPNP was less a linear process than a succession of spaces to which negotiators could return to develop sufficient consensus on a shared framework that would encapsulate future aspirations of all South Africans. Growing awareness of political and other modes of interdependence across enemy lines, together with significant civic oversight and presence, may help to elucidate some of the conditions crucial to agreeing on a concept like "sufficient consensus" as a mechanism for imbuing reconciliation with the necessary forward momentum. The sense of "having to succeed" became a rationale that drove parties to widen inclusivity and deepen credibility, and to keep these crucial normative criteria carefully in balance, even when they appeared to contradict one another, as with the potentially explosive issue of dealing with the past, as explained in the next chapter.

Chapter 3

1. Desmond Tutu, interview.

2. The significant role played by the constitution-making process itself is discussed in more detail in Chapter 4.

3. For a description of the destruction of documentation, see the TRC's *Final Report*, Vol. 1, 202ff.

4. See Harris, *Between a Rock and a Hard Place* 10. Harris identifies as a "first lesson" that "violence in and through transition displays continuities and changes with its past expression, patterns and forms."

5. Indeed, transformation of the judicial system would become of one of South Africa's most enduring new challenges, and one which remains unfinished more than twenty years after the advent of democracy.

6. South Africa National Unity and Reconciliation Act (No. 34 of 1995), quoted in Doxtader and Salazar, *Truth and Reconciliation in South Africa*, 13.

7. As TRC investigator Piers Pigou explained, "there was an overlap between the tail end of the human rights violation hearings and the beginning of the amnesty hearings. There should have been a much clearer synergy between these processes, especially as the revelations in amnesty applications and hearings were the biggest source of new primary data relating to violations. Yet human rights violations process and investigative units largely did not benefit from this. The first five volumes of the *Final Report* were published in 1998, after the human rights violations hearings had concluded and before the bulk of amnesty process was underway. Volumes 6 and 7 were published as a codicil in 2003, and do not provide a detailed overview of what emerged during the amnesty processes. Although it may have been unrealistic to expect the report to provide more than an overview, its lack of detail does underscore the need for follow up, and for access to the TRC's records to be made available on an ongoing basis." Personal communication. The seven volumes of the TRC's *Final Report* can be accessed at http://www.justice.gov.za/trc/report/index.htm.

8. Pigou commented: "it was always going to be a tall ask to get an appropriate mix. The commission was dominated by individuals who had opposed apartheid and a number were close to the ANC, but a significant number were not." Personal communication.

9. See the TRC, *Final Report*, Vol. 7, 1–2.

10. Perpetrators of gross human rights violations would be given a window period in which to apply for amnesty on condition that they revealed the full extent of their complicity in crimes they had been involved in. The Amnesty committee would then decide, based on agreed criteria, whether or not to grant amnesty. Perpetrators who did not come forward risked prosecution.

11. Doxtader and Salazar, *Truth and Reconciliation in South Africa*, 295.

12. A Priority Crimes Litigation Unit was established in 2003 to, among other things, take TRC cases forward, but of the three hundred names put forward by the TRC, only twenty-one were found to be ready for prosecution. However, purportedly because of insufficient resources, very few cases were pursued, and the most important one, concerning three security police who were denied amnesty for the murder of three activists, stalled. In November 2005, new policy guidelines were issued for apartheid-era prosecutions, but again no actual prosecutions took place. Subsequent amended guidelines, based on the TRC criteria for amnesty, were challenged legally by a group of NGOs and subsequently rejected by the Pretoria High Court. In November 2007, then-president Thabo Mbeki issued a Special Dispensation for Presidential Pardons, which proposed establishing a Pardons Reference Team consisting of representatives of political parties who could advise the president on pardons for political crimes. However, victims were granted no rights to render testimony or challenge decisions, and proceedings were to be held in camera. When Mbeki rejected approaches by civil society organizations to offer input on these measures, and indicated that he would go ahead with this dispensation, a coalition of NGOs sought and won an urgent court interdict to stop the process, arguing that it would violate the spirit and intent of the TRC. The government, together with several right-wing prisoners, took the decision on appeal to the Constitutional Court. The highest court in the land found upheld the judgment of the lower court finding that "the ↳ decision to exclude the victims from participating in the special dispensation process was irrational". It is important not to conflate the TRC's amnesty process with these presidential pardons: while both sought to deal with apartheid-era political crimes, their legislative and political contexts were very different. The TRC envisaged neither an extended amnesty nor a pardon process beyond its own mandate.

13. Wilson, *Politics of Truth and Reconciliation*, 230.

14. Crocker, "Truth Commissions," 108.

15. Garton Ash, "True Confessions."

16. Freeman, *Necessary Evils*, 10.

17. Gutmann and Thompson, "The Moral Foundations of Truth Commissions," 32–33.

18. Ignatieff, "Articles of Faith," 112–3.

19. Crocker, "Retribution and Reconciliation," 5–6.

20. Liberal arguments on reconciliation are discussed in more detail in Chapter 6.

21. Wilson, *Politics of Truth and Reconciliation*, 228.

22. Thus, it was argued that South Africa's leadership has to be judged, in retrospect, as deficient, if not misguided, in the ways it fostered and brought about reconciliation. Not only was the process undemocratic and illiberal but it was also irresponsibly utopian.

23. The liberal critique of the TRC has also fed into liberal views on reconciliation more broadly. I deal with this in more detail in Chapter 6.

24. Esterhuyse, *Endgame*, 144–5.

25. Mac Maharaj, interview. Maharaj, who, together with Fanie van der Merwe (then director-general of prisons and De Klerk's chief constitutional adviser) was in charge of managing the CODESA talks, tells of an urgent late-night session during which he and Van der Merwe drafted the now-famous postscript with its equally famous amnesty clause. Afterwards, he asked Van der Merwe if "his side would be able to live with it," to which the answer was positive. Maharaj, in turn, indicated that he believed the formulation would be acceptable to the ANC.

26. See, for example, Du Bois-Pedain, *Transitional Amnesty in South Africa*; and Villa-Vicencio and Doxtader, *The Provocations of Amnesty*. See also Sarkin, *Carrots and Sticks*; and Mark Freeman, *Necessary Evils*.

27. Professors Annette Seegers and André du Toit, both from the University of Cape Town's Department of Political Studies, are working on this topic.

28. See Doxtader and Salazar, *Truth and Reconciliation in South Africa* 5.

29. Ibid.

30. Mac Maharaj, interview.

31. Ibid.

32. Seegers is a professor in the Department of Political Science at the University of Cape Town, and a co-drafter of the South African Constitution.

33. During the negotiations, Joe Modise, a founding member of the ANC's military wing and later South Africa's first post-apartheid minister of defense, reportedly assured top generals in the South African Defence Force that they would be given amnesty, but he was unable to deliver on this; see Frankel, *Soldiers in a Storm*, 22–25.

34. Seegers, "Amnesty in South Africa," 37.

35. Personal communication, April 6, 2014.

36. Asmal, *Victims, Survivors and Citizens*.

37. Boraine, *A Country Unmasked*, 30.

38. Ibid., 37.

39. Ibid.

40. Hansard, May 27, 1994, col. 187, quoted by Boraine in *A Country Unmasked*, 41.

41. Ibid., 44.

42. Ibid., 44–45.

43. For a description of this period, see Boraine, *A Country Unmasked*, 2000, 47ff.

44. The IFP expressed grave concern, notably about the idea that amnesty would be linked to public hearings "under the spotlight of the press." Constand Viljoen proposed that the exact wording of the Interim Constitution be retained as it related to amnesty, which, he argued, called for a general amnesty. He criticized the "moralist" and "sentimentalist" contributions ↳ of NGOs to the debate, whose high ideals (presumably of the rights of victims and accountability) could result, he argued, in some form of fanaticism.

45. Hansard, May 17, 1995, col. 1339, quoted in Alex Boraine, *A Country Unmasked*.

46. Doxtader, *With Faith in the Works of Words*.

47. These principles were drawn up by Carl Aage Norgaard to be used in the Namibian transition to help define political crimes, and required proportionality between the crime and the political motive for committing it in order to qualify as a political crime; see Sarkin-Hughes, *Carrots and Sticks*, 63.

