



Truth, justice and reconciliation in early post-conflict society

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One of the greatest challenges facing a country after civil war is to find a way to peacefully coexist and rebuild with former enemies.

by Marcia Byrom Hartwell

In recent years it has been fashionable to discuss this process in terms of 'truth', 'justice' and 'reconciliation'. However, all these terms are open to subjective interpretation and take on different meanings in each post-conflict situation.¹ Citing the cases of Northern Ireland, Serbia and South Africa, this article explores the relationship between several concepts of truth, justice and reconciliation in the early post-conflict phase.²

Truth as acknowledgement

The desire for public acknowledgement of past events is strong among all groups in post-conflict populations. "Serbs need to know what was done in their name", said a Serb journalist who had witnessed the

Srebrenica massacre.³ For other Serbs it means public recognition for the many who risked much to protest against Milosevic and resist the draft. In a Catholic community in North Belfast, Northern Ireland, it was acknowledgment that "there was a war on" (April 2000) instead of continuing to refer to the last 30 years of conflict as the euphemistic 'Troubles'. This need for telling the truth as perceived by different groups is important for clarifying events and understanding both similarities and differences in the range of experiences during conflict.

The value of a forum for formal versus informal truth-telling has been somewhat misunderstood. While undeniably laudable in ambition and

scope, a major weakness of the 1995 South African Truth and Reconciliation Commission (TRC) was that the government used it to promote a forced reconciliation by dictating how participants should react to revelations. The emotionally charged Human Rights Violations hearings promoted an exclusively Christian view that "invoked notions of confession, forgiveness, sacrifice, redemption and liberation". They "became national rituals of 'reconciliation', forgiveness and truth-telling ... Like all rituals, they were met with a complex mixture of compliance, acceptance, indignation and resistance."⁴

Sometimes tensions are too high and the timing too soon (or too late) for a formal truth commission. In a country

such as the UK, where many unanswered questions continue to exist questioning the extent of state, military and police collusion with Loyalist paramilitaries in Northern Ireland, there is common recognition that a formal truth inquiry could have a devastatingly explosive effect; a 'safer' vehicle for truth has begun to emerge in the form of legal inquiries. One is the ongoing Bloody Sunday Inquiry, a second inquest into an event that took place on Sunday 30 January 1972, when British army soldiers fired on and killed 13 unarmed citizens during a civil rights march in Londonderry/Derry. Another is the continuing inquest into the 1999 car bomb death of solicitor Rosemary Nelson, who received questionable protection by the police despite having long received death threats for defending Catholic Republicans in cases sensitive to the Royal Ulster Constabulary. Both cases have raised as many questions as answers by presentation of the facts.

Serbia has formed a TRC but it is widely believed to be a ploy by President Vojislav Kostunica to satisfy demands for accountability by the international community and at least two members resigned soon after their appointment. Meanwhile, perhaps more 'truth' has continued to be revealed through the Serbian Parliamentary debate on Slobodan Milosevic's extradition procedures, his removal to the Hague and the mixed reactions as his trial unfolds than might be expected to come from a formal commission.

Truth-telling on its own is not a panacea guaranteeing social healing and reconciliation. The real value of post-conflict public truth-telling, both formal and informal, is that it may function as a kind of public forum for acknowledging the almost inexpressibly deep anguish of loss, giving a common platform of dignity and respect for the experience of all.

Justice as fairness

In the aftermath of a violent conflict, there is a strong urge to move on quickly to the business of rebuilding lives. While slow moving formal trials serve a ritualistic purpose in much the same way as formal truth commissions, humans need a faster way to judge fairness of treatment in order to understand and develop their place in the new political, social and economic order. Much recent debate

has focused on the role of retributive justice in high profile war criminal trials but in early post-conflict situations there are two distinct views of justice being served: the external (the international community, including hostile countries) and the internal (the country's inhabitants).

In the case of Serbia, the external view has centred on the extradition and trial of Slobodan Milosevic for war crimes at the Hague. Internally, this action is seen as the price demanded by the international community in its desire to publicly humiliate the man who defied the West and instigated the break up of the former Republic of Yugoslavia. Most anti-Milosevic Serbs feel justice was sufficiently served by throwing him out of office and reforming a new government. Many now feel that it is time to find ways to address the real problems, such as finding a job that will earn a subsistence wage without having to work two or three legitimate jobs, or without being pushed toward the temptations of the black market.

