

Law, Religion and Reconciliation in Africa



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23 FORGIVENESS OR RESTITUTION?: A CRITIQUE OF A FALSE DICHOTOMY IN AFRICAN INDIGENOUS RELIGIOUS ETHICS OF RECONCILIATION

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INTRODUCTION:

HISTORICAL WRONGDOINGS AND THE CONUNDRUM OF MORAL REPAIR

The seemingly ineradicable manifestations of the scars of historic atrocities and their susceptibility to revisionist interpretations, sometimes bordering on rationalisations, have continued to fuel debates not just about the metaphysical roots of these unsavoury human inclinations, but also about the practical task of fashioning appropriate models of redress. Recent and ongoing racial and ethnic tensions and religiously inspired violence, entailing heightened disparities in basic wellbeing and civil and political rights in many parts of the world, are grim reminders of the urgent necessity to rebuild fractured communities in the wake of large-scale injustice that, in many instances, outstrips our powers of comprehension. For instance, the atrocities and brutal human rights violations associated with the Holocaust, the apartheid policy in South Africa, the Rwanda genocide, and the devastating wars in Sierra Leone, Liberia and Sudan, among others, not only inscribed a new grammar of citizenship into our political and legal lexicon, placing the status of humans qua victims of human rights violations alongside the more familiar categories indexed by nationality, gender, race, religion, and others; they have also led to the constructions of competing models of political repair and of moral and legal redress.

In this chapter, I examine the comparative strengths and weaknesses of two models of redress articulated, respectively, in Archbishop Desmond Tutu's *No Future Without Forgiveness* and the Nobel Laureate Wole Soyinka's *The Burden of Memory, the Muse of Forgiveness*. Both thinkers are household names in Africa and the world community. One is a theologian and the other a literary scholar and critic with unabashed philosophical disposition toward political liberalism. One is South African and the other a Nigerian. Both have witnessed and personally experienced atrocities and human rights violations committed by fellow citizens and by governments. For Tutu, the apartheid system in South Africa served as the laboratory for the manifestation of the scale and depth of evils that humans can unleash on their fellows. Soyinka experienced the same phenomena in his country and other parts of Africa through a succession of military dictatorships, oppressive civilian regimes and protracted civil wars characterised by wanton destruction and brutalities. It was, however, the end of apartheid that provided both men with an

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opportunity to engage each other in a vigorous debate about how societies with the kinds of South African or Rwandan or Nigerian history should deal with their pasts.

While Soyinka espouses a tort model, which focuses on compensations for past wrongs, Tutu defends what can be described as the atonement model, because of its focus on forgiveness and reconciliation. I argue that while both models agree on the process that is necessary for initiating redress, namely truth-telling, they disagree on the desirable outcome of that process and on the moral weight that should be placed on the interests of those implicated in the atrocities to be redressed – victims or perpetrators or both. Before suggesting an alternative redress model that draws on the strengths of their respective approaches while obviating their weaknesses, I compare their common emphasis on truth-telling to another Africa-based process that takes a dim view of epistemic awareness of the details pertaining to bygone atrocities in order to show that no generic model of repair or reconciliation can be ascribed to Africa. Rather, what we find are differing and competing strategies for achieving healing from past social and political wounds. This is hardly surprising, given the legal and moral dilemma fractured societies face about how “to treat the continuing presence of perpetrators, and victims, and bystanders, after the violence has ended.”²

As both Soyinka and Tutu understand it, any society that has been scarred by the kinds of events that require redress has to demonstrate that it is genuinely indignant toward those wrongdoings, while also ensuring that its search for collective healing does not undermine the protection and defence of the equal dignity of all its citizens. Tutu deploys the concept of *Ubuntu* to address these concerns, while Soyinka relies on the Yoruba idea of *omoluabi*.³ Although both thinkers trace their arguments to indigenous African humanistic ideal that understands individual human flourishing as an integral part of the collective good, they differ on the interpretation of this ideal and the regulative norms of redress it furnishes. In his defence of the atonement-inflected interpretation of *Ubuntu*, Tutu argues that any moral remedy a society deploys in the efforts to heal from the wounds of its past must be evaluated by how well it aligns with the complex interests present in that society and by how well it would enable the society to build a viable future.⁴ Tutu extols the *Ubuntu* principle for its inherently egalitarian and optimistic view of human nature, both of the perpetrators and victims of evil alike. Especially in multi-racial South Africa, *Ubuntu* envisions a post-racial or racially neutral template of political relations, one in which citizenship is not predicated upon a parochial cultural foundation. This explains his robust confidence in the moral rectitude of his forgiveness theory captured in his constant admonition to apartheid victims

2 Minow M. 1998. *Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence*. Boston: Beacon Press, 1-2.

3 Soyinka W. 1999. *The Burden of Memory, The Muse of Forgiveness*. New York: Oxford University Press, 23.; Tutu D. 1999. *No Future Without Forgiveness*. New York: Doubleday.