48. Hendricks, "Jettisoning Justice."

49. Boraine, *A Country Unmasked*, 298.

50. Kritz, "Where We Are and How We Got Here," 34.

51. The IJR's South African Reconciliation Barometer project conducts applied social research on reconciliation in South Africa and other post-conflict societies in Africa. The primary data, research findings, and publications produced by the Reconciliation Barometer since 2003 have become an established resource for governments, civil-society organizations, and researchers involved in developing policies, encouraging national debates and broadening the theory and the study of reconciliation. For more information, visit www.ijr.org.za.

52. See David Backer's interviews from 2002/2003 and 2008 with 153 victims selected using the TRC criteria: Backer, "Watching a Bargain Unravel?," 450, 452, 455, 456.

53. Pigou, personal communication.

54. Wilson, *Politics of Truth and Reconciliation*, 97.

55. Ibid., 119.

56. Ibid., 230.

57. Krog, *Country of My Skull*, 152. Krog wrote this after hearing that Tutu had been diagnosed with prostate cancer at a critical juncture in the life of the commission.

58. TRC, *Final Report*, Vol. 1, 17.

59. When pressed for an apology during his failed attempt to apply for amnesty at the TRC, Clive Derby-Lewis, who murdered Chris Hani, retorted that he was not legally obliged to provide an apology. Moreover, he added that one cannot apologize for an act of war.

60. Among many other accolades, Tutu had received the Nobel Peace Prize in 1984.

61. As quoted in Boraine, *A Country Unmasked*, 101.

62. Tutu made an impassioned plea to Winnie Mandela to "say sorry" after crimes associated with her football club had been revealed to the TRC, a pressure to which she did not yield. However inappropriate such moments may have appeared to those steeped in the strict separation of private and public morality (a separation that itself may be questionable during political efforts to deal with a past that injured personal dignities so deeply), they were decidedly *not* reflective of how the TRC or Tutu operated most of the time.

63. As Piers Pigou commented, "the process itself—however painful—powerfully illustrated the suffering and humanity of the victims, and the humbling (by and large) of perpetrators . . . in a contained and essentially dignified process that did not result in deteriorating social/race relations. A series of taboo issues were exposed and publicly examined and the country did not collapse. . . . This seems to correlate closely with Tutu's notion of cleansing wounds as a prerequisite for sustainable healing." Personal communication.

64. Gish, *Desmond Tutu*, 83.

65. Mandela appointed judges Hassen Mall and Andrew Wilson as chairperson and vice-chairperson respectively and Judge Bernard Ngoepe as the third member. Commissioners Sisi Khampepe and Chris de Jager were appointed as committee members. After passing away due to ill health, Mall was replaced as chairperson by Wilson. Acting Judge Denzil Potgieter was appointed vice-chairperson; see TRC, *Final Report* Vol. 6/1, 17.

66. Tutu, *No Future without Forgiveness*, 235.

67. See Kritz, "Where We Are and How We Got Here," 34.

68. See Sarkin, *Carrots and Sticks*, 2004.

69. See Dyzenhaus, *Judging the Judges*, 150.

70. The prosecutor in the Malan case, Tim McNally, was accused of sabotaging the prosecution, while the actions of Judge Hartzenberg in the Basson trial drew sharp criticism, raising questions of bias and competency.

p. 249 71. Boraine, *A Country Unmasked*, 146, 147. The TRC rejected a suggestion by deputy-presidents De Klerk and Mbeki to invite major political parties to outline their views of the history of apartheid in a joint forum, instead of having individual hearings. According to its proposers, such a forum would build confidence in the process of truth recovery, specifically between former armed forces from all sides. Boraine claimed that this was a manifestation of the notion of "collective responsibility" as proposed by General Viljoen, and that agreeing to it would have threatened the integrity of the TRC. He maintained that "the Commission should be victim-centred rather than institutionally focused."

72. Peter du Preez, 107.

73. Seventeen civil-society organiztions, including the South African Council of Churches, issued a statement stating the

following: "It is ironic that the NP demanded an apology from Archbishop Tutu for this questioning and comments on their testimony when the vast majority of South Africans feel that the NP should be apologizing to the nation. It appears as if the court case is being used to gain media coverage in a desperate attempt to rescue the Party's degenerating social profile. It seems likely too, that the NP will use any judgment in the case to discredit the final report of the Commission. Finally, the court case may be yet another way for the NP to avoid taking responsibility for the actions of its security forces and to make a contrite apology." See "Who Should Apologise to Whom?" Public Statement on the National Party Court Case against the Truth and Reconciliation Commission: Endorsed by 17 Organisations, September 4. 1997 http://www.csvr.org.za/wits/articles/prtrcnat.htm (accessed November 17, 2014). The ANC responded to the NP presentation as follows: "The National Party and its leader F. W. de Klerk have once more shown a total and callous disregard for the pain and suffering caused to millions of our people by the system of apartheid. The National Party's submission to the TRC shows no remorse but instead rides roughshod over the goodwill and spirit of reconciliation shown by victims of the very crime against humanity for which the National Party government was responsible." See http://www.m2.com/m2/web/story.php/1997852568440080DDE88025683A0031A31F (accessed November 17, 2014).

74. Quoted in Boraine, *A Country Unmasked*, 159.

75. Ibid., 161.

76. Wessels, "Statement Given at the TRC," 321.

77. Steven Ratner and Jason Abrams remind us that the relationship between individual and collective responsibility is indeed vexed: "the more difficult issue has turned on determining which violations of human rights and humanitarian law entailing state (civil) responsibility also leads to individual criminal accountability"; see Ratner and Abrams, *Accountability for Human Rights Atrocities*, 14. Boraine implied that collective responsibility was something the TRC deliberately avoided by focusing on individual responsibility when he noted: "The argument for 'collective responsibility' as held by General Viljoen and as proposed to us by De Klerk and Mbeki, was flawed: we decided that individual accountability was the focus of the Truth and Reconciliation Commission"; see Boraine, *A Country Unmasked*, 187. But was this in fact the case? How does one make sense of political guilt ascribed in many of the TRC findings as anything other than some form of collective responsibility? Viljoen's argument was that different individuals, perhaps even entire organizations, would take responsibility *together* for specific wrongdoings. The TRC argued that this would dilute accountability and rob victims of a specific perpetrator to engage with (thereby undermining the TRC's model of interpersonal reconciliation). Boraine's argument, by contrast, suggested that De Klerk, *as an individual,* should take political responsibility for crimes committed by others under his command. Collective responsibility has been analyzed in terms of different models: hierarchical responsibility (blame the person at the top), collective responsibility (blame no one in particular, but the group as a whole, because "so many hands handled the issue"), or personal responsibility (investigating each individual, irrespective of office, in terms of causal responsibility and volitional responsibility—acknowledging that few war crimes are carried out in ignorance or under compulsion). At the very least, collective responsibility should take individual agency and organizational constraints into account, as well as arguments that no one is above the law. In these terms, De Klerk is personally and morally guilty if his actions were the cause of the wrongdoing (by commission or omission), if he was under no obligation to act ↳ the way he did, and if he did not act, or refrain from acting, as a result of ignorance. De Klerk continued to claim ignorance at the TRC.

78. This point is supported by Du Bois-Pedain, "Communicating Criminal and Political Responsibility," 73.

79. Sarkin, *Carrots and Sticks*.

80. See Doxtader and Salazar, *Truth and Reconciliation in South Africa* 28.

81. Ibid.

82. Quoted in Doxtader and Salazar, *Truth and Reconciliation in South Africa* 30.

83. Ibid., 28.

84. Ibid, 28.

85. Doxtader and Salazar, *Truth and Reconciliation in South Africa*, 30.

86. Ibid.

87. Ibid., 31.

88. Ibid.

Chapter 4

1. Parts of this chapter was published as Fanie du Toit, "A Broken Promise? Evaluating South Africa's Reconciliation Process Twenty Years On," *International Politics Science Review,* March, 2017.

