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## **Truth and Reconciliation Commissions: Toward a More Just U.S. Society**

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## **TRUTH AND RECONCILIATION COMMISSIONS: TOWARD A MORE JUST U.S. SOCIETY**

### **Abstract**

Can the practice of Truth and Reconciliation Commissions contribute to a more just U.S. society, and if so, based on what reasoning? First, I briefly describe three examples of assessments on the justice of TRCs: a liberal democracy approach, a human rights approach, and comparison to a trial system approach. Second, I compare these approaches to a nonviolent peacemaking approach. I argue that assessing TRCs primarily with a nonviolent peacemaking approach significantly assists us in addressing key critiques about TRCs, ensures better practices of TRCs, and provides stronger moral warrants for the notion that TRCs would contribute to a more just society in the U.S. A nonviolent peacemaking approach does this work by more adequately illuminating five key elements related to TRCs and the promotion of justice: human dignity, integrative power, willingness to suffer, reconciliation, and the constructive program.

### **Introduction**

Can the practice of truth and reconciliation commissions (TRCs) contribute to a more just U.S. society, and if so, based on what reasoning? Some of the limits of justice as practiced by the U.S. arise in the glaring gap between the rich and the poor, the lack of access to health care, the enormous numbers of people in prison and high recidivism rates, the adversarial trial system, the disproportionate rates of minorities and poor getting the death penalty, the death penalty itself, the use of torture, the disproportionate use of resources by the military, etc.

Truth commissions, as a broader category than truth and reconciliation commissions, generally aim at establishing a public record of human rights abuses over a certain period of time in a particular country or related to a particular conflict (Truth Commissions, n.d.). They hope to resolve or transform conflict from the past and to promote a more sustainable peace and justice. Such commissions often allow victims, their relatives, and perpetrators to have their story heard and to give evidence of human rights abuses within an official public forum. In turn, these commissions submit a final report with conclusions and recommendations (Truth Commissions, n.d.).

Only a few truth commissions have occurred in the U.S., and *none* have been officially developed or even endorsed by the local or national justice system (Truth Commissions, n.d.).<sup>i</sup> For instance, one occurred in North Carolina in 2005 regarding a 1979 local massacre (Greensboro, n.d.),<sup>ii</sup> and another in Ohio in 2006 regarding poverty in the U.S (National Truth 2006).<sup>iii</sup> Some have suggested that the U.S. should implement forms of truth commissions for broad issues like racism (Hammond 2008), sexism, corporatism, militarism, or more focused issues such as U.S. foreign policy in Central America (Perry 1997), torture during the Bush Administration, and the wars in Iraq (Kucinich 2007) and Afghanistan.

Those who support TRCs often regard them as valuable for their capacity to reveal fuller truth than conventional trial courts, for their attentiveness to victims' stories, and for their aim to heal communities. The International Center for Transitional Justice (2008) argues that some truth commissions have accomplished

educating the population at large about crimes previously denied by government and removing the stigma typically inflicted on victims, eased the transition from victimhood to full citizenship for groups struggling with the legacy of abuse and discrimination, spoken truth to power and weakened the role of authoritarian and violent groups whose past power gave them national prominence, and energized government and society to pursue an agenda of institutional reform.

Although some support for TRCs exists in the U.S., they often face criticism for undermining human rights by allowing serious human rights abusers to escape punishment, ignoring the plight of victims, failing to work closely with other justice officials, and failing to ensure structural transformation (International Center 2008).<sup>iv</sup> The International Center for Transitional Justice (2008) argues that some truth commissions have compromised their legacies

by working in isolation from civil society and the victims, failing to work closely with other justice officials, in particular prosecutors and judges, or submitting to the agenda of parties to peace negotiations or those involved in making transitional pacts.

In this paper, I argue that assessing TRCs primarily with a nonviolent peacemaking approach significantly assists us in addressing key critiques about truth and reconciliation commissions, ensuring better practices of truth and reconciliation commissions, and providing stronger moral warrants for the notion that TRCs would contribute to a more just society in the U.S.<sup>v</sup> A nonviolent peacemaking approach does this work by more adequately illuminating five key

elements related to TRCs and the promotion of justice: human dignity, integrative power, willingness to suffer, reconciliation, and the constructive program.

