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The Hope for Healing

WHAT CAN TRUTH COMMISSIONS DO?

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Ignorance about those who have disappeared /
undermines the reality of the world.

(Zbigniew Herbert)²

I feel what has been making me sick all the time is the
fact that I couldn't tell my story. But now I—it feels
like I got my sight back by coming here and
telling you this story.

(Lucas Baba Sikwepere)³

THE mass atrocities of the twentieth century, sadly, do not make it distinctive. More distinctive than the facts of genocides and regimes of torture marking this era are the search for and invention of collective forms of response. This is especially noteworthy given that no response to mass atrocity is adequate. The sheer implication of adequacy is itself potentially insulting to the memory of those who were killed and to the remaining days of those who were tortured, and to those who witnessed the worst that human beings can do to other human beings. Yet, during the twentieth century, a particular hope, or ideology, has inspired specific efforts to use law and state power to address and redress episodes of collective violence.

The basic idea is that public power—through prosecutions, reparations, and commissions of inquiry—can locate the violations on maps of human comprehensibility, deter future violations of human dignity, and ensure that the ambitions of the agents of violence do not succeed. The novel experiment of the Nuremberg and Tokyo tribunals following World War II reached for a vision of world order and international justice, characterizing mass violence as crimes of war and crimes against humanity. Individual states also prosecuted their own citizens and citizens of other states for participation in mass murders and torture. These trials have inspired the international movement for human rights and represent in many people's minds the "gold standard" for any public response to mass violence. The use of criminal trials holds out the rule of law

as the framework for rendering accountability for unspeakable conduct, for deterring future violations, and for gathering a formal public record so that the attempts to destroy groups of people cannot succeed in destroying their memory.⁴

Each of these goals is admirable. They are also exceedingly difficult to achieve. The trial process does not always work, and even when it does, it is marked by sharp constraints. Trials and the framework of the rule of law also miss another collection of purposes that are at least of equal importance for individuals and societies emerging after large-scale violence and brutality. These purposes center on rectifying the damage to human dignity that so often endures even for those who survive violence and on healing societies torn by hatred and brutality. Failure to address damage to individual dignity and to the very idea that members of targeted groups are persons with dignity ensures that the consequences of mass violation will persist and may give rise to new rounds of revenge.

One woman who was raped while in police detention for her political opposition to apartheid recalled how she forced herself to survive by putting her sense of herself or her soul in the corner of the room, outside of her body, while the rape occurred. She survived, but tells Bill Moyers during an interview for his 1999 documentary film, *Facing the Truth*, that what she longs for is to return to that room and find herself again. Multiply this utter sense of violation across all those wounded physically and spiritually by mass violence.⁵ Trauma alters people's abilities to sleep, eat, hope, and work; trauma alters people's brain scans and capacities to care for others. Can collective responses to mass violence redress trauma, or at least do so with the same acknowledgment of ultimate inadequacy that must accompany any other public response to genocide, torture, and mass rapes?

This question is posed most vividly through the development of truth commissions in the closing decades of the twentieth century.⁶ Investigation and exposure of gross human rights violations have been "the stock in trade of international human rights organizations and the international press for some decades."⁷ More recently, though, national legislatures and executives, and international institutions, have authorized such investigations, giving official acknowledgment to the issues and to the truths ultimately gathered. These official bodies are established to investigate and publicly report on human rights violations and collective violence. They emphasize both truth finding and truth telling. If the goals of repairing human dignity, healing individuals, and mending societies after the trauma of mass atrocity are central, truth commissions offer features that are often more promising than prosecutions. Even in light of the basic goals of prosecutions, truth commissions can afford benefits to a society. Thus, any evaluation of legal responses to mass violence must acknowledge the specific goals sought as well as their shortfall in prac-

tice. Because attention to the victimized should rate highly among the goals, truth commissions should be an important part of the national and international repertoire of responses to mass violence.

Second Best or Independently Valuable?

A truth commission looks like a second choice if prosecutions for human rights violations serve as the model for institutional responses to state-sponsored violence. Commentators argue that prosecuting human rights violations can substantially enhance the chance of establishing the rule of law. Doing so signals that no individual stands beyond the reach of legal accountability.⁸ Prosecutions also provide a legitimate means for punishing wrongdoers. The threat of such punishment in turn is the chief method for deterring future human rights violations. Prosecutions set in motion an official process for gathering and testing testimony and documentary evidence that can disclose hidden truths about the atrocities and prevent future cover-ups or denials.

In comparison, a commission of inquiry charged with investigating and reporting human rights violations may seem a pale and inadequate substitute. International human rights activists and scholars argue that criminal prosecution is the best response to atrocities and that truth commissions should be used only as an alternative when such prosecutions are not possible.⁹

In this view, truth commissions become an important alternative only because practical reasons do often interfere with or prevent prosecutions. There may simply not be enough courtrooms, lawyers, witnesses, or time for prosecuting all who deserve it in places like Kosovo, Rwanda, Cambodia, East Germany, East Timor, and Brazil. There may be an inadequate number of skilled people who were not participants in the offending regime to administer the justice system. When the offenders are part of a military regime that remains in force, the government usually lacks the clout to proceed with prosecutions.

Even when a successor regime is in charge, and not under the pervasive powers of the military command that participated in or permitted atrocities, the new leaders may hope to avoid the confrontational atmosphere generated by trials. They may also conclude that prosecutions that would be perceived as politically motivated or politically tainted could not advance the rule of law. Prosecutorial decisions may be foreclosed by political realities. Negotiation of a peaceful transfer of power often involves measures to ensure immunity from prosecutions against outgoing leaders as a crucial condition.

Prosecutions may be hampered alternatively by the ability of high-ranking officials to flee to other countries or to retain sufficient political or economic power to render prosecutions difficult. If only low-ranking participants can be found and prosecuted, the resulting trials could create martyrs while leaving

the important decision makers untouched.¹⁰ Or only high-level officials may be prosecuted, leaving the impression that those lower in the chain of command are excused or free to act. Selective prosecutions jeopardize the ideals of accountability and the hopes for deterrence; in these circumstances, those newly in charge may prefer to avoid any prosecutorial effort and develop an alternative response.

Yet arguments for alternatives may be founded not just in search for a substitute when trials are not workable. The trial as a form of response to injustice has its own internal limitations. Litigation is not an ideal form of social action. The financial and emotional costs of litigation may be most apparent when private individuals sue one another, but there are parallel problems when a government or an international tribunal prosecutes. Victims and other witnesses undergo the ordeals of testifying and facing cross-examination. Usually, they are given no simple opportunity to convey directly the narrative of their experience. Evidentiary rules and rulings limit the factual material that can be included. Trial procedure makes for laborious and even boring sessions that risk anesthetizing even the most avid listener and dulling sensibilities even in the face of recounted horrors. The simplistic questions of guilt or innocence framed by the criminal trial can never capture the multiple sources of mass violence. If the social goals include gaining public acknowledgment and producing a complete account of what happened, the trial process is at best an imperfect means.

If the goals extend to repairing the dignity of those who did survive and enlarging their chances for rewarding lives, litigation falls even farther short. Trials focus on perpetrators, not victims. They consult victims only to illustrate the fact or scope of the defendants' guilt. Victims are not there for public acknowledgment or even to tell, fully, their own stories. Trials interrupt and truncate victim testimony with direct and cross examination and conceptions of relevance framed by the elements of the charges. Judges and juries listen to victims with skepticism tied to the presumption of defendants' innocence. Trials afford no role in their process or content for bystanders or for the complex interactions among ideologies, leaders, mass frustrations, historic and invented lines of hatred, and acts of brutality.