2. Underlying this discussion is the broader question of how one engages with one's enemies in ways that make a truly new and just beginning possible; how to set an entirely new and more equitable course for relationships not only between opposing political elites but also for citizens at every level of society. How does one engage in a way that foreshadows alternative, and materially more equitable, future situations when such a future seems counterintuitive, even unimaginable, and where very few precedents exist?

3. Kairos Theologians, *Kairos Document*.

4. This argument has recently been revisited and reworked in Allan Boesak and Curtiss DeYoung, *Radical Reconciliation*.

5. Quoted in O'Malley, *Shades of Difference*, 525.

6. Ibid.

7. Ibid.

8. Mandela, "I Am Not Prepared to Sell the Birthright of the People."

9. Quoted in Fazila Farouk, 'Whites Must Make Sacrifices.

10. Soyinka, *The Burden of Memory*, 83.

11. Ibid., 17.

12. Ibid., 83.

13. Ibid., 25.

14. Ibid., 26.

15. Ibid., 27.

16. Ibid., 75.

17. Through race, settlers were identified as beneficiaries of injustice, and through ethnicity, natives were identified as victims of, and outsiders to, the privileges of citizenship.

18. Mamdani, "When Does Reconciliation Turn into a Denial," 8.

19. Mamdani, "Historic Signficance," 12.

20. By "design" I mean the broad constitutional framework that was negotiated, and formed the basis of the mandate given to key institutions that were tasked with implementing the vision of the Constitution. By "implementation," I have in mind actual policies, and how these were implemented by political leaders. Given this distinction, one can argue (as Mamdani and Soyinka do) that the constitutional agreement itself compromised social justice because of its commitment to political reconciliation. Alternatively, one can accept the constitutional agreement as distributively just, but criticize the policy choices that followed and the leadership subsequently shown. For example, the Mandela government's stance on education and housing, the Mbeki government's controversial HIV/AIDS and GEAR policies, and the Zuma administration's public-order policing and judicial-reform policies have all been roundly condemned.

21. Mamdani. "Reconciliation without Justice."

22. Former ANC intelligence minister Ronnie Kasrils has criticized ANC leaders for making what he alleges was a "Faustian Pact" with big business; see Kasrils, "ANC's Faustian Pact."

23. FCI, "Business Charter," 68–74. For further commentary see Wessels, *Negotiating for Human Rights*, 28.

24. Wessels, *Negotiating for Human Rights*, 33.

25. Quoted in Wessels, *Negotiating for Human Rights*, 33.

26. The principles can be found online at: http://www.anc.org.za/centenary/show.php?id=35 (accessed October 10, 2014). Quoted in Asmal et al., *Legacy of Freedom*, 82.

27. Wessels, *Negotiating for Human Rights*, 24ff.

28. Neil Kritz, director of the Rule of Law Program at the US Institute for Peace, explained that "by 1993, the parties had negotiated an interim constitution which set out the basic ground rules for the process of adopting a permanent constitution and provided for the basic functioning of a 'Government of National Unity' throughout the constitution-making period. Under the interim constitution, the final constitution was to be adopted by a constituent assembly on the basis of a two-thirds vote and no constitutional commission was created. Election to the assembly was supervised by an independent electoral commission and governed by a proportional-representation list system laid out in the interim

constitution. The constituent assembly, in addition to drafting a permanent constitution for the country, would also function as a parliament in the interim period. In addition, the interim constitution in South Africa set out 32 substantive principles which had to be followed in the drafting of the permanent constitution." Kritz, "Constitution-Making Process."

29. Constitution of the Republic of South Africa, Act 200 of 1993, Article 26, Chapter 3. https://peaceaccords.nd.edu/site_media/media/accords/Constitution_of_South_Africa_Act_200_of_1993.pdf (accessed 7 March 2014).

30. For more on these groundbreaking documents, see Asmal, et al., *Legacy of Freedom*, 2005.

31. As one observer noted, "the educational effort included a media and advertising campaign using newspapers, radio and television, billboards, and the sides of buses; an assembly newspaper with a circulation of 160,000; cartoons; a web site; and public meetings; together these efforts reached an estimated 73 percent of the population. From 1994 through 1996 the Constitutional Assembly received two million submissions, from individuals and many advocacy groups, professional associations, and other interests." See Hart, *Democratic Constitution Making*, 8.

32. Yacoob, *Drafting the Final Bill of Rights*, 51.

33. Yacoob, *Drafting the Final Bill of Rights* 51; see also the Bill of Rights in the Constitution of the Republic of South Africa, *Government Gazette* No. 17678, 1996.

34. Constitution of the Republic of South Africa No. 108 of 1996, Chapter 2, Article 25.

35. Ibid.

36. Ibid.

37. Other important Chapter 9 institutions are the Public Protector, the Auditor General, the South African Human Rights Commission, the Electoral Commission, and the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities.

38. Corder, *Human Rights in Practice*.

39. Mamdani, 'Historic Signficance of the Post-Apartheid Transition," 12.

40. Soyinka, *Burden of Memory*, 35.

41. Mani, "Dilemmas of Expanding Transitional Justice."

42. De Greiff, "Transitional Justice."

43. On 30 November 1973, the UN General Assembly adopted the International Convention on the Suppression and Punishment of the Crime of Apartheid, which defined the crime of apartheid as "inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them."

44. That its *Final Report* would be contentious was evident from the start, not least because of strong disagreements among members of the TRC itself. Differences about how to interpret its mandate led to one commissioner (Wynand Malan) to
issue a statement reflecting his "minority position," which was included in the *Final Report*. Malan felt that by explicitly ↳ endorsing the UN's view of apartheid, the TRC had overstepped its mark and alienated important constituencies. He argued that: "The question is whether such an unqualified finding does not create a double-edged sword in terms of the objectives of national unity and reconciliation." The fact that Malan felt so strongly about this is telling of how seriously the TRC debated the issue of structural violence and social justice; see TRC, *Final Report*, Vol. 5, 449.

45. Gibson and McDonald, "Truth Yes, Reconciliation Maybe."

46. Gibson, *Overcoming Apartheid*, 329

47. TRC, *Final Report*, Vol. 5, 210.

48. De Klerk took offense, challenged the evidentiary base of this finding, and succeeded in forcing the TRC to issue their report with the page (containing the findings against him) formally blacked out. However, the TRC also equated the human rights abuses committed on both sides, holding that a human rights violation can never be anything other than a crime, no matter who commits it or which cause it supposedly supports. Mbeki, in a move that arguably underscored the TRC's independence more than any other, took offense to the findings that held the ANC morally responsible for the violations the liberation movement had committed, and sought an urgent court interdict to prevent the report from being released; he claimed it criminalized the struggle. Unlike De Klerk, Mbeki lost his bid, and it was determined that the report could be released.

49. TRC, *Final Report*, Vol. 1, 61.

50. Ibid.⤢, 64, 65.

51. Doxtader, *With Faith in the Work of Words*, 5.

52. TRC, *Final Report*, Vol. 1, 55.

53. See Gibson and Macdonald, *Truth Yes, Reconciliation Maybe*.

54. Rabkin, "'Political Interference' Blocked TRC Prosecutions."

55. TRC, *Final Report*, Vol. 6, 144.

56. Galtung "Cultural Violence," 294, 295.

57. While Galtung's basic distinction between "negative" and "positive peace" has been widely accepted, both in the peace studies movement and more widely in the conflict resolution literature, it has proved much more difficult to reach any kind of agreement on the more specific meaning of "positive peace." Galtung defined "positive peace" in terms of another controversial distinction between "structural violence" and "cultural violence." According to Galtung, "positive peace" entails the removal of both "structural" and "cultural" violence as the main underlying causes of internal war. "Structural violence" concerns the way power is organized in society in ways so as to inflict "avoidable insults to basic human needs, and more generally to life, lowering the real level of needs satisfaction below what is potentially possible." Galtung "Cultural Violence," 292, 294, 295.