In order to demonstrate my argument, I briefly describe three examples of assessments on the justice of truth and reconciliation commissions: a liberal democracy approach, a human rights approach, and comparison to a trial system approach. Second, I compare these approaches to a nonviolent peacemaking approach.

## **Contemporary Assessments of Truth and Reconciliation Commissions**

Three contemporary assessments of TRCs represent three approaches, which have considerable moral traction in the U.S. regarding a just society: 1) liberal democracy, 2) human rights, and 3) the court system.

### **A Liberal Democratic Assessment**

Amy Gutmann and Dennis Thompson set out to offer criteria for justifying truth commissions from a liberal democratic perspective. They rely on a conception of deliberative democracy,<sup>vi</sup> which entails the fundamental value of reciprocity (2000, pp. 35-36).<sup>vii</sup> They argue that reciprocity meets three key criteria for moral justification. First, reciprocity is a moral principle and offers an alternative form of justice for those who fear the sacrifice of other kinds of justice (pp. 36-37).<sup>viii</sup> Second, it is moral in perspective with provisions for inclusive perspective by allowing for a wide range of disagreement. Under this criterion, they critique Tutu's defense of forgiveness as possibly enhancing the value of granting amnesty, because they claim such a position is not shared by many sincere and reasonable Christians not to mention many other religious and secular understandings that deserve respect. Third, reciprocity is moral in practice by informing a commission to practice an open participatory process of sharing political points of view, which bodes well for a democratic future (pp. 35-42).

Reciprocity also implies the principle of economizing moral disagreement, which calls on citizens to justify their political position by seeking a rationale that minimizes the rejection of the opposing positions, but only with those willing to reciprocate. For example, they argue that a commission economizing in this fashion would not grant blanket amnesty, perhaps by refusing to grant amnesty for the most egregious crimes, while making room for punishment (pp. 38-40). Further, they argue that the aim of reconciliation should be fundamental matters of political morality, such as free speech, press, religion, etc., rather than a comprehensive social harmony, whether psychological or spiritual (pp. 29-33).<sup>ix</sup>

### **A Human Rights Assessment: William O'Neill, S.J.**

O'Neill's analysis of the ethics of social reconciliation from a human rights perspective offers further reasons for TRCs contributing to a more just society. He argues that the testimony in TRCs function as a rights' rhetoric, which first allows us to imagine evil such that our descriptions of killing express the enormity and elicit outrage. This rhetoric reveals the moral claim inscribed upon each face, that is, our status as moral interlocutors (O'Neill 2002).

Second, we remember evil via the hermeneutic role of rights that critically deconstructs the supremacist narrative and reconstructs a legitimating civic narrative (O'Neill 2002). O'Neill argues that human rights ought to be understood as the deep or narrative grammar of public reasoning, rather than as properties of abstract sovereign selves, which often is found in philosophical liberalism. Human rights are the narrative grammar of responding to the suffering and passion of the world. In other words, human rights are restored not simply by punishing perpetrators who violate laws, but more adequately by engaging the suffering and wounds of both victims and perpetrators in the mutual creation of a new civic narrative of respect for the concrete other (O'Neill 2007).

Third, redressing evil as reconciliation of narratives derives from rights discourse in terms of reparation and restitution. The remembering of evil and narrative reconstruction imposes correlative duties such as forbearance, structural protection against further deprivation, and fitting provision that become institutionalized (O'Neill 2002). In valuing and participating in such testimony, we are enabled to see how human rights preserve the conditions of our practical, discursive agency. In other words, the virtue of respect for the concrete other as a practically rational, discursive agent "implies respect for the necessary conditions of her exercising agency" (O'Neill 2007). Hence, such respect implies recognition of right-claims to basic civil-political liberties, *and* to subsistence and basic security. In this frame, public apologies help to constitute a shared memory and "serve as a promissory note of restorative justice" (O'Neill 2002).