For truth telling, public acknowledgment of what happened, and attention to survivors, a commission of inquiry actually may be better than prosecutions. When the commission is authorized or taken seriously by the government, and is capable of producing a report with wide public reception, public acknowledgment can be dramatic and effective. The daily broadcast of proceedings of the South African Truth and Reconciliation Commission (TRC) marked this kind of public acknowledgment and made preexisting, widespread denial—especially within white communities—less and less tenable. It reflected a deliberate policy of maximum publicity. The TRC developed partnerships with community-based organizations to communicate its work, developed an ad-

vertising campaign to inform the public about its activities, and worked with newspaper, television, and radio professionals to communicate its message.

A truth commission can be set up to hear from victims for their own sake, and it can be designed to try to restore their dignity. Being able to give a full account of their suffering can be meaningful for survivors, even if perpetrators are never found or punished. In South Africa, where courtrooms had so often been used to reinforce the power of the apartheid regime and deny rightful claims by its victims, the creation of a setting quite distinct from courts held a special value. A truth commission also can offer bystanders the roles of listeners, while also turning at times to focus on what bystanders failed to do to prevent or stem the violence.

The aspiration to develop as full an account as possible requires a process of widening the lens, sifting varieties of evidentiary materials, and drafting syntheses of factual material that usually does not accompany a trial. Yet truth commissions typically undertake to write the history of what happened in precisely these ways. Putting together distinct events and the role of different actors is more likely to happen when people have the chance to look across incidents and to connect the stories of many victims and many offenders. A truth commission can examine the role of entire sectors of a society—such as the medical profession, the media, and business—in enabling and failing to prevent mass violence. The sheer narrative project of a truth commission makes it more likely than trials to yield accounts of entire regimes. Trials in contrast focus on particular individuals and their conduct in particular moments in time, with decisions of guilt or nonguilt, and opinions tailored to these particular questions of individual guilt.

Truth commissions still face enormous barriers in gathering facts and producing comprehensive accounts. Especially in regimes that operate through terror, secrecy is the ground rule. Some of the story can never be known without grants of immunity to those who can tell it. Here, the innovative South African approach to amnesty is especially noteworthy. The TRC applications from individuals for amnesty were to be approved only if those applicants recounted truthfully and fully their roles in committing human rights violations, and also only if their conduct were motivated by politics and was not disproportionately heinous.¹¹ Although borne of the political compromise necessary to ensure peaceful transition of power, this method for granting amnesty also reflected the experience of leaders in the African National Congress (ANC) with their own commissions of inquiry exposing hidden human rights abuses. The ANC had previously conducted two inquiries into its own human rights violations, and found the value of disclosures by insiders.¹² This experience contributed to the design of the Amnesty Committee of the TRC, which also gave victims the right to cross-examine applicants.

The trade of amnesty for testimony allowed the TRC to use the participation by some to gain the participation of others. Five mid-level political

officers sought amnesty and in so doing implicated General Johan van der Merwe as the one who gave the order to fire on demonstrators in 1992.¹³ The general then himself applied for amnesty before the commission and confessed that he had indeed given the order to fire. He in turn implicated two cabinet-level officials who gave him orders.¹⁴ Evidence of this kind, tracing violence to decisions at the highest governmental levels, is likely to be held only by those who themselves participated in secret conversations, and the adversarial processes of trials are not likely to unearth it. Combining information from amnesty petitions and hearings with victim testimony and independent investigations, the TRC had the chance to develop a much richer array of evidence than the courts would have had in expensive and lengthy criminal prosecutions.

Practical limitations will mar truth commission work just as they prevent actual trials from achieving their ideal. The patterns of secrecy, misinformation, and rumor that accompany oppressive regimes and reigns of terror make the task of finding and reporting the truth daunting if not impossible. Crucial evidence is destroyed. Mass graves do not disclose who performed the murders, much less who gave the orders. Mass atrocities explode the frames of reference usually available for historical investigations. Any report that claims to be comprehensive will be defective precisely on those grounds.

Even if a report is issued with governmental endorsement, the public may not become engaged with it. Many victims and many perpetrators will prefer not to participate, and this will invite charges that the report is unfair or unrepresentative. The commission may take too long to do its work. Or it may work under tight deadlines and simply be unable to meet the challenge of reporting fully on what happened.

Yet the process of testifying before and being heard by the official human rights committee at a truth commission potentially holds independent value for the individual victims and for the nation. This is what makes truth commissions a notable innovation. The process of engaging official listeners in hearing from victims, and broadcasting that process before a listening public, accomplishes some important healing for individuals and for societies. If this goal is taken seriously, truth commissions are not a second best, but an admirable alternative to prosecutions.

The Aspiration of Healing

Putting the affirmative case for truth commissions at least in part in terms of the goal of attending to the trauma of victims and the larger society raises further questions. What does it take to attend effectively to individuals after mass trauma? Are the same methods that offer some help to individuals useful at a societal level, or is it a big mistake to analogize individual trauma to the

difficulties at a national level following mass violence? Are truth commissions equipped either for helping individuals or for helping a nation?

The notion of healing seems foreign to the legal world underpinning prosecutions. Emotional and psychological healing did not figure largely in the national and international responses during the first decades after the Holocaust. Yet healing recurs in contemporary discussions, perhaps reflecting the popularization of psychological ideas over the course of the twentieth century.¹⁵ Another source is the experiences of survivors of atrocities and their family members. From the vantage point of passing decades, survivors and their families and friends often emphasize the need to heal and to learn to live again.

Echoing the assumptions of psychotherapy, as well as religious confession and journalistic muckraking, advocates of truth commissions argue that telling and hearing narratives of violence in the name of truth can promote healing for individuals and for society. Supporters hope that watching and listening to others may help even those victims who do not speak up. A report that overcomes denial and secrecy, it is hoped, will create a platform and framework for the nation to deal with its past. Some support for these assumptions appears in the counterexamples of nations that undertook no deliberate efforts at truth telling and suffered decades and even generations of festering distrust.¹⁶

Whether the process for individual healing matches what an entire nation must undergo is difficult to prove. There do seem to be compelling analogies. Rosenberg finds parallels between truth commissions and the therapeutic process that helps individual victims deal with post-traumatic stress disorders.¹⁷ She notes how, in both contexts, individuals need to tell their stories to someone who listens seriously and who validates them with official acknowledgment. In both settings, individuals must be able to reintegrate the narrative of atrocity into their entire life stories. She adds, "If the whole nation is suffering from post-traumatic stress disorder, this process would be appropriate for the whole nation."¹⁸

On the contrary, some may say that individuals and nations can have too much memory. Perhaps this happens only when it is the wrong kind of memory, when it is superficial, or unincorporated in the tasks of everyday life. Too much memory may result from dwelling in the conflict between competing accounts that cannot be reconciled. "Either the siege at Sarajevo was a deliberate attempt to terrorize and subvert the elected government of an internationally recognized state or it was a legitimate preemptive defense of the Serbs' homeland from Muslim attack." It cannot be both, Ignatieff reminds us.¹⁹ Perhaps the problem is not too much truth but too little; the truth can never be full enough, or sufficiently embracing, to overcome intergroup divisions so deep that members see the world differently.