58. Galtung "Cultural Violence," 295.

59. TRC, *Final Report*, Vol. 1, 1998, 17.

60. The term "mass violence" refers to the mass violation of individual dignity.

61. Louise du Toit, "Feminism and the Ethics of Reconciliation."

62. The ways in which the TRC failed to make gender a systematic part of the analysis have been documented and discussed at length. See, for example, Fiona Ross, *Bearing Witness: Women and the Truth and Reconciliation Commission in South Africa*; Njabulo Ndebele, *The Cry of Winnie Mandela*; and Rubio-Marín, *What Happened to the Women?*

63. Emdon heads the Gender Desk at the IJR.

64. Backer, "Watching a Bargain Unravel?"

65. Lehohla, *Poverty Trends in South Africa*. In April 2014, Lehohla, South Africa's statistician-general, announced that poverty levels had decreased over the period 2006 to 2011. His report was based on metric data collected through the Income and Expenditure Surveys conducted in 2006 and 2011, and on the 2008/09 Living Conditions Survey. The food-poverty line of R321 a month, the lower-bound poverty-line (R433 a month for food and clothing), and the upper-bound poverty line (R620 a month for food, clothes and shelter) have all been challenged as unrealistic. Nevertheless, Lehohla reported that from 2006 to 2011, despite the global financial crisis costing South Africa close to a million jobs, the number of people living below the food-poverty line declined from 27 in 100 to 20 in 100, whereas the lower-bound poverty line declined from 42 in 100 to 32 in 100 (about 16.3 million out of total population of approximately ↳ 51 million) in 2011. Four million fewer South Africans were living in poverty as measured by the upper-bound poverty line in 2011—that is, 23 million as compared to 27 million in 2006. Nevertheless, this means that, in 2011, 46 in 100 South Africans were living in poverty as compared to 57 in 100 in 2006. But while poverty shrank, inequality, as measured by the Gini-coefficient, remained largely unchanged at 0.69 (if marginally better than the 0.72 measured in 2006) and still one of the highest recorded figures anywhere in the world. Of course, in many of the poorest areas in the world, these statistics are simply unavailable, which makes it difficult to confirm with absolute certainty that South Africa deserves to be known as the world's most unequal society. In addition, poverty statistics have become a source of controversy in South Africa, with critics claiming that South Africa's official figures paint a rosier picture than is in fact the case. Even so, the statistics given by Lehola are sufficient to the analysis I am seeking to develop.

66. See for example, ANC, "We Have a Good Story to Tell." For a more formal version of the same narrative, see: The Presidency, *Twenty-Year Review*.

67. Boraine, *What's Gone Wrong?* In a similar vein, see Calland, *The Zuma Years*; Max du Preez, *A Rumour of Spring*; Mashele and Qobo, *The Fall of the ANC*. Whereas these authors focus mainly on the ANC's maladministration and corruption as the main source of the current malaise, there are others who focus more on wrong policy choices made by the government in attempting to address apartheid's structural imbalances; see, for example, Habib, *South Africa's Suspended Revolution*.

68. The IJR's Reconciliation Barometer project is South Africa's largest and longest-running public-opinion survey on the issue of reconciliation. From 2003 to 2013, the surveys were conducted annually via face-to-face interviews, in six languages, with about 3,500 individuals from all nine provinces of South Africa. The survey questionnaires contained approximately a hundred questions. For details of the annual survey's sampling and methodology, see IJR, *Reconciliation Barometer*, 12.

69. Whereas 40.6 percent of South Africans mistrusted those from another race group in 2004, by 2014, this number was down to 28.1 percent; IJR, *Reconciliation Barometer*, 7.

70. IJR, *Reconciliation Barometer Survey* 2014, 7.

71. Ibid⤢, 7.

72. Gibson, "Apartheid's Long Shadow."

73. Ibid.

74. Lehohla, 2014.

75. IJR, 2014.

76. In 2003 around 50 percent of whites supported state-funded redress for victims of apartheid human rights abuses. By 2013 this figure had dropped to around 33 percent for whites, but was reported as being at just under 70 percent for black and Asian South Africans.

77. IJR, *Reconciliation Barometer Survey*, 19.

78. Van Vuuren, *Democracy, Corruption, and Conflict Management*.

79. A Report of the Public Protector of South Africa, "Secure in Comfort."

80. Lekalake, "South Africans Increasingly Dissatisfied with Their Elected Leaders' Performance."

81. Adriaan, Bsson and Pieter, du Toit, "Enemy of the People—How Jacob Zuma stole South Africa and how the people fought back," 2017.
Jacques, Pauw, "The President's Keepers—Those Keeping Zuma in Power and out of Prison," 2017.

82. Msimang, 2015.

83. See, for example, Khayelitsha Commission, *Towards a Safer Khayelitsha*.

Chapter 5

1. This is not to say that reconciliation first appeared in South Africa. As a literary concept it has a varied history, and it figures prominently in various sources of the three major Abrahamic faiths, in different strands of philosophy (Friedrich Hegel's idealism, for example), and throughout political history. However, there are good reasons to view the studies of political reconciliation that have emerged since the South African case as a relatively coherent subset, not only because they tend to be in conversation with one another, but because they all use the relatively recent rise of the notion of transitional justice as a crucial point of ↳ reference. In addition, the studies I refer to deliberately offer comparisons, rather than focus on one specific case; they include, but are not limited to: Brouneus's *Rethinking Reconciliation*; Bloomfield et al., *Reconciliation after Violent Conflict*; Eisikovits, *Sympathizing with the Enemy*; Lederach, *Moral Imagination* and *Building Peace*; Murphy, *A Moral Theory*; Philpott, *Just and Unjust Peace*; Rigby, *Justice and Reconciliation*; Schaap, *Political Reconciliation*; Shriver, *Ethic for Enemies*; Tutu, *No Future without Forgiveness*; Verdeja, *Unchopping a Tree*; and Villa-Vicencio, *Walk with Us*.

2. According to Weber, "an ideal type is formed by the one-sided *accentuation* of one or more points of view" according to which "*concrete individual* phenomena . . . are arranged into a unified analytical construct"; see Weber, "Objectivity in Social Science," 90. The notion of ideal types was an important tool that Weber used to organize and elucidate his sociological method. One of his fundamental premises was that diverse actions develop into "social action," which in turn congeals into patterns or types of actions. These patterns then delineate group boundaries, since they resist or react to other behavior patterns. Ideal types thus indicate patterns of action. As Stephen Kalberg wrote, "ideal types conceptualise as groups the patterned meaningful action shared by persons"; see Kalberg, "Perpetual and Tight Interweaving," 275.

3. For a provocative analysis of transitional justice as a "non-field," see Bell, "Transitional Justice"; see also Arthur, "How 'Transitions' Reshaped Human Rights."

4. See Weber, "Objectivity in Social Science," 90.

5. It is important to note that the phrase "within the framework of . . ." shifts in meaning across the next three chapters. In some cases, there is a virtual identification between reconciliation and the particular theory within which it is framed; in other cases the relationship is not of identification, but rather of mutual influence. In other words, the degree of influence that reconciliation, as a coherent concept, has on each theory differs across the three theoretical types.

6. Krog, *Country of My Skull*, 143.

7.   For a historical account of this event, see Meredith, *Diamonds, Gold and War*, 207ff.

8.   Molefe made this remark at an IJR workshop on August 1, 2014.

9.   Volf, *Exclusion and Embrace*.

10.   Remnick, "Vladimir Ilyich Lenin," 43.

11.   Schaap, *Political Reconciliation*, 85.

12.   Volf, *Exclusion and Embrace*.

13.   USIP, "Social Reconstruction." As another example, USIP describes social restoration (which they equate with reconciliation) as "a condition in which the population achieves a level of tolerance and peaceful co-existence; gains social cohesion through acceptance of a national identity that transcends individual, sectarian, and communal differences; has the mechanisms and will to resolve disputes non-violently; has community institutions that bind society across divisions; and addresses the legacy of past abuses . . . simply put, reconciliation is a process through which people move from a divided past to a shared future, the ultimate goal being the peaceful co-existence of all individuals in a society . . . reconciliation programs seek to promote tolerance and mutual respect, reduce anger and prejudice from the conflict, foster intergroup understanding, strengthen nonviolent conflict resolution mechanisms, and heal the wounds of conflict."