A Christian interpretation of social reconciliation offers a justification to the general backing of rights in terms of our creation in the *imago dei*. The disciple imagines evil as the victim's face being "restored to us as an icon of the Crucified;" remembers through the prism of Christ crucified, and thus, in seeing and having compassion the disciple is revealed or proven as a disciple; and the disciple redresses evil in the fullness of agape such that justice bears the mark of love with its impetus to forgive (O'Neill 2002). Agape transcends, yet presupposes the rhetoric of rights. In turn, forgiveness cannot be less than just, so that forgiving must not reinscribe victim-hood (O'Neill 2002).

### **A Comparison with Trial Courts: Martha Minnow**

Minnow explains that justice and truth are often considered the two purposes of social responses to collective violence. Yet, she says the institutions securing accountability, i.e. trial courts, often impede or ignore truth. Sometimes rights are put ahead of truth-seeking, or there is disregard for the complex implications of particular truths beyond the particular defendants (Minnow 1998). In trials, the assumption of individual responsibility is rendered at best problematic when mass atrocities occur. Trial courts are less than ideal because of the difficulty of establishing consensus and a complete historical record about complex events, which often are subsumed in the force of propaganda. Defendants often tell their version trying to avoid prosecution rather than seeking truth. Yet constructively, trials can air issues, create an aura of fairness, establish a public record, and produce some sense of accountability (Minnow 1998).

In contrast, she argues that two major advantages of TRCs are their ability to deal with complex events and the emphasis on the victims. If the goal of healing after mass atrocity is elevated, then TRCs may be a better option. In trials, victims rarely get the chance to tell their stories without

interruption or skepticism. Public acknowledgment of the harms and accounts of what happened seems best suited for truth commissions (Minnow 1998). The vocabularies of healing and restoration are often “foreign to the legal language underpinning prosecutions” (Minnow 2000, p. 241) For instance, emotional and psychological healing held inadequate weight in the debates responding to the Holocaust. This inattention raises the question about how the limitations of the victors’ justice that focused on the Nuremberg trials may be contributing to the ongoing violence in Israel and Palestine (Minnow 1998).<sup>x</sup>

Minnow argues that TRCs also offer the advantages of the restorative power of truth-telling, the presence of sympathetic witnesses, and the constructive roles of perpetrators and bystanders. Truth-telling of one’s humiliation helps put the trauma in the past and face the work of building the future, as the private experience becomes public. In the South African TRC, research has shown that victims list truth, acknowledgement, and accountability as their primary reasons for submitting a statement (Backer 2006, pp. 180-181).<sup>xi</sup> Sympathy helps survivors reestablish their capacity to trust others. In the South African TRC, sympathy was expressed by not cross-examining survivors and in ritual actions, such as when Tutu bowed before a crying man. Bystanders could write responses to the testimonies, while the perpetrators’ opportunity for amnesty elicited confessions and details of hidden violations (Minnow 1998).

In the end, Minnow argues that truth and retributive justice seem too narrow as goals for social responses to collective violence. Thus, she identifies twelve overlapping aspirations. These include overcoming communal denial, transforming human activity from violence, forging a basis for a democratic order, promoting reconciliation across social divisions, restoring dignity to victims, and punishing offenders, etc. From this perspective she suggests that TRCs seem better suited than prosecutions to meet many of the goals (Minnow 1998).

In sum, these authors argue that TRCs contribute to furthering justice in the U.S. due to their contributions to liberal democracy, human rights, and the trial system.

### **A Nonviolent Peacemaking Assessment**

In 2005, a study entitled: “How Freedom is Won: From Civic Resistance to Durable Democracy,” analyzed the 67 countries over the past 33 years that transitioned from an authoritarian or tyrannical system. The study addressed how such transitions occur and assessed the impact various transition forces had on the success or failure of democratic reform. Four specific findings were: 1) “People power” movements matter, because nonviolent civic forces were a major source of pressure for decisive change in 50 of 67 transitions. 2) There is comparatively little positive effect for freedom in “top-down” transitions launched and led by elites. 3) The presence of strong and cohesive nonviolent coalitions is the most important of the factors examined in contributing to freedom. 4) Prospects for freedom are significantly enhanced when the opposition to the old system does not use violence. Thus, the study called for such policies as investing in civic life, coalition building, and nonviolent training (Karatnycky 2005). The U.S. is directly involved with transitional justice in Iraq and Afghanistan, as well as continually striving to cultivate a just and durable democracy at home.