4 Tutu D. 1995. “Address to the First Gathering of the Truth Reconciliation Commission”, 16 December. Online at: <https://www.justice.gov.za/trc/media/trc-media-pr-1995-2000.pdf>

during the Truth and Reconciliation Commission (TRC) hearings that: “if you live with hatred and revenge in your heart, you dehumanise not only yourself, but your community.”⁵

In contrast, Soyinka is less sanguine about human nature, citing continued widespread occurrence of brutalities as evidence of its moral weakness. Thus, he argues that from the perspective of *omoluwabi*,⁶ it is not enough to acknowledge past human rights abuses, it is also necessary to put in place structures and mechanisms that would deter similar acts in the future and promote peace and human rights, which are best assured if violators are punished and victims adequately compensated. Otherwise, using a non-retributive strategy of forgiveness to pursue reconciliation between wrongdoers and victims would be a cheap purchase of political justice presumably informed by Tutu’s belief in the Christian doctrine of grace.

Their differences in redress strategy notwithstanding, Tutu and Soyinka agree on the important task of acknowledging the past to overturn the lies and codes of silence that have enshrouded policies of violence and methods of control. Soyinka acknowledges this procedural agreement between both of them, noting that their respective visions require “a process of baring the truth of one’s history in order to exorcise the past and secure a collective peace of mind, the healing of a bruised racial psychology.”⁷ They further agree that when oppressive regimes combine violence with secrecy, through legislative mandates, strict enforcement and punishment of those who publicly express sympathy with critics and victims of the government, the entire society suffers because of the chilling effects of such policy on the political culture. Thus, the establishment of a new culture of transparency and accountability would inevitably entail a re-reading of the society’s history. For “when the wounds and the rage left by violent oppression are ignored or pasted over, they resurface and cause new unrest.”⁸ But is this process of truth-baring a *sine qua non* for every project of political reconciliation? Would political healing be undermined if it does not include a process by which past atrocities would be exposed?

SOCIAL FORGETTING AND PUBLIC SILENCE AS HEALING STRATEGIES: MOZAMBIQUE AND SIERRA LEONE

What makes reading Soyinka alongside Tutu interesting is that the foundational process presupposed by their competing models of redress and political reconciliation does not enjoy a universal assent even within Africa. In other words,

5 Tepperman JD. 2002. “Truth and Consequences”, *Foreign Affairs* 81:134-135.

6 Literally translated as a thoroughly virtuous person, someone whose core character trait consists in respecting the rights of other people.

7 Soyinka, *The Burden of Memory*, 21. Soyinka does not mean to suggest, by using the term “exorcise”, that it is possible to ritualistically erase the past, but only that the Truth and Reconciliation process has the potential to enable participants get rid of or overcome dangerous emotions.

8 Daye R. 2004. *Political Forgiveness: Lessons from South Africa*. Maryknoll, NY: Orbis Books, 20.

not every African society traumatised by gross human rights abuses considers a collective journey to the past an essential ingredient of its healing process. For instance, as Mozambique and Sierra Leone sought ways to recover from their civil wars (in 1975-1992 and 1991-2002, respectively), both of which were internationally notorious for particular forms of violence,⁹ they adopted techniques of healing and reintegration that were apparently at odds with the prevailing norms for such efforts within the international community. In contrast to the UN-backed and NGO-promoted paradigm of truth-telling – the verbal recounting of personal memories of violence, abuse and torture – modelled after South Africa's TRC, the anthropologist Rosalind Shaw points out in her extensive research in Sierra Leone, that local people and communities pursued healing "through practices of social forgetting."¹⁰ Mozambique's former Prime Minister, Pascoal Mocumbia, described the support a similar strategy of "public silence" enjoyed in his country from "a broad constituency" who believed that time is the best healer of wounds. The key words in both contexts are "social" and "public" in that the locus of agency for the suspension or muting of memory about the horrors and traumas of wars was the society in its organic selfhood, rather than its individual members. More importantly, social *forgetting* or public *silence* had a narrow and limited meaning within the contexts of these communal healing practices. They denoted a moratorium on "explicit verbal recounting" of the war events in the public; however, neither required individual members of society to erase their memories of the events.¹¹