In their quest for showy public trials, the international community may be overlooking the way perceptions of fair treatment shape the human sense of justice. Using past experience and current treatment as a basis for seeking and assessing fairness of future solutions, a number of studies have shown that the way groups perceive they are being treated feeds into a

process of cooperative or resistant behaviour that could strongly impact on a peace process. In other words, people are more willing to cooperate if they feel they have been treated fairly or less willing if they feel the opposite is true.

Some of the greatest post-conflict challenges to the rule of law have emerged in the almost universally controversial act of granting amnesty. The South African TRC amnesty given in exchange for testimony was challenged by the families of murdered Black Consciousness Movement leader Steve Biko and defence lawyer Griffiths Mxenge as denying their right to bring the men's killers to trial.

Reconciliation

In Northern Ireland, where both republican and loyalist paramilitaries contributed to peace by supporting

cease-fires from within the Maze prison, it was understood that amnesties for all political prisoners would be made part of the 1998 Good Friday Agreement. It caused great controversy but there is little doubt that Northern Ireland would not otherwise have been able to continue on the road to a deal that has arguably supported the most lasting promise of peace for Northern Ireland seen this century.

Perhaps, as Susan Jacoby stated in her examination of the relationship between justice and revenge, for justice to be positively received in both private perceptions and public trials requires a "delicate balance between retribution and compassion ... Unrestrained retribution destroys the noblest human hopes along with human bodies; the absence of measured retribution leaves vindictive force in the hands of those who are unable or unwilling to restrain themselves".⁵

Reconciliation, simply stated, can be seen as a fundamental process combining perceptions of truth and justice in a way that allows group and individual identities shaped by war to make a smooth transition to peace. The process of reconciliation strives for a balance between forgiveness and revenge to allow a compromise with which the majority, including security

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forces as well as groups in direct conflict, can live. Or as Alex Boraine, Deputy Chair of the South African TRC, expressed it during a 1999 visit to Northern Ireland: "In Northern Ireland and in South Africa we simply have to learn to live together, otherwise we will continue to kill one another. That is the stark choice. We don't have to like each other but we have to coexist with mutual respect."⁶

Priority concerns of early post-conflict populations tend to be security, quality of life, justice and social issues. Ironically, one of the major internal Serbian post-conflict issues is refugees. Blamed for starting the war in Croatia and Bosnia in the early 1990s and in Kosovo in 1999, Serbia now has an estimated 900,000 Serb refugees (700,000 from Croatia/Bosnia; 200,000 from Kosovo), which

makes it host to one of the largest refugee populations in the region. Milosevic refused to allow refugees to take Yugoslav citizenship, thus denying them jobs and property rights. Recent figures compiled by the European Union's Stability Pact for the Balkans has shown that only 3% of the refugees have a living standard above the average; the remainder survive in the grey economy. Their kiosks selling CDs, clothing and other items proliferate throughout the central areas of Belgrade. In Subotica, a Serbian city on the Hungarian border, refugees are seen as "a problem of social adaptation", not knowing "how to behave ... not used to hearing different language and different kinds of customs".

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A distinction was made between the rural and city refugees, with the urban ones cited as acclimatising more easily, while the rural ones are still living in local refugee camps with no land to till and no other adaptable skills. The issue of repatriation versus local integration is becoming more pronounced. The New Serbia Forum⁷ held in December 2000 (post-Milosevic) stated that "If safe return is not possible for these groups in the foreseeable future, many experts agree that a new

democratic government should promote their permanent settlement in Serbia. This would require additional resources to provide adequate accommodation, welfare assistance, and job creation schemes."

In Northern Ireland, reintegration efforts have been primarily focused on ex-combatant/prisoner paramilitary members. Complaints about use of EU funds to help Republican prisoners and their families at the expense of Protestants has been a sore point for many Protestants who perceive that they are on the losing end of the 1998 Good Friday Agreement. In reality, many residents on both sides of the conflict experienced internal displacement — either

by being burned out or through intimidation by their own or the opposing side — and were forced to move to safer areas within Northern Ireland. Many on both sides left Northern Ireland during the past 30 years, settling in Great Britain, the Republic of Ireland, France and the US; many young Protestants are still leaving.