Or perhaps truth-telling seems unavailing when it attends to a past without affording a bridge to the future. Weschler invoked Merwin's prose poem,

"Unchopping a Tree," as a warning about the limitations of truth commissions.²⁰ In the poem, Merwin examines step-by-step how one would reassemble a tree that has been destroyed so completely that its leaves, branches, and twigs have all come apart. After the painstaking steps to reassemble the tree, part by part, it stands; but the breeze still can touch only dead leaves. Healing is an absurd or even obscene notion for those who have died. Survivors of mass atrocity often feel as though they themselves died, or are living among the dead. Then endurance, not healing, is what survivors come to seek.²¹

Nonetheless, scholars and therapists have explored the dimensions of healing that can emerge for individuals and perhaps for societies, after collective violence.²² Lifton emphasizes that the victims of violence experience trauma that breaks the lifeline and leaves to the survivor the task "of formulation, evolving new inner forms that include the traumatic event."²³ Others recount the effects of chronic fear and unspoken terror on survivors of totalitarian regimes. Hopelessness, emotional breakdowns, and recurrence of traumatic events in the guise of personal problems persist for many individuals who may then turn to psychotherapeutic help.²⁴

Conventional therapeutic methods are inadequate unless they acknowledge the larger contexts of such traumas. Herman develops a theory of trauma and recovery that connects the experiences of Holocaust victims, U.S. soldiers in Vietnam, battered women, child abuse victims, and survivors of rape and incest.²⁵ She finds that the initial injury for such victims follows two stages. First, they relinquish their autonomy, their connections with others, and their moral principles in the face of terror and domination. Second, they lose the will to live.²⁶ Herman argues, "Denial, repression and disassociation operate on a social as well as individual level," and that the fantasies about revenge are aspects of trauma that can be worked through.²⁷

Herman's theory of trauma and recovery connects healing and justice in subtle ways and implies questions to test an innovation like a truth commission. Herman stresses the importance of learning to recover memories and to be able to speak of atrocities in order for individuals to heal. Survivors need to find ways to incorporate the memories of the self "who can lose and be lost to others," and the self who learned firsthand about the capacity for evil, within others and within oneself.²⁸ Through a process of truth-telling, mourning, taking action and fighting back, and reconnecting with others, Herman argues, even individuals who have been severely traumatized by totalitarian control over a prolonged period can recover.²⁹ Political action can assist the recovery of a sense of power and community that are themselves building blocks for healing. Political and legal action can support a healing sense of mission for some survivors, although the direct relationship between a trauma survivor and a therapist remains critical to the recovery process, according to Herman.³⁰

No one should pretend that the process of testifying before a truth commission involves the establishment of trusting relationships called for by the

model of therapy. Pumla Gobodo-Madikizela noted that although the TRC provided assistance to victim-witnesses before and after their testimony, it fell short of full therapeutic services.³¹ The question is whether, nonetheless, the activities of a truth commission can afford some assistance in the complex and arduous healing process. The restorative powers of truth-telling, of being heard by sympathetic listeners and forging a relationship with them, and of establishing potentially affirmative roles for bystanders and perpetrators are key elements of the recovery for trauma survivors. The promise and limitations of truth commissions in the pursuit of healing for individuals and society as well can be framed in terms of these three dimensions.

The Restorative Power of Truth-Telling

"The fundamental premise of the psychotherapeutic work is a belief in the restorative power of truth-telling," reports Herman.³² The same premise undergirds a truth commission that affords opportunities for victims to tell their stories. In both settings, the goal is not exorcism but acknowledgment, and the story of trauma becomes testimony. Know the truth and it will set you free; expose the terrible secrets of a sick society and heal that society. Are these assertions that can be tested, or instead are they articles of professional, cultural, or religious faith? Without answering these questions fully, anecdotal evidence suggests the healing power of speaking about trauma.

Mzykisi Mdidimba told Rosenberg that testifying before the TRC about being tortured at age sixteen "has taken it off my heart." He continued, "When I have told stories of my life before, afterward, I am crying, crying, crying, and felt it was not finished. This time, I know what they've done to me will be among these people and all over the country. I still have some sort of crying, but also joy inside."³³

Therapists who work with refugee survivors of persecution emphasize the significance of testimony both in the private, confessional sense and in the public, juridical sense.³⁴ Mollica explains that the trauma story is transformed as testimony from a telling about shame and humiliation to a portrayal of dignity and virtue; by speaking of trauma, survivors regain lost worlds and lost selves.³⁵ Therapists who work with trauma survivors agree that helping their patients to face rather than forget trauma is crucial to avoid reproducing trauma through emotional disturbance.

A group of Chilean therapists conclude: "We have found that the person or the family needs to recount the traumatic experience in detail, and express the emotions it produced. This permits integration into a coherent history of events that were necessarily disassociated, allowing the person to feel the pain of the losses experienced. It opens up the possibility for grief and mourning, and facilitates the development of a more coherent self-image."³⁶ By

confronting the past, traumatized individuals can learn to discriminate between past, present, and future. When the work of knowing and telling the story comes to an end, the trauma then belongs to the past; the survivor can face the work of building a future.³⁷

The clandestine nature of torture and abuse by repressive governments or insurgent groups compounds the physical pain with disbelief by the community, and at times by victims themselves. Testifying publicly before an official body can transform the seemingly private experience into a public one. Manour Muttetuwegama chaired the Presidential Commission on Disappearance in the southern provinces of Sri Lanka. She reported how eager people were to testify and provide vivid accounts of their tragic experiences.³⁸ Gobodo-Madikizela, a psychologist who served on the Human Rights Committee of the TRC, recounts how one mother testified about her pain of losing a child to torture and then death. She said later that she did not intend to cry before the commission, but nonetheless she did cry. Knowing that the testimony was broadcast, she concluded: "I wanted the world to see my tears." There is pride and strength in seeing oneself as an actor on a world stage, and as one who can educate the world while also exposing personal suffering in a public way. Tears in public will not be the last tears, but knowing that one's tears are *seen* may grant a sense of acknowledgment that makes grief less lonely and terrifying.

Preserving choice about how public to make the testimony is an important feature of respect for victims. Some people may feel exploited by media coverage of their grief. Also, there is often simply not enough time or media for oral hearings and media coverage for every victimized survivor. Many more can participate by offering written statements. More than 22,000 people presented their stories to the TRC, most in statements recorded by statement takers rather than through public hearings.

Speaking with or without a public broadcast to an official inquiry can be affirming if there is a sense of being heard and believed.³⁹ Some individuals may find it helpful to testify even when they personally dislike or refuse a psychological framework for their suffering.⁴⁰ A truth commission could help individuals who testify, and even those who do not, to locate their experiences within the larger setting of political violence. Coming to know that one's suffering is not solely a private experience, best forgotten, but instead an indictment of a social cataclysm, can permit individuals to move beyond trauma, hopelessness, numbness, and preoccupation with loss and injury. Even those who are too afraid or too much in pain to testify can gain some benefit from hearing the testimony of others that may parallel their own experiences. Integrating personal devastation within the larger context of political oppression can be crucial to a therapeutic result. One mother in Chile felt guilty about the death of her young son, who was shot by police after she had let him cross the street to watch television with neighbors. In therapy with professionals committed to acknowledging the context of political terror in Chile, the woman learned that her son was shot as part of mass political repression. The process

helped her attain "an emotional understanding of the fact that the police, and not she, had killed her son."⁴¹

To be healing, the act of narrating an experience of trauma needs to move beyond a plain statement of facts to include also the survivor's emotional and bodily responses and reactions of others who mattered to the individual. For healing to occur, testimony must include the accompanying emotions and work toward reintegration with the individual's values and hopes.⁴² The elements are likely to exceed the time, attention, and expertise of members of a truth commission. Yet unless the commissioners and staff attend to these dimensions, the therapeutic effects for testifying victims will be limited. A truth commission cannot conduct the arduous process of working through trauma with a therapist, but a commission may offer therapeutic moments and afford links to more continuous services and supports.