We can surmise two important reasons for the distinction being drawn here between social forgetting or public silence, on the one hand, and the instantiation of this posture at the individual level, on the other. The first reason, which is strategic, would seem to make sense in the sphere of social relations since perpetrators and victims would still continue to live side by side, thus making it unwise to be speaking about the war in public as doing so risks encouraging "its return, calling it forth when it is still very close and might at any moment erupt again,"¹² or as Mozambicans believed, it might even "open the space for the malevolent forces to intervene."¹³ The other reason is moral, a requirement that makes sense when applied to the individual as both a moral agent and a member of society. Here forgetting is more than a prudential device but a test of character, a moral virtue, or as Søren Kierkegaard suggests, an art that can be developed. Forgetting is different

9 The litany of atrocities committed during the war included amputation, mutilations of all kinds, and summary executions of civilians. In addition, women and girls were subjected to rape and forced marriage, and children and youth of both genders were abducted, conscripted, and often compelled to commit acts of killing, mutilation, rape, and abduction.

10 Shaw R. 2005. "Rethinking Truth and Reconciliation Commissions: Lessons from Sierra Leone", *USIP Special Report* 130:9.

11 Shaw, "Rethinking Truth and Reconciliation Commissions", 7.

12 Shaw, "Rethinking Truth and Reconciliation Commissions", 7.

13 Green EC and Honwana A. 1999. "Indigenous Healing of War-Affected Children in Africa", *High Plains Applied Anthropologist* 21(1):95.

from forgetfulness, which is merely an involuntary disappearance of memory. In Kierkegaard's own words:

A person's resilience can really be measured by the power to forget [...] Whether a Lethe flows somewhere I do not know, but what I do know is that this art can be developed. Yet it does not at all consist in the total disappearance of particular impressions; for the art of forgetting is not the same as forgetfulness [...] Forgetting is the shears with which one clips away what one cannot use – though, mind you, under the overall supervision of memory. Forgetting and memory are thus identical, and the skillfully achieved identity is the Archimedean point with which one lifts the whole world.¹⁴

However, the strategic rationale of social forgetting or public silence and the learned and intentional forgetting by society's individual members are not mutually exclusive. Rather, they are conjoined by the common goal to replace a violent history with a lasting social peace. Thus, when individuals summon the inner will to habituate themselves to the interactive ethos of delisting the details of past conflicts and war from subjects of public conversations, they signal to compatriots their belief in the supremacy of the General Will or collective welfare over individual interests or desires.

To aid this reciprocal process of individual and social forgetting aimed at political reconciliation, Sierra Leone and Mozambique devised traditional African rituals for purifying both perpetrators and victims of violence. The target of this healing ceremony in Sierra Leone is the human heart, the seat of emotions pertaining to anger and revenge, which has to be ritually "cooled" as a precondition for the ex-soldier's transformation from a fighter to a civilian. After the ritual, typically performed by the clan head, ex-combatants are tabooed from publicly talking about the war and community members are reciprocally enjoined not to call child or adult ex-combatants "rebels" or other combatant labels, not to ask ex-combatants about their past actions and not to discuss the war in public after rituals of reintegration. Both sides thus chose to "forget" not because they wanted to erase personal memories, but because they wanted to contain them "in a form that would enable them to recover their lives."¹⁵

In Mozambique, traditional healers (*curandeiros*) preside over the purification rituals, which are deemed necessary because of the belief that former soldiers "are vehicles through which the spirits of the war dead might enter and [re]afflict the entire community".¹⁶ Thus, the purpose of the ceremonies for soldiers is to placate the ancestors and other dead members of the community, whose spirits have been

14 Kierkegaard S. 1992. *Either/Or: A Fragment of Life*. Hannay A (trans). London: Penguin Books, 235.

15 Shaw R. 2007. "Memory Fictions: Localizing the Truth and Reconciliation in Sierra Leone", *The International Journal of Transnational Justice* 1:194.

16 Honwana A. 1999. "The Collective Body: Challenging Western Concepts of Trauma and Healing", *Track Two* 8(1):35.

contaminated by war and bloodshed. The purification treatment involves a series of symbolic procedures, such as burning military clothes and bathing the soldiers with water mixed with the leaves of the mulala tree, all of which are aimed at cutting the soldier's links with the past. Like the proscription of public discussion of war after the "cooling the heart" rituals in Sierra Leone, when the Mozambican soldier gets out of the river he cannot look back, as doing so "is believed to open the door to the war spirits, inviting them to come and haunt him. The past, the war, has to flow away with the river."¹⁷