I will now explore the approach of nonviolent peacemaking, particularly

in the tradition of Jesus, Gandhi, Dorothy Day, and Martin Luther King.<sup>xii</sup> I will argue that their nonviolent peacemaking approach, with its virtue-based ethic, more adequately illumines five key elements in how TRCs can cultivate a richer and more sustainable justice in the U.S. I am not arguing that specific practices of nonviolence are always absent from human rights work, liberal democratic governments, or legal/judicial systems. But I am arguing that these three approaches to assessing the value or “justice” of TRCs have important limits, which a nonviolent peacemaking approach overcomes.

## **Human Dignity**

There’s a general consensus in the U.S. that a more just society requires at least a committed appreciation for human dignity, although this may get expressed with different accents.<sup>xiii</sup> A nonviolent peacemaking approach would reinforce and enrich this claim, by sharpening our view on how a just society requires a more serious and deeper attention to the human dignity of all people, including victims, those difficult to care for, and even our so-called enemies.<sup>xiv</sup>

TRCs often attempt to cultivate this type of attention to human dignity. For instance, in South Africa the restoration of human and civic dignity repeatedly arose as the warrant for letting the victim’s tell their stories within a public sphere of acknowledgement. Research on the South African Truth and Reconciliation Commission has shown that victims have pointed to the benefit of “affirming esteem and identity” along with a general satisfaction in their decision to participate (Backer 2006, p. 193). In the TRC, there was also hope that the dehumanized perpetrators might recover their lost humanity. Tutu often referred to the African term *ubuntu* to describe the interconnectedness of all humanity, of our common humanity or equal dignity (Tutu 1999).

A nonviolent peacemaking approach helps illuminate this theme of human dignity, often in a more attentive and deeper way than the three contemporary assessments mentioned above. For instance, “To offer dignity” or *alay dangal* was the term used by many leaders of “people power” in the Philippines. Gandhi and King each understood their nonviolent movements as re-affirming the dignity of the oppressors and oppressed. Gandhi explains that the virtue of nonviolence realizes the good of truth, particularly the truth of us having an equally shared, inextinguishable dignity. Scholar Michael Nagler describes violence in terms of de-humanization, and nonviolence as a humanization, which refuses to humiliate the other or the enemy (Nagler 2005). In accord with Jesus, these thinkers understood that attention to human dignity meant loving your enemies, with the aim of a conciliatory love that moves us toward turning enemies into friends (Haring 1997). Thus, recognizing human dignity from this nonviolent peacemaking approach includes, but is not centered on, respect as in a liberal democratic approach, ensuring human rights as moral agents, and promoting emotional and psychological healing as in Minnow’s approach. Minnow is closest to but does not yet reach the depth and transformational potential of being open to, at times aiming toward, or even forming friendships out of broken relationships as the way of adequately attending to human dignity. Therefore, the nonviolent peacemaking approach more consistently includes victims, those difficult to care for, and our so-called enemies with the aim of conciliatory love or turning them into friends; and offers a more sturdy, i.e. as intrinsic, equally shared, and inextinguishable, assessment of human dignity.<sup>xv</sup> This attention to human dignity often found in TRCs, and

uniquely illuminated by a nonviolent peacemaking approach, will more likely cultivate the kind of people and society in which a justice grounded in human dignity will prosper.

### **Integrative Power**

A nonviolent peacemaking approach more clearly than the other rationales reveals the unique kind of power that TRCs enact and generate. In contrast to the predominant types of power, such as threat or exchange, an alternative type of power has inadequately been imagined and tapped into, particularly within the practices of justice in the U.S.<sup>xvi</sup> This alternative type is integrative power, which means to act most authentically or in accord with one's common humanity by attending to human needs with the sense that the power generated would bring the community closer together in the short or long term.

The shift to a restorative justice model along with the goals of healing and reconciliation proposed by the South African commission recognizes this integrative power that attempts to build a lasting and just community for all people. Tutu spoke of changing the way we describe enemies, beginning to talk to them, imagining them becoming friends, finding ways to accommodate each other's needs, seeking to give all a chance to begin again, and to show there is life after and within conflict (Tutu 1998).