The Presence of Sympathetic Witnesses

The benefits of truth telling depend in no small measure on the presence of sympathetic witnesses. The speaker who recounts the painful stories then may establish trusting relationships and receive acknowledgment and validation from others.⁴³ Many who came forward to speak before the South African TRC explained how they wanted the commission to witness their pain or the evidence of their lost loved ones.⁴⁴ Are there therapeutic, healing benefits potentially available to individuals who do speak to sympathetic listeners in the official setting of the commission?

One clue emerges from the insights of therapists about the importance of a moral, politically committed stance to the listening that happens even within patient-psychologist relationships. Therapists who work with survivors of traumatic violence have discovered how crucial a moral, sympathetic, and politically attentive stance is to the therapeutic relationship. The therapist should not be merely neutral or focused solely on the subjective sphere.⁴⁵ Thus, therapists working with survivors of political repression have concluded that the "primary challenge to the therapist, in fact, is to maintain the link between psychotherapeutic work and the sociopolitical phenomena in which the symptoms are rooted."⁴⁶ The therapist and the patient need to build a bond of commitment premised on an explicit political, social, and psychological alliance.⁴⁷ Therefore, it is "taken for granted that the patient's disturbance is the result of a traumatic experience inflicted purposefully and criminally for political reasons."⁴⁸

Acknowledgment by others of the victim's moral injuries is a central element of the healing process.⁴⁹ "The therapist is called upon to bear witness to a crime. She must affirm a position of solidarity with the victim."⁵⁰ When survivors speak of their relatives who "died," one psychologist instead emphasizes the fact that they were murdered.⁵¹ Reestablishing a moral framework, in

which wrongs are correctly named and condemned, is crucial to restoring the mental health of survivors.

Similarly, recognizing the indignity of the abuses is vital in order to communicate to the victimized, and to the rest of the nation, that individuals do matter. Although it may not be easily demonstrated that the simple gathering of testimony accomplishes this task, failure to take such steps would most likely convey the message that individuals and their pain do not matter. That indifference would compound the victimization.⁵²

The very establishment and structure of a truth commission that receives testimony from survivors can accomplish some of these goals. The TRC Human Rights Committee hearings, for example, gave victims the chance to tell their stories before sympathetic listeners, and created a public setting devoted to documenting the atrocities and locating individual trauma in the larger political context. Such opportunities can afford chances for individuals to feel heard and respected. By identifying individual suffering as an indictment of the social context rather than treating it as a private experience that should be forgotten, a commission can help an individual survivor make space for new experiences.⁵³ Although a commission cannot create the bond of commitment that exists between therapist and client, it can enable public acknowledgment of the horrors. This acknowledgment, in turn, is a basic precondition before individual survivors can reestablish the capacity to trust other people and to trust the government.

To create such trust, the TRC tried to present its hearings with a tone of caregiving and a sense of safety. This meant departing from the neutral and remote tone of a court. Where courtrooms carry memories of repression and indifference, a truth commission carries the burden of creating an immediate sense of a different, welcoming setting. The Human Rights Committee of the TRC particularly avoided giving chilling reminders to victimized people of the hostility and insensitivity of the courts under apartheid. Its task was to treat those who testified about human rights abuses as persons to be believed, rather than as troublemakers or even people with a burden to prove their stories. In trying to meet this task, the TRC experience offered a stark contrast with adversarial hearings and inquests.⁵⁴

Yet, in order to encourage amnesty applications from perpetrators, the TRC had to appear fair and sufficiently neutral. It helped to separate the amnesty review from the collective testimony of victims and survivors—dividing the commission into distinct teams.

Daily broadcast of the TRC hearings, with a weekly show recapping the sessions, extended the arena of witnesses to hear the testimony of survivors. In one televised session, Singqokwana Ernest Malgas, using a wheelchair because of injuries from torture, tried to describe the techniques of torture he had endured; and he broke down in sobs, which he tried to hide with his hands. Malgas was an ANC veteran who had been imprisoned in Robben Island for fourteen years. During that time, his house had been repeatedly firebombed

and police had burned one of his sons to death with acid.⁵⁵ As Malgas hid behind his hands before the TRC committee, family members and a staff person tried to comfort him and help him recover the ability to speak. Seated across the room was Archbishop Desmond Tutu, chair of the commission. Hearing the man testify and cry, Tutu buried his head in his hands and then bowed, prone, before the table between them. Perhaps he was carefully holding his own horror from view, or seeking to prevent his own sympathetic pain from displacing attention from the testifying victim. In either case, this moment, caught in a television broadcast, exemplified the complex and deep process of acknowledging, bearing witness to, and mourning the atrocities committed under apartheid. It also restored dignity to those whose very being had been so deeply violated. The public process of acknowledgment brought recognition even to stories that were already known by those who testified and those who listened.

Justice Albie Sachs of the South African Constitutional Court noted: "Tutu cries. A judge does not cry."⁵⁶ At the close of his introduction to the final report, Tutu wrote,

It has been a grueling job of work that has taken a physical, mental and psychological toll. We have borne a heavy burden as we have taken onto ourselves the anguish, the awfulness, and the sheer evil of it all. . . . The chief of the section that typed the transcripts of the hearings told me: As you type, you don't know you are crying until you feel and see the tears falling on your hands. . . . Some of us already experienced something of a post traumatic stress and have become more and more aware of just how deeply wounded we have all been; how wounded and broken we all are. . . . We have been called to be wounded healers.⁵⁷

During public hearings, at times the commissioners joined witnesses in singing, or in bowing their heads in prayer. Some observers were put off by the religious tone of many TRC sessions, which often elevated suffering and victimhood and called for confession and common prayer. Many antiapartheid activists believed that they had engaged in a war and had won. Accordingly, the invitation to testify as victims did not fit their sense of themselves or what had happened. Sympathy by listeners can sometimes take a form that does not support those who were victimized. The choice to testify itself must reflect the individual's perception about whether the format that is offered seems supportive and appropriate.

Tasks for Perpetrators and Bystanders

Therapists who work with victims of collective violence emphasize the need for social repair. "Victims need to know that their society as a whole acknowledges what has happened to them."⁵⁸ Such general, social acknowledgment is needed also for bystanders, who often experience guilt in their

avoidance of harm or else participate in ignorance and denial of collective violence.⁵⁹

Sources such as the *New York Times* asserted during the TRC hearings that watching the testimony of victims on television offered white South Africans a therapeutic opportunity. "The hearings are therapeutic not only for the victims. The televised statements of victims and criminals can open the eyes of whites who ignored or justified apartheid's crimes, a crucial ingredient of reconciliation and for creating a democratic culture."⁶⁰ Whether this is true, or instead simply a belief circulating among commentators, remains to be seen.

The fact of the broadcasting on television and radio may enable the audience to share in the process of acknowledgment, mourning, and sympathetic listening. It may also add dimensions of voyeurism, and it is not clear how the televised aspects of the hearings affected viewers or, for that matter, participants. Sometimes people from different quarters see the same thing and empathize with the same witnesses and sometimes they line up with those whose positions most resemble their own. Yet, if the public audience can acknowledge suffering and wrongdoing, televising is valuable. If broadcasts can extend across a nation, at least in those moments they can create a shared experience in a nation of segregated and divergent experiences. The sheer fact that hearings are held and publicized triggers countless discussions and provides points of reference for a nation that widely denied the underlying atrocities. No longer can the denial persist.