14.   Taylor, *Hegel*; see also Doxtader, "The Faith and Struggle"; and Verdeja, *Unchopping a Tree.*

15.   Taylor, *Hegel*, 152ff.

16.   A similar emphasis on a "politics of difference" drove the efforts of Will Kymlicka, also a Canadian, to come to terms with the phenomenon of minority groups within Western democracies. In Kymlicka's view, liberal democracies ought to accept the idea of "multicultural citizenship," based on a wide range of group-differentiating rights for national minorities and ethnic groups, without sacrificing their core commitment to individual freedom and social equality; see Kymlicka, *Multicultural Citizenship*, 126.

17.   Fanon, *Wretched of the Earth*, 43.

18.   Taylor, "Politics of Recognition," 38.

19.   Schaap, *Political Reconciliation*, 42.

20.   What distinguishes right-wing Hegelians from left-wing Hegelians is the desire to derive and formulate synthesis—the dialectical process produces "the third definite synergy." For ↳ left-wing Hegelians, the dialectical process is never resolved; so recognition does not end but remains a calling, a vocation.

21.   As quoted in the *New York Times*, October 19, 1984.

22.   This implies accepting not only the other who is a potential friend, but also the other who is an enemy.

23.   Volf, *Exclusion and Embrace*, 147.

24.   Taylor, "Irreducibly Social Goods," 127ff.

25.   In religious and cultural discourse, calls to establish or uphold moral communities are well known, and feature in expressions such as "*ummah wahida*," "one holy Catholic Church," "the holy land," or "*itai doshin*."

26.   Volf, *Exclusion and Embrace*, 143.

27.   Ibid.

28.   See Philpott, *Just and Unjust Peace*, 79.

29.   Ibid., 58.

30.   See Gobodo-Madikizela, *A Human Being Died That Night*. In a similar vein, Harvard psychology professor Herbert Kelman described reconciliation as "mutual acceptance of the other's identity and humanity"; see Kelman, "Reconciliation from a Social-Psychological Prespective," 16. Kelman's view of reconciliation as "identity change" is in line with Taylor's communitarian approach in "Politics of Recognition" and involves mutual acknowledgment of the other's nationhood and humanity, confrontation with history, acknowledgment of responsibility, and the establishment of patterns and institutional mechanisms of cooperation. These initiatives aim to break, if possible, what Cypriot-born psychiatrist Vamik Volkan calls the transmission of intergenerational trauma. See Volkan, "Transgenerational Transmissions"; see also Kalayjian and Paloutzian, *Forgiveness and Reconciliation*; and Potter, *Trauma, Truth, and Reconciliation*.

31.   Gobodo-Madikizela, *A Human Being Died That Night*.

32.   Gobodo-Madikizela, "Radical Forgiveness," 37–38.

33. Philpott does not reject liberalism but redefines it in terms of social restoration without sacrificing those values that liberalism holds dearest, namely: human rights, the rule of law, and democratic participation.

34. Zehr, *Changing Lenses*, 181.

35. Minow, *Between Vengeance and Forgiveness*, 17.

36. It is also true, however, that in transitional-justice contexts restorative justice is often still seen as a "second best" option if "full justice" (prosecution) is not available. Restorative justice advocates challenge this assumption and point, for example, to the very low rehabilitation rates in prisons in post-conflict societies such as South Africa. In fact, South African prisons are often blamed for further corrupting young offenders, and for inducting them into formalized and highly influential crime networks when many land in jail for relatively petty crimes. By contrast, in São Paulo, authorities are experimenting with restorative justice as an intrinsic part of community development in the hope that this has a better chance of rehabilitating young offenders within the social reach of the community, rather than in a hostile prison environment far away from where the crime was committed. In this context, reconciliation between the criminal and the victim has a real chance of succeeding.

37. Gutmann and Thompson, "Moral Foundations," 32–33.

38. Weinstein, "The Myth of Closure."

39. The notion of modesty in this context was first put forward by Villa-Vicencio in his book *Walk with Us*, 171–2.

40. Verdeja, *Unchopping a Tree*.

41. Verdeja, *Unchopping a Tree*. Philpott and Verdeja are colleagues at the Kroc Institute for International Peace Studies at the University of Notre Dame in Indiana, USA. They have taken up this debate within the discipline of political studies, developing reconciliation theories that respond to the liberal charge of moral overreach without losing the main tenets of social restoration. Their theories represent related yet different attempts to conceive of reconciliation as social restoration. They have in common an attempt to rethink liberalism from a restorative-justice angle, but also to challenge some conventions within restorative-justice theory by positioning their arguments in close proximity to international liberalism. ↳ Essentially both attempt to move toward a position more acceptable to classic liberalism, but from a social restoration position. Both regard liberalism as making important contributions toward a systematic theory of reconciliation, and they acknowledge the large measure of "overlapping consensus" that seems to exist within the international community on liberal democracy as the preferred outcome of political transition, but also on reconciliation as a means toward such an outcome.

42. Verdeja, *Unchopping a Tree*, 3.

43. Ibid., 21.

44. See Philpott, *Just and Unjust Peace*, 111.

45. Schaap, *Political Reconciliation*, 54.

46. The risk is entrenching oppressive identities just as political reconciliation begins to challenge and overcome theses. This is precisely the debate in many South African organizations that have adopted affirmative action or black economic empowerment as part of their human resources policies. Reserving positions for members of communities that were systematically disadvantaged by apartheid seems necessary. Yet many young South Africans who have grown up with, at least officially, a measure of non-racialism speak of their confusion at still being classified along racial lines if they apply for university or a job in the civil service. But for communitarians such as Taylor ("Politics of Recognition"), the risk of identity reification is worth taking. He argues that a liberal denial of identity leads to a superficial politics of reconciliation. If identity is fundamental to politics and to the art of living together peacefully, and if identity is essentially relational, it follows that restoring relations is a crucial task of reconciliation.

47. I am indebted to Barnard-Naude, "Forgiveness as Happenstance" for important input into this analysis.

48. Derrida and Roudinesco, *For What Tomorrow*, 161.

49. Derrida, "On Forgiveness," 45.

Chapter 6

1. Brody, "Justice."

2. Amy and Dennis, "Moral Foundations of Truth Commissions," 22. Such a moral defense would require that a TRC should be moral "in principle"; that is, it should offer sufficient moral reasons for forgoing criminal justice. It should also be moral in perspective; that is, inclusive of as many people seeking social cooperation. Finally, it should be moral in practice; that is,

it should practice what it preaches and be manifestly fair and consistent in its operations. Gutmann and Thompson identified three possible responses to this "moral burden" of having to sacrifice prosecutorial justice, namely the realist, compassionate, and historicist responses, all of which they find wanting. In their view, Tutu's "compassionate" approach overemphasized Christian forgiveness.

3. My specific focus means therefore that general discussions of liberalism, including the well-trodden debates between liberals and communitarians, for example, are beyond the scope of this discussion.

4. Philpott, *Just and Unjust Peace*, 19, 70.

5. Ibid., 19, 70–72.

6. The rejection by some of the Palestinian legislative election results in 2006, when Hamas won a majority, can be seen in a similar light.

7. Andrieu, "Political Liberalism," 85ff.

8. Philpott, *Just and Unjust Peace*, 9.

9. Kymlicka and Bashir, *Politics of Reconciliation*, 16.

10. Definitions of the "rule of law" proliferate. A popular definition is that those making the law also live under it. Lon Fuller identifies the following eight principles of legality that, according to Colleen Murphy, capture the essence of the rule of law:

> (i) Laws must be general by specifying rules prohibiting or permitting behaivoor of certain kinds. (ii) Laws must be widely promulgated and publicly accessible. (iii) Laws must be prospective, specifying how individuals ought to behave in future rather ↳ than focusing on past behavior. (iv) Laws must be clear to citizens. (v) Laws must be noncontradictory; one law should not contradict another. (vi) Laws must not ask the impossible. (vii) Laws should remain relatively constant. (viii) There must be congruence between the written laws and how officials enforce them. See Fuller, *Morality of Law*, 39; Murphy, *A Moral Theory*, 43.