Nonviolent peacemaking illuminates integrative power as it seeks to communicate the truth of one's being, i.e. our inextinguishable dignity, by acting in accord with our common humanity. Nonviolent peacemaking works toward justice by first appealing to the mind with conflict resolution practices and then if necessary, appealing to the heart by a willingness to take on, share in, and expose the suffering in the situation, even unto death. In turn, a person using nonviolent peacemaking refuses to participate in the non-lasting or misleading power born from the logic of humiliation or domination, which often yields or perpetuates unjust relationships, structures, and practices.

Failing to appreciate and sufficiently implement integrative power in our practices of justice perpetuates the adversarial, distrusting, unhealed ways of relating that limit our capacity and willingness to grow into a more just society. Robert Schreiter (1998) argues that the way or spirituality of reconciliation is not built on dominative power, which only returns things to their condition previous to the trauma and violation. Reconciliation takes us to a new place, a new way of seeing, a new way of being in relationship. For instance, the cross was an attempt to exercise dominative power and humiliate Jesus. Yet, by Jesus' willingness to take on and expose the suffering in the situation of injustice, oppression and sin, the symbol of violence and death became the symbol of reconciliation, justice and peace with the experience of his resurrection and commissioning. Thus, such nonviolent sacrifice is refusing the logic of dominative power by transforming power into what nonviolent peacemaking calls integrative power. (Schreiter 1998)

### **Willingness to Suffer**

Corresponding to integrative power, the nonviolent peacemaking approach sheds light on the theme of a willingness to suffer, which often functions in TRCs and contributes to a more just society. In retributive-based, adversarial systems, which are common in the West and the U.S.,

the tendency is to rely on blaming the other, avoiding suffering, and inflicting suffering on the perpetrator, which often deepens wounds and conflict.

In TRCs the perpetrators are called on to willingly experience the discomfort and even suffering of imaginatively entering into the chaos of their victims' experience, along with the possibility of various types of reparation and restitution. In contrast to the adversarial atmosphere of trials, perpetrators receive a more cooperative space for revealing the difficult truth and accepting responsibility. Further, the vulnerability of the victims, who tell their stories, and to a lesser extent the sympathetic witnesses of the community who are willing to suffer with them also illustrate this theme. The witnesses can enter into the suffering through rituals of mourning or fasting, in part as they reflect on their own role, for instance as bystanders, in the wounds that occurred. In turn, self-respect, respect for the other, and even empathy will more likely grow in all actors. This growth contributes to the recognition of human dignity, human rights, respect for law, and thus the general practices of justice.

A nonviolent peacemaking approach more thoroughly envisions and grasps this role of a willingness to suffer in creating justice. Nonviolent peacemakers become vulnerable and take on the suffering in the situation, in part to uplift a deep unity and interconnectedness of all being. Drawing on Gandhi, Nagler calls this the law of suffering (Nagler 2001). This willingness to suffer *rather than* inflict suffering aims toward more fully exposing the wounds of injustice and violence, and thus, toward creating conditions for more thorough and lasting practices of justice.

## **Reconciliation**

The democratic approach centers reconciliation on fundamental matters of political morality. O'Neill's rights approach explores forgiveness and love of the other, but only in the discourse of a religious interpretation. Minnow speaks of reconciliation between social divisions and psychological healing. The nonviolent peacemaking approach expands the scope of reconciliation. This expansion includes 1) an emphasis on working toward friendship, and 2) on sharing in a commissioning to work for justice and to offer one's life for others in this work, without humiliating, violating, and with less, if any, killing of others.