Other mechanisms can involve bystanders more directly in the process of creating a shared national narrative. The TRC created the Registry of Reconciliation to enable people to write their reactions even if they were not victims or had no reason to seek amnesty. The flood of comments ("I didn't know . . ." or "I should have done more to help resist . . .") received in an initial wave suggests that the commission's process provided a beacon for bystanders as they reoriented themselves with the new national agenda. The TRC steered the victims toward reconciliation. It officially described the register as a means of granting "members of the public a chance to express their regret in failing to prevent human rights violations and to demonstrate their commitment to reconciliation."⁶¹

The TRC invited members of the business, religious, legal, and media communities to offer submissions for amnesty for their complicity with the apartheid regime, but it obtained minimal responses. No individual members of the judiciary came forward to seek amnesty for acts performed in the apartheid courts, but leading judges as a group signed and submitted a document acknowledging judicial enforcement of apartheid and judicial failures to protect people from torture.⁶² Nonetheless, the commission undertook its own investigation into the role of these sectors. One volume of the TRC's final report summarizes the institutional and special hearings that included inquiries into the roles of businesses and labor, faith communities, legal professionals, the

health sector, and the media both as beneficiaries of and at times enforcers of apartheid. Its explicit goal was to engage representatives of leading institutions in the process of accountability and the process of transition from oppression to democracy.

Perhaps the most crucial acknowledgment of the wrongs must come from perpetrators,⁶³ yet sincere acknowledgment cannot be ordered or forced. The South African legislation did not require those seeking amnesty to show contrition.⁶⁴ Still, the amnesty available to perpetrators on the condition that they testify fully before the TRC about their politically motivated crimes and misconduct elicited confessions, with details, of acts of torture, shooting, and bombings.

Consider the story of General Magnus Malan, army chief and later defense minister. Charged with authorizing an assassination squad that mistakenly killed thirteen women and children in 1987, Malan was the subject of one of the few prosecutions before the completion of the work of the TRC in South Africa. The prosecution grew from nine months of investigation and took nine more months, costing 12 million rand. In 1996, Malan was found not guilty, despite numerous allegations that continued to be made after the trial ended. Then, in 1997, Malan volunteered to speak before the TRC. He expressly did not seek amnesty but instead seemed to want the chance to tell his own story. He acknowledged cross-border raids; he described how he had set up a covert unit to disrupt Soviet-backed liberation movements. He denied giving approval for assassinations or atrocities. He also made clear his opposition to the operation of the TRC itself, as a witch-hunt, but said that he had come forward to take moral responsibility for the orders he had given.⁶⁵

On occasion, those seeking amnesty acknowledge their wrongdoing and seek forgiveness. When General Johan van Merwe confessed that he was the one who had given the order to fire on demonstrators in 1992, he cracked the secrecy and anonymity of the apartheid regime: When he confessed to his order to fire on the demonstrators, he said he was sorry. Tutu said later, "It was an incredible moment. I said we should just keep quiet a bit and put our heads down for a minute."⁶⁶

Other moments for the TRC do not have this quality. A police captain admitted his role in the shooting of thirteen people, and asked the victims' family for forgiveness. Instead, he was met by what a *Times* reporter described as "low grumbling," clarified later as a clear resistance to the notion that amnesty and truth could heal wounds.⁶⁷ Other alleged perpetrators lied to the commission, distorted their actions, responded with arrogance and adversariness, or admitted their crimes in monotones, with no embarrassment.

The healing sought by the TRC did not require apologies or forgiveness. On behalf of bystanders and perpetrators, as well as victims, it sought to reestablish a baseline of right and wrong, to humanize the perpetrators, and to obtain and disclose previously hidden information about what had happened,

who had given orders, and where missing persons had ended up. Commissioner Dumisa Ntsebeza of the TRC explained that victims of apartheid were not only those on the receiving end of gross violations of human rights, but so also were family members who learned of the offenses committed by their loved ones. Even perpetrators had been warped and sometimes broken by their conduct as spies, torturers, and murderers.⁶⁸

Cynthia Ngewu, mother of one of the individuals known as the Guguletu Seven, expressed the vision beautifully: "This thing called reconciliation . . . if I am understanding it correctly . . . if it means the perpetrator, this man who killed Christopher Piet, if it means he becomes human again, this man, so that I, so that all of us, get our humanity back . . . then I agree, then I support it all."⁶⁹ This generosity of vision that extends to perpetrators the hope for healing was a distinctive feature of the TRC.

Yet that generosity does alter the central task of articulating what had been wrong and had never been justifiable. This assertion of moral judgment frames the events in a new national narrative of acknowledgment, accountability, and civic values.⁷⁰

Healing and Reconciling a Nation

How might therapeutic processes work for collectivities? Are truth commission mechanisms, which already fall short of the elements necessary for full therapeutic benefits for individuals, able to promote reconstruction of whole societies? It would be wrong to imagine that the commission by itself could accomplish the reconstruction of societies devastated by violent and hostile divisions. Yet there are promising roles that a commission could play.

A truth commission can cut through myths, rumors, and false pictures of the past even if it cannot erect one picture that will be full and true for all time. The truth commission report on El Salvador confirmed what some suspected, and what others refused to believe, while separating truth from rampant lies and rumors.⁷¹ According to one of its drafters, the report put an end to inflammatory charges and countercharges, overcame denial of terrible truths, and allowed the nation to focus on its future.⁷² Crucial here was the credibility established by the commission through its process and its apparent honesty.⁷³

It remains an open question whether a truth commission can also help to reconcile groups that have been warring or have otherwise engaged in animosities. Reconciliation could mean minimal agreement to coexist and cooperate, or a stronger commitment to forgive and unify. Some want to forgive but lack the basic information about whom to forgive; here, a truth commission may help identify names. A teenaged daughter of a murdered South African activist indicated that she wanted to forgive but did not know who had committed the murder; and then her father's murderers applied for amnesty.⁷⁴ Others do not want to and certainly do not have to forgive perpetrators. Omar, former

South African Minister of Justice, emphasized that "forgiveness [was] a personal matter. However bitterness can only exacerbate tensions in society. By providing victims a platform to tell their stories and know the destiny of their loved ones, one can help to achieve a nation reconciled with its past and at peace with itself."⁷⁵

The TRC was committed to exposing abuses by the liberation forces as well as by apartheid officials and supporters, and perhaps this commitment to the injuries on both sides can support reconciliation over time. Yet the very effort to articulate the moral baseline was bound to treat the crimes of apartheid as worse than the crimes of the ANC or other antiapartheid activists.⁷⁶ Those who abuse government power do something worse than those who resist it, even when each side uses similar, unacceptable means. When former president Frederik W. de Klerk withdrew his cooperation with the TRC, he cited what he perceived to be unequal treatment; he claimed he had been badgered and disbelieved in his testimony while ANC officials who testified about their misconduct had not been probed or seriously questioned.⁷⁷ Some observers objected that the entire TRC operated as a political witch-hunt designed to discredit the former National Party government.⁷⁸

This very dissension, ideally, could be part of the story narrated by a truth commission. An investigatory commission can expose the multiple causes and conditions contributing to genocide and regimes of torture and terror, and distribute blame and responsibility across sectors of society. It need not be a victors' report. Instead, close historical analysis of testimonies and documents can expose the influences of politicians; totalitarian structures; passive bystanders who feel ineffective, disengaged, or panicked; leaders and cultural practices dehumanizing particular groups of individuals; and military and police practices with no accountability to the public.⁷⁹ The issues of justice are unavoidable in the search for truth; the wager of the TRC was that reconciliation can be better reached if the emphasis is on truth, rather than justice.