11. This is also true of the more recent and variously opaque theories of political economy associated with neoliberalism and the so-called Bretton Woods institutions.

12. Nevertheless, the critique I develop here *does* in fact apply to theories of reconciliation built on Rawlsian or, indeed, other liberal arguments. The trend toward accommodating communitarian concerns within once staunchly liberal positions becomes clear in Rawls's restatement of his position in his book *Political Liberalism,* which is commonly known as "the new Rawls"; for more on this, see Mulhall and Swift, *Liberals and Communitarians*, 1–33.

13. Arendt, *Human Condition*.

14. Locke, "Concerning Toleration," 44; see also Schaap's extended argument in this regard in *Political Reconciliation*, 32ff.

15. Arendt, *Human Condition*, 30.

16. Bonino, *Doing Theology*, 121. ANC intellectual Pallo Jordan pins liberals' rapid shift (in the eyes of some) from the left to the right of the political spectrum in South Africa on "their perceived betrayal of the principles that they claim to uphold." Jordan, "Disdain for Liberals." Communitarians, too, accuse liberals of a kind of egotistic individualism that shuns community and, in the name of security, makes society a competitive and socially hostile place. Utilitarians, who measure political success by the whether the greatest good is accrued by the largest number of people, are also critical, accusing liberals of raising the interests of (empowered) individuals above that of the common good.

17. Schaap, *Political Reconciliation*, 33.

18. Shklar, "Liberalism of Fear," 23. I am indebted to Andrew Schaap for drawing my attention to this quote, which also appears in his book *Political Reconciliation*, 26.

19. Locke, "Concerning Toleration," 26, 53.

20. Murphy, *A Moral Theory*, 28.

21. De Greiff, "The Role of Apologies," 120–37.

22. See as one example Hall, "Question of Cultural Identity." Hall usefully distinguishes between three conceptions of identity: the "Enlightenment subject" (corresponding roughly to what I call the "liberal subject"); the "sociological subject" (which corresponds roughly to social restoration's idea of "dialogical" identity); and the "postmodern subject" (which can be understood as having no fixed, permanent, or essential identity). He explains that the Enlightenment subject is "based on a conception of the human person as a fully centered, unified individual, endowed with the capacities of reason, consciousness, and action, whose 'center' consisted of an inner core which first emerged when the subject was born, and

unfolded with it, while remaining essentially the same—continuous or 'identical' with itself—throughout the individual's existence," 597.

23. See www.ictj.com.

24. See Holkeboer and Villa-Vicenzio, "Rights and Reconciliation."

25. The result, over the past decade, has been a targeting of those who, although powerfully destructive in their own contexts, are relatively powerless internationally.

26. For example, Jendayi Frazer, US assistant secretary of state for African affairs from 2005 to 2009, wrote that "the ICC indeed has fallen far from the high ideals of global justice and accountability that inspired its creation." Frazer, "ICC Has Fallen." Meanwhile, in 2013 the African Union debated a continent-wide withdrawal from the ICC. Although the pressure to withdraw was led by Kenya, and strongly supported by Ethopia, the African Union decided instead to ask the UN Security Council to defer cases against sitting presidents. See Akande, "How Nigeria, Others Averted AU's Withdrawal from ICC"; and *Mint Press*, "As African Governments Threaten to Leave."

27. Of course, the notion of "people on the ground" can mean different things: it can refer to communities, or to officials tasked with designing and steering transitional justice processes, or, indeed, to the various institutions created for this purpose.

p. 258   28. The declaration is available at http://www.peace-justice-conference.info/download/Nuremberg%20Declaration%20A-62-885%20eng.pdf (accessed December 19, 2012).

29. See the report at http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/395/29/PDF/N0439529.pdf?OpenElement (accessed December 19, 2012).

30. Ojielo, 2009, 124.

31. Brody, "Justice."

32. Ban, *Rule of Law*.

33. Available at http://www.ohchr.org/EN/Issues/TruthJusticeReparation/Pages/Annual Reports.aspx (accessed October 16, 2015).

34. "Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation, and Guarantees of Non-Recurrence, Pablo de Greiff." Available at http://www.ohchr.org/EN/Issues/TruthJusticeReparation/Pages/AnnualReports.aspx (accessed October 16, 2015).

35. See, for example, the UNDP office in Cyprus's work related to the so-called SCORE measurement index for social cohesion. Available at http://www.cy.undp.org/content/cyprus/en/home/operations/projects/action_for_cooperation_and_trust/social-cohesion-and-reconciliation--score--index-.html (accessed May 22, 2016). Another example includes the UNAMI initiatives in Iraq. Available at: http://www.iq.undp.org/content/iraq/en/home/presscenter/pressreleases/2016/02/27/parliament-members-and-civil-society-come-together-to-promote-community-reconciliation-in-iraq.html (accessed May 22, 2016).

36. De Greiff, "The Role of Apologies," 120ff.

37. Ibid., 126.

38. Ibid., 126, 127.

39. Ibid., 15, 16.

40. Murphy, *A Moral Theory*, 8, 20.

41. Ibid., 22.

42. Ibid., 188.

43. Ibid., 189.

44. Garton Ash, "True Confessions," 37.

45. An example would be Philpott's *Just and Unjust Peace.* Presumably the aim of this type of theory is to describe ways in which communitarian practices (that try to address the deep wounds of a postwar society) can usher in a liberal democracy, but the value of liberal democracy as such remains uncontested.

46. Philpott, *Just and Unjust Peace*, 71.

47. Precisely how individual freedom is conceptualized remains an area of considerable debate within liberalism, and, as

indicated earlier, is beyond the scope of this discussion.

48.   Van Roermund, "Rubbing Off and Rubbing On," 187.

49.   Villa-Vicencio, *Walk with Us*, 95, 96, quotes Govan Mbeki, South African struggle veteran and father of Thabo Mbeki, speaking of the need to balance "having" and "belonging" in the South African nation-building process and elsewhere.

50.   Schaap, *Political Reconciliation*, 4.

51.   Ibid., 35.

52.   See Locke, *Two Treatises of Government*, 32.

53.   For an introduction to this conversation, see Hirsch, "The Agon of Reconciliation," 2, 3.

Chapter 7

1.   Alexander Hirsch reminds us that the term *agonism* is derived from the ancient Greek word *agōn* "signifying a brand of struggle and in particular an athletic contest between contending agents in the midst of a religious festival"; see Hirsch, "The Agon of Reconciliation," 3. Several philosophers, from Machiavelli and Nietzsche, to Hannah Arendt, Max Weber, Carl Schmitt, and Michel Foucault, all refer to some form of agonist politics as essentially conflictual. This contrasts with how others see struggle: for example, deliberative democrats seek consensus through democratic institutions while liberals "leave precious little space for initiatory or expressive modes of political action" (Dana Villa, quoted by Hirsch in "The Agon of Reconciliation," 4.)

2.   Doxtader, "Is It Reconciliation?"

3.   Seminal works on political transition per se are O'Donnell and Schmitter, *Transitions from Authoritarian Rule*; and Huntington, *The Third Wave*.

4.   As Tim Murithi writes: "By examining each African case individually one might be able to come up with a rational explanation of why all the current cases of the ICC are in Africa. One might even argue that, to a neutral observer, if one critically analyses the facts, it is possible to reach the conclusion that the ICC was established with the sole purpose of prosecuting cases from Africa. At the same time, though, one could also identify a combination of domestic and international political interests behind the submission of, for the time being, only African cases and behind UN Security Council referrals to the ICC." See Murithi, *The African Union*.