The commissioning aspect is illumined by Schreiter's description of the four moments of reconciliation: 1) accompaniment, 2) hospitality, 3) reconnecting, and 4) commissioning (Schreiter 1998). Nonviolent peace teams speak of *accompaniment* in terms of walking with persons, such as human rights activists, to provide an international and defusing presence. These teams also do good offices such as rumor abatement to create a less tense and more *hospitable* environment. Further, they do witnessing such as modeling nonviolence or reporting abuses to the international community, and thus, *reconnecting* the troubled region to the larger community. Finally, they do interposition or concretely put their bodies in the way of violence hoping to create a new way of seeing the situation as one of the conditions for less violence and more justice. It is here that the nonviolent peacemaker most clearly displays their willingness to die without violating others or self. This type of willingness to die is similar to the way of life Jesus modeled, which generated the *commissioning* of Peter to be strengthened in living a similar kind of life and facing a similar kind of death.<sup>xvii</sup> Therefore, a nonviolent peacemaking approach

contributes to our grasp of this richer notion of reconciliation, which TRCs have the potential to cultivate.

### **Constructive Program**

For this paper, a final theme, but perhaps most important theme, is how TRCs have the potential to embody the constructive program. Gandhi coined this term to refer to social uplift in the community, especially for the marginalized. In India, this included empowering the poor and vulnerable through education, job training, political participation, experiments in community living, farming, simplicity (Nagler 2006),<sup>xviii</sup> the removal of untouchability, and the promotion of Hindu-Muslim unity (Singh 1991). A key ingredient to constructive program was the principle of *swadeshi* or localism, which suggested that work on the local scene would have ripple effects on the wider community and world (Nagler 2006). When struggling with a difficult decision, such as how to promote justice, Gandhi says,

Recall the face of the poorest and weakest person whom you have seen, and ask yourself if the next step you contemplate is going to be of any use to that person. Will that person gain anything by it? Will it restore that person to a control over her or his own life and destiny? In other words, will it lead to freedom for the hungry and spiritually starving millions? Then you will find your doubts and yourself, melting away. (Gandhi 2002, pp. 190-191)

TRCs have participated in the constructive program as far as they contributed to reconstructing a common narrative, healed and rebuilt trust in the community, were an open participatory process, used rights rhetoric to reestablish the rule of law, and made recommendations for reparation and restitution. Research on victims' responses to the South African commission has shown that "85% had favorable impressions about the contributions of the TRC to ensuring that human rights abuses would not happen in the future" (Backer 2006, p. 179).

However, for the South African commission reparations often took a long time, if they happened, or were insufficient since immense socioeconomic inequalities persist (Backer 2006, pp. 189-190). Research has shown that 95% of victims believe that companies, which directly profited from apartheid, should be required to assume compensation costs (Backer 2006, p. 179). The story of Brian Mitchell illustrates how reparations, and thus, the constructive program could have become more realized in the South African commission (Tutu 1998). Mitchell applied for amnesty and asked his victims to consider forgiving him. They responded by offering forgiveness on the condition that he helped reconstruct their damaged community. Thus, he went and faced the community, even with their residue of intense and conflicting feelings. He agreed to help the people return to their land and even heal their rival political parties. Most people were thankful and friendly by the end of the visit. Tutu remarks that perhaps this kind of reparation should have been required as a condition for amnesty. I think Tutu is on to something even if not all perpetrators could return to the community they harmed, they could at least do some serious community work within the country.<sup>xix</sup> If it was focused on the poor and suffering as the constructive program would emphasize, then beyond the tangible work, a deeper work on the perpetrator's conscience becomes all the more likely. Not to mention the deeper work on others who watch or are aware of the perpetrator doing this work. A nonviolent peacemaking approach

based on virtue would be more attuned to and appreciative of this deeper work on the character and conscience. Further, as far as nonviolent peacemaking illuminates the unity of all being as Gandhi taught, it indicates that reparations could be enhanced in TRCs by including practices of ecological care such as organic farming, gardening, cleaning up public areas, recycling, installing solar panels, etc.

A nonviolent peacemaking approach based on virtue also more strongly draws our attention to human development, which is central to Martha Nussbaum's capabilities approach (McCarthy 2009). The central capabilities, corrected for by Lisa Cahill, offer another way of determining adequate reparations in TRCs and enacting the constructive program (Cahill 1996; McCarthy 2009).<sup>xx</sup> Nussbaum refers to bodily health which includes adequate nourishment and shelter; senses, imagination, and thought which include adequate education; and control over one's environment which includes being able to hold property, equal property rights, and the right to seek employment on an equal basis with others (Nussbaum 2000).