Although the very trappings of therapy may disturb many who seek justice, a truth commission can clear the air with acknowledgment of the casualties of collective violence and causal chains behind them, especially when crimes have been covered up or officially denied. Thus, tensions between therapeutic goals and aspirations for justice do not demand abandonment of truth commissions.

Many in South Africa proudly embraced the TRC's search for nonviolent responses to violence.⁸⁰ From this vantage point, it is an act of restraint not solely to pursue criminal sanctions, and an act of hope not to strip perpetrators of their political and economic positions. When a democratic process selects a truth commission, a people summon the strength and vision to say to one another: Focus on victims and try to restore their dignity; focus on truth and try to tell it whole. Redefine the victims as the entire society, and redefine justice as accountability. Seek repair, not revenge; reconciliation, not retribution. Honor and attend in public to the process of remembering.

These are bold ambitions.⁸¹ They may be doomed to create such high expectations as to invite disappointment. A report that recounts the process that produced it and makes the testimony available for others to interpret can assist a spirit of open inquiry. The TRC's *Final Report* is exemplary in this respect as it provides both a full account of its own methods and limitations and summaries of its hearings and investigations. By locating its work explicitly as part of the struggle to move from oppression to democracy, a truth commission such as the TRC can model the virtues of openness and fairness to all sides that it hopes to help usher into the society.

Setting open inquiry and reconciliation as goals, a highly visible public process of investigation into past atrocities redirects at least to some degree people's understandable desires for vengeance and recrimination. The democratic origins of the TRC helped to consecrate that redirection through a process of broad participation. A truth commission imposed by the nation's executive or an international body may have more difficulty conveying the messages of reconciliation. It might instead seem merely an insincere or ineffective sop to those who demand some response to the atrocities. No truth commission can accomplish fully the goals of accountability and reparation. Articulating modest goals—such as gathering names and accounts of victims and documenting the scope of killings, torture, and other atrocities—could save truth commissions from generating cycles of high hopes and bitter disappointments.

The TRC's pursuit of restorative justice in South Africa is also in jeopardy if it presages no changes in the material circumstances of those most victimized. Characterized as only one step in the process of reconciliation, the TRC was designed to propose specific reparations and also to assist the development of a society stable enough to pursue land reform, redesign of medical and educational systems, and other reforms to redress the massive economic imbalances in the country. The TRC committee on reparations recommended to the president specific acts requested by the victimized, such as funds for grave-stones, as well as collective reparations in the form of monuments, parks, and schools named for victims and survivors. By the end of 1999, nothing much had happened. The new government had not even bothered to respond to the TRC report, although the government seems generally committed to economic fairness and social reconstruction. The longer term vision of social transformation offers the idea of redemption for suffering. Yet if progress toward this vision is not made, skepticism about the goals of healing and reconciliation will mount in South Africa.⁸²

The Spectrum of Goals

Perhaps, as some say, there are simply two purposes animating societal responses to collective violence: justice and truth.⁸³ Then the question becomes, which of these two purposes should take precedence? One answer

calls for "[a]ll the truth and as much justice as possible",⁸⁴ another would stress punishment for wrongdoing, especially horrific wrongdoing. We should make prosecution a duty under international law to ensure that new regimes do not avoid hard tasks and overstate the obstacles they face, argues Orentlicher.⁸⁵ Yet, only if we acknowledge that prosecutions are slow, partial, and preoccupied with the either/or simplifications of the adversary process can we recognize the independent value of commissions. They can investigate the larger patterns of atrocity and complex lines of responsibility and complicity.

Yet, as this chapter has explored, even to do so captures but a narrow portion of the potential goals for societal responses to collective violence. Truth and justice are not the only objectives, or at least they do not transparently indicate the range of concerns they may come to comprise. After mass violence, a nation or society needs to address at least eight goals:

1. Overcome communal and official denial of the atrocity; gain public acknowledgment.
2. Obtain the facts in an account as full as possible in order to meet victims' need to know, to build a record for history, and to ensure minimal accountability and visibility of perpetrators.
3. Forge the basis for a domestic democratic order that respects and enforces human rights.
4. Promote reconciliation across social divisions; reconstruct the moral and social systems devastated by violence.
5. Promote psychological healing for individuals, groups, victims, bystanders, and offenders.
6. Restore dignity to victims.
7. Punish, exclude, shame, and diminish offenders for their offenses.
8. Accomplish these goals in ways that render them compatible rather than antagonistic with the other goals.

In light of this list, truth commissions are not a second-best alternative to prosecutions, but instead a form better suited to meet many of the goals. Indeed, to better serve the goals of promoting healing for individuals and reconciliation across social divisions, truth commissions would need to diverge even more than they usually do from prosecutions, and offer more extensive therapeutic assistance and relief from threats of prosecution.

When the societal goals include restoring dignity to victims, offering a basis for individual healing, and promoting reconciliation across a divided nation, a truth commission may be as or more powerful than prosecutions. The commission can help set a tone and create public rituals to build a bridge from a terror-filled past to a collective, constructive future. Individuals do and must have their own responses to atrocity, but the institutional framework created by a society can either encourage desires for retribution or instead strengthen capacities for generosity and peace.

It is far from clear that a truth commission can achieve therapeutic and reconciliation goals at the same time that prosecutions proceed. Although South Africa permitted prosecutions of those individuals who did not obtain amnesty from the TRC, all of the practical dimensions of prosecutions could work against the goals of healing, reconciliation, and full truth-telling. Nonetheless, healing from atrocity often is enhanced by an operating justice system that prosecutes and punishes perpetrators so long as it does not also unleash new violence and thirst for revenge.

What prosecutions and truth commissions share, fundamentally, is the effort to cabin and channel through public, legal institutions the understandable and even justifiable desires for revenge by those who have been victimized. Prosecutions and truth commissions lie among an even broader range of potential societal responses to collective violence. A society may respond to past atrocity by opening secret police files, removing prior political and military officials and civil servants from their posts and from pension benefits, publicizing the names of offenders and the names of victims, securing reparations and apologies for victims, developing and making available appropriate therapeutic services for victims, promoting commemorations and imaginative renewal through memorials and the arts, and developing public education programs for children and for adults.

Any evaluation of responses to mass atrocity depends upon the goals sought and the distance between the ideal and the real, as implemented. Today, responses to collective violence actually lurch among rhetorics of history (truth), justice (punishment, compensation, and deterrence), theology (forgiveness), art (commemoration), education (learning lessons), politics (building democracy), and therapy (healing). Each goal is desirable, but each also risks failing to attend to those who were victimized. Bearing witness to their deaths, disabilities, and lost hopes; considering what could help those who survived to return to living; and redressing the dehumanization that both presages and endures after mass violence: each of these aspirations calls for a process that focuses on the voices and lives of real individuals. Resisting the destruction of memory and human dignity, responses to atrocity must invigorate remembrance of what happened and prevent any further dehumanization of the victimized.

The repertoire of societal responses to collective violence must include prosecutions, but also must not be limited to them. Investigatory commissions, most fully developed in the TRC, challenge the assumption that prosecutions are the best form of response. Investigatory commissions open inquiry into the varieties of possible responses and the multiple purposes that they may achieve. Truth commissions emphasize the experiences of those victimized; the development of a detailed historical record; and the priority of healing for victims and entire societies after the devastation to bodies, memories, friendships, and politics caused by collective violence. Whether these are counters or

instead complementary partners to justice, they are worthy of human effort in the continuing struggles against mass atrocities.