5.   Goldmann, "Sierra Leone," 510.

6.   Sierra Leone TRC, *Witness to Truth*, Vol. 2, Ch. 2, para. 568.

7.   Quoted by Goldmann, in "Sierra Leone," 513. Goldman also quotes the following from a letter that Hinga Norman wrote to his legal counsel: *"I have long been in receipt of copy of your letter . . . expressing the inappropriateness for me (your client) to appear before the Truth and Reconciliation Commission while I remain an indictee before the Special Court. Well, I was arrested, charged and detained on the 10th March 2003, thinking that by now, 25th August 2003, my trial would have started long ago; but I thought wrongly. Since there is no news about the start of the trial and there are signs that the TRC may soon close its sittings, I would prefer to be heard by the people of Sierra Leone, and also be recorded for posterity, especially where my boss, the President of Sierra Leone, who appointed me and under whom I served as the Deputy Minister of Defence and National Coordinator of the Civil Defence Force (CDF/SL), has already testified before the Commission. As my solicitor, I am applying through you, and requesting you as a matter of urgency, to please inform the necessary parties of my willingness to appear and testify before the TRC without any further delay."*

8.   Ogora, "The Rights of Victims," 15.

9.   Irin News, "Uganda."

10.   Ogora, "The Rights of Victims," 15. At the time, Ogora worked for the Justice and Reconciliation Project based in Gulu, Northern Uganda. For more information on the organisation's current programs, visit http://justiceandreconciliation.com (accessed May 22, 2016).

11.   In addition to the Justice and Reconciliation Project, see also the Refugee Law Project, which has done outstanding work in this area. For more information on this work, visit http://www.refugeelawproject.org/ (accessed May 22, 2016).

12.   Philpott, *Just and Unjust Peace*, 79.

13.   See Philpott, *Just and Unjust Peace*, 111.

14.   Maddison, *Conflict Transformation and Reconciliation*, 78.

15. Daly and Sarkin, *Reconciliation in Divided Societies*, 205; as quoted by Maddison, *Conflict and Transformation*, 78.

16. Arendt, *Eichmann in Jerusalem*, 1977. Arendt's well-known book, with its famously provocative subtitle (*A Report on the Banality of Evil*), explored German and Jewish relations in the aftermath of the Holocaust.

17. Arendt, *Eichmann in Jerusalem*, 268, 269.

18. Schaap, *Political Reconciliation*, 2.

19. Arendt, *Men in Dark Times*, 15.

20. Schaap, *Political Reconciliation*, 2 (emphasis added).

21. Arendt, *Men in Dark Times*, 4–5.

22. Schaap, *Political Reconciliation*, 4.

23. Maddison, *Conflict Transformation and Reconciliation*, 79. To develop this argument, Maddison draws on Wingenbach and Chantal Mouffe, who wrote that the aim is a pluralism "that valorizes diversity and dissensus" and recognizes the contests between diverse communities as "the very condition of possibility for a striving democratic life." Quoted from Wingenbach, *Institutionalising Agonistic Democracy*, 63; and Mouffe, "Democracy as Agonistic Pluralism," 44.

24. Schaap, *Political Reconciliation*, 80.

25. Maddison, *Conflict Transformation and Reconciliation*, 97.

26. Schaap, *Political Reconciliation*, 35.

27. Connolly, *Identity/Difference*, x.

28. Maddison, *Conflict Transformation and Reconciliation*, 78.

29. Schaap, *Political Reconciliation*, 61.

30. Arendt, *Human Condition* 201.

31. Schaap, *Political Reconciliation*, 62.

32. Eisikovits, *Sympathizing with the Enemy*, 56.

33. Ibid., Eisikovits also recognizes three other theories of reconciliation, namely: Trudy Govier's notion of *reconciliation as trust* in the mold of social restoration that is developed through forgiveness and acknowledgment; Susan Dwyer's account of *reconciliation as weaving back together the narratives* of our lives after the traumatic disruption caused by mass violence; and Andrew Schaap's notion of *agonist reconciliation* (ibid, 25ff).

34. Schaap, *Political Reconciliation*, 92.

35. Chapman, "Truth Commissions as Instruments of Forgiveness and Reconciliation," 265, 273.

36. Schaap, *Political Reconciliation*, 101

37. Maddison, *Conflict Transformation and Reconciliation*, 116.

38. Schaap, *Political Reconciliation*, 87.

39. The never-again moment of reconciliation is its "world-delimiting" dimension, and its promise of a new beginning together, its "world-rupturing" dimension; political reconciliation consists of a "fragile holding together of the world-delimiting and world-rupturing moments of politics," *Political Reconciliation*, 87.

40. What animates political reconciliation is "not the anticipation of community as an absolute end according to which we ought to regulate our present relations. Rather it is the will that the present be remembered by a possible future community as the moment in which it originated," *Political Reconciliation*, 90.

41. Schaap, *Political Reconciliation*, 115.

42. Maddison, *Conflict Transformation and Reconciliation*, 227, 228.

43. Barnard-Naudé, "For Justice and Reconciliation to Come," 200.

44. Schaap, *Political Reconciliation*, 131.

45. Verdeja, *Unchopping a Tree*, 157.

46. Schaap, *Political Reconciliation*, 61, 77.

47. Ibid., 74.

48. Daly and Sarkin, *Reconciliation in Divided Societies*, 228–9.

49. Schaap, *Political Reconciliation*, 77.

50. I discuss Mamdani's critique in Chapter 5. Robert Meister's view is found in his book *After Evil: A Politics of Human Rights*.

Chapter 8

1. Eisikovits, *Sympathizing with the Enemy*, 23.

2. See Villa-Vicencio, *Walk with Us and Listen*, 152–5.

3. Schaap, *Political Reconciliation*, 2.

4. Tutu, *No Future without Forgiveness*, 31.

5. Gade, "What Is Ubuntu?" 484.

6. Nabudere, *Ubuntu Philosophy*.

7. The fundamental relationality of identity, rather than its self-containment, is ubuntu's point of departure. Ubuntu can thus be read as a critical theory of identity, challenging core liberal ideas in this regard.

8. Levinas works out this argument in *Totality and Infinity* and goes into greater detail in *Otherwise than Being*.

9. John Paul Lederach, *Building Peace*, 37ff. For a retrospective discussion of his intellectual journey with respect to developing the notion of "infrastractures of peace," see John Paul Lederach, "The Origins and Evolution of Infrastructures of Peace: A Personal Reflection," *Journal of Peacebuilding & Development* 7, no. 3 (2012): 8–13, available at https://undp.unteamworks.org/node/417406 (accessed August 15, 2015).

10. Lederach, "The Origins and Evolution of Infrastructures of Peace," 2.

11. Ibid., 4.

12. Ahmad Mouath Al-Khatib Al-Hasani, 2014.

13. Ebrahim Rasool, 2015, 86.

14. Clark, *The Gacaca Courts*.

15. The full text of Ahmadinejad's speech is available at *Fourwinds10.com*, uploaded September 24, 2012, http://www.fourwinds10.net/siterun_data/government/united_nations/news.php?q=1348577127 (accessed May 17, 2013).

16. Shmulovich, "Israel's UN Envoy Walks Out."

17. The neighboring countries I include here are the Democratic Republic of Congo, Burundi, Rwanda, Uganda, and, a little further afield, South Sudan and Tanzania.

18. UN Resolution 1012 of 28 August 1995, http://www.usip.org/library/tc/doc/charters/coi_burundi1995.html (accessed May 23, 2006).

19. UN International Commission of Inquiry Concerning Burundi: *Final Report*, par. 213. Members of the commission included Abdelali El Moumni of Morocco, Mehmet Güney of Turkey, Luis Herrera Marcano of Venezuela, Michel Maurice of Canada, and Edilbert Razafindralambo of Madagascar.

20. For example, gunfire erupted around the premises of its Bujumbura offices on December 6, 1995, forcing the commission to withdraw into a hotel to continue its work.

21. UN International Commission of Inquiry Concerning Burundi: *Final Report*, par. 490–1.

22. For an authoritative account of international benchmarks on what constitutes a just transition, see Van Boven, *United Nations Basic Principles*.