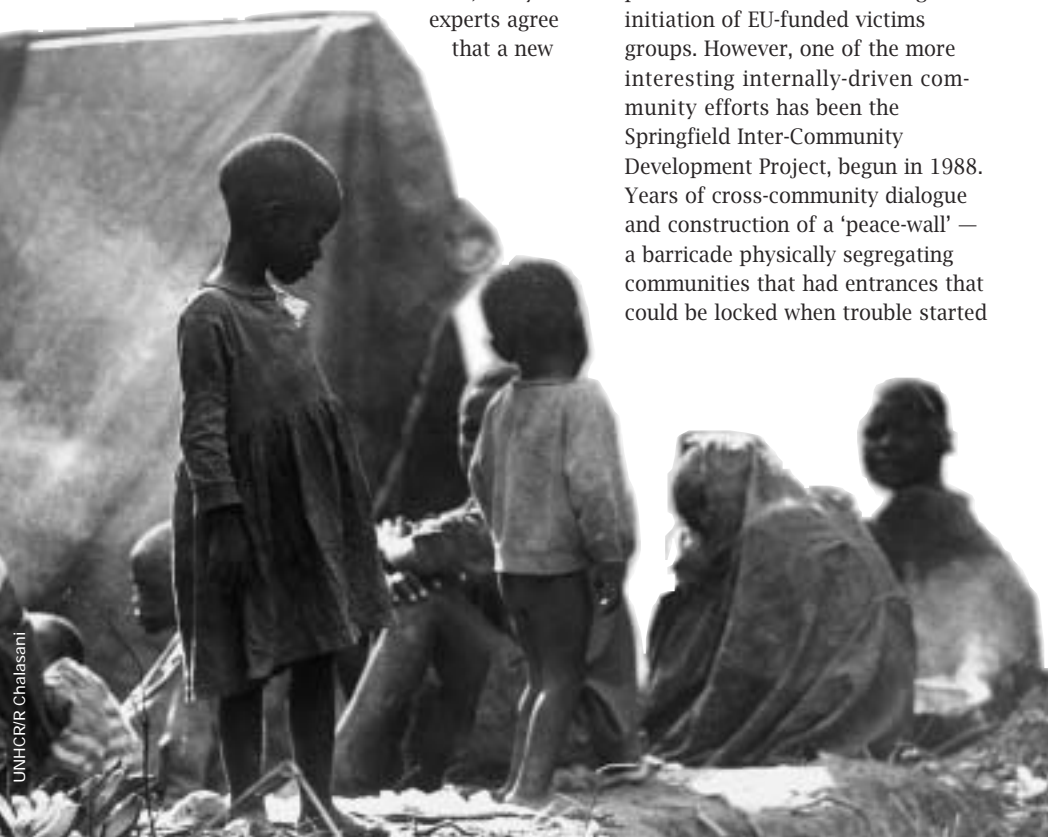
For those who stayed, there have been many recent community efforts to promote reconciliation through initiation of EU-funded victims groups. However, one of the more interesting internally-driven community efforts has been the Springfield Inter-Community Development Project, begun in 1988. Years of cross-community dialogue and construction of a 'peace-wall' — a barricade physically segregating communities that had entrances that could be locked when trouble started

— had failed to de-escalate growing tensions. Community leaders on both sides of the wall decided to create a new project that would give an equal voice and sense of empowerment to all individuals and groups. Creating a project of this nature in the environment prior to the 1994 cease-fires was highly unusual and extremely risky for all participants, requiring approval from community-based paramilitaries on both sides. The project, which is still going strong and is independent both of church affiliation and of external funding, considers itself to be part of an ongoing process of articulating the special economic, political and social needs of interface (borderline) communities.

Each country's culture and individual history of conflict will influence and shape the reconciliation process necessary for a sustained peace. Writing about recovering from genocide in Rwanda, Mahmood Mamdani asks, "Is a form of justice possible that is not at the same time victor's justice? Is a form of reconciliation possible that is not at the same time an absence of justice, and thus an embrace of evil?" His answer is an alternative version that he calls 'survivor's justice' which refers not only to surviving victims "but to all those who continue to be blessed with life in the aftermath of a civil war ... Where beneficiaries [of a dominant group's action] are many [as was the case with South Africa's white population], reconciliation has to be social to be durable, which is the same thing as saying there can be no durable reconciliation without some form of social justice. But where beneficiaries are few [and perpetrators many, as in Rwanda], the key to reconciliation is political ... The prime requirement of political reconciliation is neither criminal justice nor social justice, but political justice. It requires not only shifting the primary focus of reform from individuals to institutions, but also recognizing that the key to institutional reform is the reform of institutions of rule."⁸