Notes

1. I wrote the first version of this essay for this book; a longer version of some of the ideas presented here then appeared in Martha Minow, *Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence* (Boston, 1998). Now I have revised this essay in light of the final report of the South African Truth and Reconciliation Commission.

2. Zbigniew Herbert (trans. John Carpenter and Bogdana Carpenter), *Report from the Besieged City and Other Poems* (New York, 1985), 67.

3. Testimony to South African Truth and Reconciliation Commission Human Rights Committee, quoted in Antjie Krog, *Country of My Skull* (Johannesburg, 1998), 31.

4. Civil trials—typically seeking monetary damages—can accomplish some of the same purposes, although they are pursued by individuals and involve the state apparatus as arbiter and enforcer of international human rights norms. See Kenneth Randall, *Federal Courts and International Human Rights* (Durham, N.C., 1990).

5. Complicating matters is the fact that particular individuals fairly may be viewed as victims, perpetrators, and bystanders. A student watches his parents being harassed by secret police; the student joins protest groups and then is arrested; the student emerges from prison willing to use terrorist tactics against the secret police, and sets off bombs that kill civilians. See the description of Donocan "Faried" Ferhelst, in *Hearts and Minds: The Burden of Truth* (Soundprint Media Center, Washington, D.C., 1997; audiotape, broadcast on National Public Radio).

6. In addition, after World War II and since, some nations have offered monetary reparations to victims and families of victims following governmentally sanctioned violence. Some have also promoted restitution of stolen objects and monetary support for newly democratizing nations. Reparations acknowledge wrongs and present concrete gestures of remedy, even though they inevitably fail to restore lives, hopes, and opportunities destroyed by violence. Yet reparations risk overemphasizing that which can be given a monetary value or the material losses and risk trivializing the human losses.

7. Joan Fitzpatrick, "Nothing But the Truth? Transitional Regimes Confront the Past," review of Naomi Rhot-Arriaza (ed.), *Impunity and Human Rights in International Law and Practice* in *Michigan Journal of International Law* XVI (1996): 720.

8. See Richard Lewis Siegel, "Transitional Justice: How Emerging Democracies Reckon with Former Regimes," review of Neil J. Kritz (ed.), *Transitional Justice: A Decade of Debate and Experience* (Washington, D.C., 1995), *Human Rights Quarterly* XX (1998): 431, 454; Stephan Landsman, "Alternative Responses to Serious Human Rights Abuses—Of Prosecutions and Truth Commissions," paper presented at the Law & Society Annual Meeting (May-June 1997), 4.

9. E.g., Mary Albon, "Truth and Justice: The Delicate Balance—Documentation of Prior Regimes and Individual Rights," in Kritz (ed.), *Transitional Justice*, I, 290;

- Douglas W. Cassell Jr., "International Truth Commissions and Justice," in Kritz (ed.), *Transitional Justice*, I, 326, 333.
10. Carlos Nino, *Radical Evil on Trial* (New Haven, 1995), viii.
 11. See Tina Rosenberg, "A Reporter at Large: Recovering From Apartheid," *New Yorker*, 18 November 1996, 86, 87.
 12. See Truth And Reconciliation Commission, *Final Report* (Cape Town, 29 October 1998), I, chap. 4, par. 6-7.
 13. Suzanne Daley, "Bitter Medicine: Settling for Truth in the Quest for Justice," *New York Times*, 27 October 1996, 1.
 14. Similarly, constructive interaction between trials and the TRC occurred in South Africa. Colonel Eugene de Kock, head of the Vlakplaas police unit, was prosecuted successfully for murder and fraud. He then offered incriminating testimony in the contempt hearing following former president Pieter W. Botha's refusal to respond to subpoenas issued by the TRC. See Suzanne Daley, "Killer Tells of Rewards for Defending Apartheid," *New York Times*, 4 June 1998, 11.
 15. Abraham Lincoln, however, also used the notion of healing for America's Civil War.
 16. Calvin Sims, "A Killer's 'I'm Sorry' Isn't Enough Any More," *New York Times*, 22 February 1998, 3 (Argentina's reconsideration of amnesties in the face of continuing sense that the truth was being covered up).
 17. Tina Rosenberg, *The Haunted Land: Facing Europe's Ghosts after Communism* (New York, 1995), 26.
 18. *Ibid.*, 24.
 19. Michael Ignatieff, "The Elusive Goal of War Trials," *Harper's* (March 1996); reprinted in "Articles of Faith, Index on Censorship," *Harper's* (September/October 1997): 15, 16.
 20. See comments of Lawrence Weschler, quoting William S. Merwin, "Unchopping a Tree," in *The Miner's Pale Children* (New York, 1970), 85-88, in Henry Steiner (ed.), *Truth Commissions: A Comparative Assessment* (Cambridge, Mass., 1997), 15.
 21. Lawrence Langer, Panel on Hearing the Victims (comments at "Searching for Memory and Justice: The Holocaust and Apartheid" conference, Yale University, 8 February 1998).
 22. Eric L. Santner, "History Beyond the Pleasure Principle: Some Thoughts on the Representation of Trauma," in Saul Friedlander (ed.), *Probing the Limits of Representation: Nazism and the "Final Solution"* (Cambridge, Mass., 1992), 143, 147-148, 153-154.
 23. Robert Jay Lifton, *The Broken Connection: On Death and the Continuity of Life* (New York, 1979), 176.
 24. David Becker, Elizabeth Lira, Maria Isabel Castillo, Elana Gomez, and Juana Kovaksys, "Therapy with Victims of Political Oppression in Chile: The Challenge of Social Reparation," in Kritz (ed.), *Transitional Justice*, I, 583, 586; Ervin Staub, "Breaking the Cycle of Violence: Helping Victims of Genocidal Violence Heal," *Journal of Personal and Interpersonal Loss*, I (1996): 191-197.
 25. Judith Herman, *Trauma and Recovery* (New York, 1992).
 26. *Ibid.*, 84-85.
 27. *Ibid.*, 137, 229-231.
 28. *Ibid.*, 93.

29. Ibid., 157.
30. Ibid., 207-211.
31. Ibid., 114 (discussing therapists with Holocaust survivors, Indochinese refugees, and other victims of violence). In addition, a truth commission typically pays insufficient attention to the psychological needs of commission members and others who listen to victims of torture and violence.
32. Ibid., 181.
33. Rosenberg, "Reporter at Large," 92.
34. See Inger Agger and Soren B. Jensen, "Testimony as Ritual and Evidence in Psychotherapy for Political Refugees," *Journal of Traumatic Stress* III (1990), 115-130.
35. Richard Mollica, "The Trauma Story: The Psychiatric Care of Refugee Survivors of Violence and Torture," in Frank Ochberg (ed.), *Post-Traumatic Therapy and Victims of Violence* (New York, 1988), 295, 312.
36. Becker et al., "Therapy with Victims of Political Oppression in Chile," 587.
37. Herman, *Trauma and Recovery*, 195.
38. Steiner, *Truth*, 16.
39. Thomas Buregenthal, one of three commissioners in the United Nations Truth Commission for El Salvador, reported:

Many of the people who came to the Commission to tell what happened to them or to their relatives and friends had not done so before. For some, ten years or more had gone by in silence and pent-up anger. Finally, someone listened to them, and there would be a record of what they had endured. They came by the thousands, still afraid and not a little skeptical, and they talked, many for the first time. One could not listen to them without recognizing that the mere act of telling what had happened was a healing emotional release and that they were more interested in recounting their story and being heard than in retribution. It is as if they felt some shame that they had not dared to speak out before and, now that they had done so, they could go home and focus on the future less encumbered by the past. (Thomas Buergenthal, "The United Nations Truth Commission for El Salvador," in Kritz, *Transitional Justice*, I, 292, 321).