In sum, a nonviolent peacemaking approach would highlight the TRCs' constructive program and their contribution to a more just society. The constructive program would also solidify the justification for and offer guidance to determining adequate reparations as a mode of TRCs, and thus, challenge TRCs to address their limits in this area.

## **Conclusions**

I have argued that a nonviolent peacemaking approach more adequately illumines five key elements in how TRCs have and could cultivate a richer and sustainable justice in the U.S.: human dignity, integrative power, willingness to suffer, reconciliation, and the constructive program. Thus, a nonviolent peacemaking approach significantly assists us in sorting through some key arguments about TRCs, ensuring better practices of TRCs, and providing stronger moral warrants for the notion that TRCs would contribute to a more just U.S. society. Further research could focus on the U.S. experience with truth commissions. It should investigate how to establish TRCs, how to make them consistent with U.S. constitutional law, and how to determine their subject matter jurisdiction.

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## Notes

<sup>i</sup> There have been about 35 officially recognized Truth Commissions across the globe since 1974.

<sup>ii</sup> Members of the Ku Klux Klan and the American Nazi Party killed five marchers. The police were surprisingly absent from the scene, which allowed the killers to escape. The Greensboro commission was initiated and implemented by residents in the midst of official opposition from the city council. The commission found that the police knew of these groups' plans to provoke a violent confrontation and the strong potential for violence.

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<sup>iii</sup> There was also a Poverty Truth Commission at Union Theological Seminary, Apr. 13, 2007, <http://www.povertyinitiative.org/PTCapril2007>, Bay Area Poverty Truth Commission at the Graduate Theological Union, Apr. 10, 2008, <http://www.indybay.org/newsitems/2008/04/09/18491813.php>

<sup>iv</sup> The International Center for Transitional Justice argues that some truth commissions have compromised their legacies by working in isolation from civil society and the victims, failing to work closely with other justice officials, in particular prosecutors and judges, or submitting to the agenda of parties to peace negotiations or those involved in making transitional pacts.

<sup>v</sup> By “justice” I mean broadly fidelity to healthy relationship(s), which includes the more specific notions of distributive justice, contributive justice, commutative justice, and social justice as described by David Hollenbach 2002, *The Common Good and Christian Ethics*, Cambridge Univ. Press, NY, NY, pp. 195-196.

<sup>vi</sup> Citizens and officials must justify any demands for collective action by giving reasons that can be accepted by those who are bound by the action.

<sup>vii</sup> Reciprocity asks citizens to justify their views to one another, and to treat with respect those who make good-faith efforts to engage in this mutual enterprise even when they cannot resolve their disagreements. Also calls for establishing social and economic conditions that enable adults to engage with each other as civic equals.

<sup>viii</sup> Reciprocity is understood here as “making a proportionate return for the good received.” It has special force in a democracy, where people must cooperate. The “good received” is that others make their claims on terms that each can accept in principle. The “proportionate return” is that each makes claims on terms that can be accepted in principle by fellow citizens.

<sup>ix</sup> In contrast, Elstain argues that reconciliation is not some harmonizing of beliefs or blurring of controversies as these authors suggest, rather it means “bringing matters into a framework within which conflicts can be adjudicated short of bloodshed and in the name of cooperation and tolerance.” Jean Bethke Elstain 2003, “Politics and Forgiveness” in *Burying the Past: Making Peace and Doing Justice after Civil Conflict*, ed Nigel Biggar, Georgetown Univ. Press, Washington DC, p. 19.

<sup>x</sup> Her three critiques of these trials include: first, retroactivity in that they used norms which were not previously in place; second, politicization in that they were dependent on political actors for their resources, and thus, this undermined impartiality; and third, selectivity in that only a small portion were charged, as some could avoid charges by being associated closely enough to those in power.

<sup>xi</sup> However, many were unimpressed with the amount of truth the South African TRC uncovered about their specific case (Backer 2006).