23. See Daly and Sarkin, who characterize reconciliation processes that lack fairness and credibility as "zero-sum games": "if she wins, then I am going to be losing, and the only way to ensure that I don't lose is to prevent her from winning," *Reconciliation in Divided Societies,* 254–5.

24. Note that I use the concept "inclusive" rather than "national" to avoid the well-trodden debates about nationalism and

nation-building, and also to emphasize the inclusion of citizens outside the political elites, as well as interest groups across political divides. On comprehensive approaches to sustainable reconciliation that cut across both horizontal and vertical divisions, see Lederach, *Building Peace*.

25. This is often the case in the truth-seeking exercises that have become a staple of transitional justice processes the world over. Truth-seeking exercises are typically designed to add credibility to reconciliation processes through establishing a measure of accountability for those involved in perpetrating intense political violence. They correctly prioritize justice for victim communities but, in so doing, they risk alienating perpetrator groups, and thereby potentially limit political inclusivity. For a discussion of this tension in the work of the South African TRC, see Villa-Vicencio, *Walk with Us and Listen*, 95, as well as Villa-Vicencio and Doxtader, *Pieces of the Puzzle*, 94.

26. Little states that "if reconciliation is understood as part of a process of transformation whereby social relations change over time in negative as well as positive ways, then disappointment is a crucial dimension of the continued pursuit of conflict transformation."

27. This is why some political analysts accuse reconciliation of promising what it cannot deliver. See, for example, Weinstein, "The Myth of Closure."

28. For her theory on capabilities, Murphy relies largely on Amartya Sen's well-known work in this regard. See Sen, *Development as Freedom*.

29. Arendt, *Men in Dark Times*.

30. For a theological discussion of reconciliation as "radical", see Boesak and DeYoung, *Radical Reconciliation*.

31. Hofmeyr, *Africa Rising?*

32. Ibid.

33. Tim Murithi and Fanie du Toit, "Reconciliation as Framework for Realising Sustainable Peace," A United Nations Development Plan Concept Report, Addis Ababa.

34. UN Peacebuilding Support Office, NOREF, and KAIPTC, *Building Just Societies: Reconciliation in Transitional Settings*, 14.

35. Freud, "Remembering, Repeating and Working-Through,", 145ff.

36. Ricoeur, "Can Forgiveness Heal?" 31ff.; Ricoeur, *Memory, History, Forgetting*, 505–6. See also: Duffy, *Ricoeur's Pedagogy of Pardon*.

37. Boesak and DeYoung, *Radical Reconciliation*, 133.

38. Ricoeur, *Memory, History, Forgetting*, 505–6.

39. See Nietzsche, *Untimely Meditations.* Nietzsche's distinctions between "antiquarian," "monumental," and "critical" history delineate different "uses of the past" but do not specifically focus on dealing with past atrocities. However, his distinctions can readily be adapted to the concerns of transitional justice. For one attempt at this kind of adaptation, see André du Toit, "The Truth and Reconciliation Commission." Du Toit argues that to be overcome, the past must be remembered in appropriate ways (and this is even more so where political atrocities have occurred). He suggests that whereas "antiquarian" history reveres and preserves the past for its own sake, "monumental" approaches are typically concerned with "celebrating the greatness and glory of the past," while "critical" history is concerned with "accountability for the past." Of these, "critical" history is most suited to general conceptions of transitional justice, at least to the extent that this is shaped by human rights discourses. However, Nietzsche claimed that "monumental history" also needs a place if the past is to be overcome. This applies, for example, to the need to reconcile a post-conflict society through appropriate symbolism and memorialization, and by convincing opposing groups to accept a common new symbolic order rooted in a celebrated past. Nietzsche described this as "an attempt to give oneself, as it were a posteriori, a past in which one would like to originate, in opposition to that in which one did originate—always a dangerous attempt because it is so hard to know the limit to denial of the past" (quoted in André du Toit, 4).

40. Shriver, *An Ethic for Enemies*, 119.

41. Ricoeur, "Can Forgiveness Heal?" 32.

42. Susan Dwyer, "Reconciliation for Realists," 110.

43. Caitlin Spring, one of the initial members of the White Privilege Project, writes: "The Rhodes Must Fall movement spurred some of the most violent online racism I have ever seen, ironically providing quintessential examples for the existence of a transformative movement in South African universities. However, amidst all the hate and aggression, emphatic ignorance was also evident. It became unfair for black students to continually answer the same questions at discussions and in online forums. For example, the existence of institutional racism in South African universities was consistently denied by some white students, who felt that, after democratization, equal opportunities existed in South Africa for people of all races. To attempt to counter this ignorance, The White Privilege Project, as it was then called, emerged. The idea was for

white students to educate each other, and grapple together, on issues of white privilege, white responsibility and white identity in contemporary South Africa. While defining these terms and conscientising each other and ourselves, it was hoped that the burden of educating white students and alleviating some racism would be placed on white students who felt the moral responsibility." Caitlin Spring, 2015.

44. The standard work on denial in the transitional-justice literature is Stanley Cohen's *States of Denial: Knowing about Atrocities and Suffering*. Cohen provides a psychologically oriented analysis rather than one oriented to the politics of history and memory, like those of Nietzsche and Ricoeur.

45. A similar attempt to arrive at "an understanding of the many blind spots in Rwanda's official memory" is offered by Lemarchand, who used Ricoeur's distinction between "thwarted memory," "manipulated memory," and "enforced memory"; see Lemarchand, "The Politics of Memory."

46. Mamdani, *When Victims Become Killers*, 267.

47. Nietzsche, *Untimely Meditations*, 64, 102, 109.

48. Ricoeur, "Can Forgiveness Heal?" 33.

49. See Beike and Wirth-Beaumont, "Psychological Closure."

50. Ricoeur, "Can Forgiveness Heal?" 33.

51. Ibid.

52. Ibid.

53. Ibid., 36.

Conclusion

1. For some examples of such educational material, see http://www.ijr.org.za/publications.php. Education, and specifically history education, is, however, essential to the agenda of healing after mass political violence. Of course, the dangers of erecting new forms of hegemonic philosophies that exclude a new set of victims, and thereby create the conditions for the emergence of new conflict down the line, loom large when a nation seeks to foster some form of shared appreciation of a difficult past. However, social transformation implies a measure of accounting from those who perpetrated the violence as to why, how, and to what effect violence was perpetrated, and why victims can expect it not to recur. For a discussion on how this has played out in post-apartheid South Africa, see Du Toit, "Teaching History as if People mattered." For a broader discussion, see Elizabeth Cole, *Teaching the Violent Past*.

2. One civic attempt to inaugurate such a discussion comprised a series of two national conferences hosted by the IJR in April 2006 and October 2008 to mark ten years since the TRC's first victim hearings, as well as the handing of the final report to President Mandela, respectively. The first was entitled "The TRC Ten Years On," whereas the second conference, entitled "Revisiting the TRC Recommendations," focused explicitly on the measure to which the report had been followed up mainly by government, but also the private sector. The largely disappointing findings were broadly published in the media but soon thereafter dropped off the radar of public debate. In the absence of public pressure, ongoing attempts by civics, notably through the South African Coalition for Transitional Justice, which includes the victim support group Khulumani, have largely fallen on deaf ears, forcing civics into a more adversarial stance including litigation on issues related both to government's failure to prosecute those the TRC recommended that it did, as well as its failure to pay adequate and timeous reparations, again failing to follow TRC recommendations. Unfortunately legal standoffs between government and the civics seemed, for the time being, to have stalled progress on both prosecutions and reparations.

3. Langa, "Transcending a Century of Injustice," 14ff. Langa made these remarks in 2000 as the keynote speaker at the launch of the IJR in Cape Town, South Africa. The gathering reflected on the recently concluded TRC process and discussed ways to further justice and reconciliation in South Africa.

4. Friedman, "SA Should Try Reconciliation."

5. Wale, "Confronting Exclusion," 26ff.

6. Langa, "Transcending a Century of Injustice." ↵