40. See Agger and Jensen, "Testimony as Ritual and Evidence in Psychotherapy for Political Refugees," 124.
41. Becker et al., "Therapy with Victims of Political Oppression in Chile," 588.
42. Herman, *Trauma and Recovery*, 177-179.
43. See remarks of Tina Rosenberg, in Steiner, *Truth*, 215; José Zalaquett, "Balancing Ethical Imperatives and Political Constraints: The Dilemma of New Democracies Confronting Past Human Rights Violations," *Hastings Law Journal* XLIII (1992): 1425, 1437.
44. For example, Joyce Mtimkhulu brought the TRC a handful of the hair of her then-21-year-old son, who had been imprisoned, poisoned, and then murdered by security police officers. "This is Sphiwe's hair. I want the commission to witness what I've brought here today so that they should know the effects of the poison that was used on my son. I thought I would make burial of my son through his hair, but by God's will I didn't, as if I knew I would be here today." Quoted in Mark Gevisser, "The Witnesses," *New York Times Magazine*, 27 June 1997, 32, 34.
45. See Herman, *Trauma and Recovery*, 178-180.

46. Ibid., 586.
47. Ibid., 587.
48. Ibid.
49. Staub, "Breaking the Cycle of Violence," 193-194.
50. Herman, *Trauma and Recovery*, 135.
51. Ibid. (describing Yael Danieli's work with Holocaust survivors).
52. Justice Pius Langa, "Hearing the Victims" (paper presented at "Searching for Memory and Justice: The Holocaust and Apartheid" conference, Yale University 8 February 1998).
53. André du Toit, in Steiner, *Truth*, 28.
54. A written account appears in Mark Gevisser, "The Witnesses," *New York Times Magazine*, 27 June 1997, 32, 34.
55. Comments at "Searching for Memory and Justice: The Holocaust and Apartheid" conference, Yale University. At the same event, Commissioner Dumisa Ntsebeza of the TRC recounted how the widow of Mapetla Mohapi, a man found hanged with a suicide note in an apartheid jail cell in 1977, had demanded an inquest, which yielded inconclusive results. She then sued the government, with no success, at enormous cost to herself. In 1996, she testified before the TRC and afterward reported that, for the first time, she felt she was treated there with belief rather than hostility. She concluded that she no longer needed to know the details about what happened to her husband. If the TRC's investigative unit found out the information, that would be a bonus on top of the benefit that she had already received. See also Ntsebeza, chapter in this volume.
56. TRC, *Final Report*, foreword by chairperson, par. 87, 88, 89.
57. Comments at "Searching for Memory and Justice: The Holocaust and Apartheid" conference.
58. Becker, "Therapy," 589.
59. See Gevisser, "The Witnesses," 38. (De Klerk's view that the commission was biased toward the liberation movement is "emblematic of most white South Africans, who have been shocked by the evidence ['We never knew!'] but have neither taken responsibility nor displayed remorse for acts committed in their name.")
60. Editorial, "The Truth About Steve Biko," *New York Times*, 4 February 1997, A22.
61. This appears on the TRC home page, www.truth.org.za (visited on 19 March 1998).
62. Albie Sachs, comments at "Searching for Memory and Justice: The Holocaust and Apartheid" conference. The TRC *Final Report* acknowledged that the independence of sitting judges might have been jeopardized if they had appeared at the TRC hearings. See *Final Report*, IV, chap. 4, par. 14. See also *Final Report*, IV, chap. 4, par. 5, 46, 47, 48 (rejecting the claim that appearance before the commission would have jeopardized the independence and collegiality of sitting judges and magistrates).
63. Staub, "Breaking the Cycle," 193.
64. Gevisser, "The Witnesses," 32.
65. See Suzanne Daley, "Apartheid-Era Defense Defends Role in Ordering Raids on Neighboring Countries," *New York Times*, 8 May 1997, 16. "I come here to tell you my story and to face your judgment. . . . I shall be content if what I am saying may spur the slightest of understanding of former adversaries. I shall rejoice if my efforts can contribute in the minutest sense toward reconciliation and if all soldiers may obtain

moral amnesty. . . . It is understanding and forgiveness we really seek, not legal pardons."

66. Suzanne Daley, "Bitter Medicine: Settling for Truth in the Quest of Justice," *New York Times*, 27 October 1996, 1.

67. Daley, "Bitter Medicine."

68. Comments at "Searching for Memory and Justice: The Holocaust and Apartheid" conference.

69. Quoted in Krog, *Country of My Skull*, 109.

70. See comments of Zalaquett in Steiner, *Truth*, 29-31.

71. Buergenthal, "The United Nations Truth Commission for El Salvador," 321.

72. *Ibid.*

73. See also *ibid.*, 325:

A nation has to confront its past by acknowledging the wrongs that have been committed in its name before it can successfully embark on the arduous task of cementing the trust between former adversaries and their respective sympathizers, which is a prerequisite for national reconciliation. One cannot hope to achieve this objective by sweeping the truth under the rug of national consciousness, by telling the victims or their next of kin that nothing happened, or by asking them not to tell their particular story. The wounds begin to heal with the telling of the story and the national acknowledgment of its authenticity.

How that story is told is less important than that it be told truthfully. Hence, whether the names of the perpetrators are revealed, whether trials are held, sanctions imposed, compensation awarded, or amnesties granted, these are all considerations that may well depend upon the nature of the conflict, the national character of the country, the political realities, and compromises that produced the end of the conflict. But if the basic truth about the past is suppressed, it will prove very difficult to achieve national reconciliation.

74. Gevisser, "The Witnesses," 38.

75. Dullah Omar, "The South African Truth and Reconciliation Commission" (written text of the address of South African Minister of Justice to "Facing History and Ourselves," Twelfth Annual Human Rights and Justice Conference, Harvard University, 10 April 1997), 22-23.

76. See Gevisser, "The Witnesses," 38.

77. Suzanne Daley, "Divisions Deepen on Apartheid Crimes Inquiry," *New York Times*, 8 June 1997, 6.

78. Daley, "Divisions."

79. See, generally, Erwin Staub, *The Roots of Evil: The Origins of Genocide and Other Group Violence* (Cambridge, 1989). See also particular commission reports, reprinted in Kritz (ed.), *Transitional Justice*, III.

80. Dullah Omar, "The South African Truth and Reconciliation Commission," 22-23: "To the majority of victims, . . . the knowledge and full disclosure of what happened to their loved ones has been extremely relieving and satisfying. Indeed, we have had occasions where victims have embraced perpetrators and clearly indicated a commitment to work for reconciliation."

81. See Elizabeth Kiss, "Moral Ambition within Political Restraints: Reflections on Restorative Justice," in this volume.

82. Albie Sachs, lecture to members of the Harvard Law School community, 17 January 1999. In addition, the TRC's charge to investigate gross violations of human rights may prove too narrow to encompass the degradations and humiliations of the pass system, the relocation of homes, and the oppressive living and working conditions of blacks and coloured persons under apartheid.

83. E.g., Stanley Cohen, "State Crimes of Previous Regimes: Knowledge, Accountability, and the Policing of the Past," *Law & Social Inquiry* XX (1995): 7-50.

84. "State Crimes of Previous Regimes," attributing it to Zalaquett. See Kate Millett, *The Politics of Cruelty: An Essay on the Literature of Political Imprisonment* (New York, 1994).

85. Diane F. Orentlicher, "Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime," *Yale Law Journal* C (1991): 2539.