<sup>xii</sup> I am not suggesting that one must affirm an absolute rule against violence in order to appreciate or be persuaded by this rationale in relation to increasing our use of truth commissions. Rather, I am using nonviolent peacemaking more as a virtue with particular paradigmatic practices, which I think corresponds more adequately to the tradition of peacemakers just named. Thus, those who sense some value in nonviolent peacemaking practices, such as some advocates of limited (just) war theory, or those who at least acknowledge the insights of the freedom house study, may find important reasons in this section for developing truth commissions as a core practice of justice.

<sup>xiii</sup> For example, UN Declaration of Human Rights, Preamble, 1948, <http://un.org/Overview/rights.html>; the U.S. National Security Strategy, 2006. <http://www.whitehouse.gov/nsc/nss/2006/sectionII.html>; Martha Nussbaum 2001, *Women and Human Development: The Capabilities Approach*, Cambridge Univ. Press, Cambridge, NY.

<sup>xiv</sup> The UN doesn’t strictly define human dignity, so various groundings can be given to support it. I understand human dignity as the inherent value arising from being given life by another, along with the capacity to love and be loved, to reason, and to make moral choices.

<sup>xv</sup> Particularly in contrast to those willing to use violence and thus to the U.S. trial system; A nonviolent peacemaking approach illumines how truth commissions create a clearer conceptual space to understand dignity as an intrinsic property, which cannot be diminished or lost, but can be forgotten or ignored, i.e. neglecting our sense for dignity. Our practices can be more or less in accord with our intrinsic dignity or in violation of our intrinsic dignity. Tutu’s description of ubuntu, and King’s sense of liberating the whites from our un-dignified behavior both illustrate this way of thinking. Persons resorting to violence often diminish their sense for dignity by simply a) attempting to deny the intrinsic property of dignity in others, and/or b) the idea of particular practices corresponding with an intrinsic dignity. For instance, in trials, which result in the death penalty, the logic often goes: some actions, like murder, cause us to diminish or even lose our dignity, i.e. a) dignity is not intrinsic; and thus, these actions can mean we lose the right to life that dignity grounds. In turn, this logic implies that these actions are not simply in accord or discord with our intrinsic dignity, but they actually increase or decrease our dignity. So, if I do good acts, or have wealth, or have political power, etc. then this reasoning may argue that my dignity is more valuable than

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others. Part of cultivating a culture of violence or perpetuating the lie of violence is to claim that the notion of neglecting dignity, i.e. forgetting, ignoring, or acting in discord with our dignity, is really equivalent to the losing or absence of dignity itself, i.e. intrinsic dignity. For instance, a perspective congenial to using violence may reason that if one chooses not to sense or recognize another as having dignity then this is the same as the other actually losing or not having dignity, which then removes an important barrier to using violence against the other, e.g. referring to others as monsters, cockroaches, or evil ones.

<sup>xvi</sup> At present, the more common types of power are 1) threat or dominative power, i.e. of exclusion, punishment, arrest, jail, fine, sanctions, mutually assured destruction, war, death, etc., sometimes described as “if you do not do what I want, then I will do something you don’t want,” and 2) economic power, i.e. giving money for a product or labor for a wage, etc., sometimes described as “if you give me something I want then I will give you something you want.” For more information on types of power see Kenneth E. Boulding 1989, *Three Faces of Power*, Sage Publications, Newbury Park, CA. Summary of book at <http://www.beyondintractability.org/booksummary/10062/>.

<sup>xvii</sup> I would suggest that Schreier's four moments create more conceptual space within which peace teams could actually improve their effectiveness by taking them more seriously as guides.

<sup>xviii</sup> For instance, this entailed spinning their own clothes for a sense of self-sufficiency so that they were less dependent on British industry. CP also included the creation of parallel institutions such as national schools and local courts. See B. R. Nanda 1965, *Mahatma Gandhi: A Biography*, Barron's, Woodbury, NY, pp. 121-122.

<sup>xix</sup> Practices of restorative justice such as family group conferencing or peacemaking circles could be methods of creating such an action plan.

<sup>xx</sup> Cahill challenges and extends the contribution of Nussbaum's approach by arguing that the categories of kinship and religion would enhance Nussbaum's list of central capabilities, which appears to reflect a liberal bias. Also, see my dissertation (McCarthy 2009) for further implications of this argument.