Forgiveness and revenge

Finally there is the issue of forgiveness and revenge. These are a legitimate part of a reconciliation process that needs to be based on freedom of choice, not pressured expectation. One of the more relevant



Rwandan refugees in Biaro Camp, Kisangani, Zaire, 1997



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TRC chair Desmond Tutu and committee member Pumla Gobodo-Madikizela at the TRC hearings. This photo and the photo on page 4 are stills taken from *Long Night's Journey into Day*, a documentary on South Africa's Truth and Reconciliation Commission: see www.irisfilms.org/longnight.

descriptions linking forgiveness, revenge and justice has been developed by psychologist Robert Enright. Derived from a series of clinical studies, the first five of a six stage process depicts a 'pseudo' forgiveness — conditional justice headed toward forgiveness but bound by motives of revenge. The sixth stage is defined as genuine forgiveness — and arguably genuine justice because it is given freely without expected reparation. The offended acknowledge that they have been treated unfairly and have no duty to forgive but in a spontaneous act of compassion reach beyond 'a fair solution' to break the cycle of guilt, shame and rage.⁹

'Passive resentment', a condition when feelings between groups are strongly negative but not acted upon, seems to be one of the earliest stages of this process. Interestingly, it appears to go through a transition of its own, changing from an externally directed focus in the earliest days of peace, to a more introspective stance. When asked whether they thought they could forgive, the Serbian response in January 2001 (echoed by others) was: "I can forgive America [for the NATO bombing]. They're a superpower and that's the way superpowers act." (Kosovo Albanians were not mentioned in January and rarely mentioned during an April 2001 visit except to say that "Albanians and Serbs don't get along".) While in Northern Ireland in April 2000 (an especially tense time when the Northern Ireland Assembly had been suspended by London), the same question, posed further along in their peace process, to both Loyalist

Protestant and Republican Catholic working class communities in West Belfast was answered by looking inward, saying yes, they could forgive others in their community for bad treatment and for the coercion/protection by their own paramilitaries.

Conclusion

In the end it may be that the best truth and justice can offer to the process of reconciliation is to try and serve the needs of the majority while preserving the dignity of both perpetrators and victims. The external community needs to remember that peace can never be an assumed condition in a place where there has been war. The greatest contribution to be made by outsiders is to listen, observe and respond to articulated needs of post-conflict populations, rather than to outside assumptions. While the long journey out of the abyss is one that outsiders can support, it is a process that only former enemies can create. The formal and informal role of truth and justice will always be too much for some and too little for others but the internal will and determination to continue in spite of all obstacles appear to be the key to success.

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1. In this context, an early post-conflict society is described as one in which enemy groups have ceased fighting each other in direct combat on the 'ground' and have moved the fight to an institutional forum. Violence is common during this period as the intensity of street-fighting slows, transforming itself into punishment beatings and other forms of intimidation, used to settle old scores.

2. The personal quotes used in this article, unless otherwise cited, are the result of the author's fieldwork in Northern Ireland (1995, 1998-2000) and Serbia (2001).

3. January 2001 conversation in Belgrade.

4. Richard Wilson 'Human Rights, Reconciliation and Revenge', Sussex Development Lecture, 15 Feb 2001 (drawn from forthcoming book 2001 *The Politics of Truth and Reconciliation in South Africa*)

5. Susan Jacoby *Wild Justice: The Evolution of Revenge*, 1985, p335. Wm Collins & Sons & Co Ltd.

6. *All Truth is Bitter: A Report of the Visit of Doctor Alex Boraine, Deputy Chairman of the South African Truth and Reconciliation Commission, to Northern Ireland*, Feb 1999, NIACRO and Victim Support Northern Ireland.

7. The Forum is financed by the British and Swiss governments and administered by the British Association for Central and Eastern Europe.

8. Mahmood Mamdani *When Victims Become Killers: Colonialism, Nativism, and the Genocide in Rwanda*, 2001, p272-3. Princeton University Press.

9. Robert D Enright, Elizabeth A Gassin & Ching-Ru Wu 'Forgiveness: A Developmental View', *Journal Of Moral Education*, 1992, Vol 21, No 2, p104-6.



Websites:

CAIN Web Service (Conflict Archive on the Internet): Northern Ireland
<http://cain.ulst.ac.uk/index.html>

European Union Special Support Programme for Peace and Reconciliation in Northern Ireland & the Border Counties of Ireland: www.eu-peace.org/

New Serbia Forum: www.newserbiaforum.org

Springfield Intercommunity Development Project: www.peacewall.org/