While both societies ritually provide for the necessary re-humanisation of the ex-soldiers, only Mozambique created a separate purification ceremony for community-based reintegration of victims of war atrocities, especially of sexual assaults. Carolyn Nordstrom witnessed one such ritual cleansing involving a rape victim. As she described it, members of the community helped the woman piece together decent clothing to wear on the special day. They told her stories of other atrocities as a reminder that she was not alone, nor responsible for her plight. On the day of the ceremony, food was prepared and musicians brought in. Highlights of the ceremony, which lasted through the night, included a ceremonial bath, accompanied by songs and stories about healing, dressing her in her new clothing and feasting. The women then carried her into the hut, surrounding her and stroking her, and speaking encouraging words of healing and rebirth. They then picked her up, and returned to the crowd, who welcomed her back into the community. According to an account of the ritual, "Throughout the ceremony, the woman was continually reassured with stories of ongoing support; of her need to place responsibility for her plight with war and not her own actions; and of her own responsibility to heal the war's wounds so she does not inflict the violence that she was subjected on others."¹⁸ Most significantly, and in contrast to the South Africa's TRC model, the woman or a similar ritual patient, is not expected to speak, to articulate her trauma, again because of the belief that "recounting and remembering the traumatic past would be like opening the door for the harmful spirits to penetrate the community".¹⁹

What is clear from the preceding discussion is that the ethos of social forgetting or public silence, which both Sierra Leone and Mozambique have embraced and defended as strategies for post-conflict healing and reconciliation, is diametrically opposed to the deliberative process of fact-finding and truth exposure that Soyinka

17 Honwana, "The Collective Body". In fact, there is an amazing similarity in the structure and purpose of the purification rituals in both societies. For example, Sierra Leone's "cooling the heart" ritual is also believed to reverse the work of the combatant groups that had made the child into a fighter, by "restoring the child's relationship with God and the ancestors – and thereby also with the family and community – through prayer, the application of consecrated water, and small offerings." See Shaw, "Memory Fictions", 194.

18 Nordstrom C. 1997. *A Different Kind of War Story*. Philadelphia: University of Pennsylvania Press, 146.

19 Graybill LS. 2004. "Pardon, Punishment, and Amnesia: Three African Post-Conflict Methods", *Third World Quarterly* 25(6):1126.

and Tutu believed is a necessary foundation for any meaningful and lasting efforts to redress past wrongdoing and atrocities. In fact, neither of the two models of redress articulated by Soyinka and Tutu seems to matter to those behind the Sierra Leone and Mozambican experiments. Soyinka's tort model of restitution and Tutu's atonement model of apology and forgiveness are viewed with suspicion because they would inevitably require public airing of past ugly and potentially disruptive details. However, given the dangers of repressing memories of past traumas,²⁰ the efficacy of the practices of social forgetting and public silence as strategies of social and political healing remains highly controversial. There is thus much to commend in the approach that does not recoil at the quest for truth, even if such epistemic voyage entails the inherent risks of eliciting competing proposals for solution. It is to two samples of such proposals that I now turn.

TUTU ON FORGIVENESS AS A THEOLOGICAL AND MORAL IMPERATIVE

Tutu articulated his moral vision in his book, *No Future without Forgiveness*, in which he evaluated the successes and failures of the South African Truth and Reconciliation Commission, which he chaired. He defends the Commission's granting of amnesty to wrongdoers who revealed the truth about their pasts, and he lauds those victims who forgave their abusers. For Tutu, forgiveness is primarily (although not solely) a *personal* act by which one not only overcomes anger and resentment, but also forgoes "a rightful claim against someone who has in some way harmed or offended us."²¹ Drawing on the Christian theory of atonement, forgiveness implies for him "the purification of memory," a situation within which the past no longer has a negative impact on the present.²² Tutu deploys the language of atonement to highlight "how wrongdoing can be an obstacle to ongoing interaction and ... what the perpetrator [and the victim] can do to repair the rupture so that future interaction becomes possible".²³

Atonement is a two-tiered action guide if it is to be effective in purifying memory, that is, preventing memory from being an obstacle to political healing. First, it requires the perpetrator to tender an apology in a manner that demonstrates an acceptance of responsibility and remorse for past atrocities. While Tutu tergiversates on whether apology is all that atonement requires of the perpetrator, other scholars

20 Boscarino JA and Figley CR. 2009. "The Impact of Repression, Hostility, and Post-Traumatic Stress Disorder on All-Cause Mortality: A Prospective 16-Year Follow-up Study", *The Journal of Nervous and Mental Disease* 197(6):461-466.

21 Volf M. 2001. "Forgiveness, Reconciliation, and Justice: A Christian Contribution to a More Peaceful Social Environment", in Helmick R and Peterson R (eds.), *Forgiveness and Reconciliation: Religion, Public Policy, and Conflict Transformation*. Radnor, PA: Templeton Foundation Press, 38.

22 Villa-Vicencio C. 2009. *Walk With Us and Listen: Political Reconciliation in South Africa*. Cape Town: University of Cape Town Press, 2.

23 Murphy JG. 1988. "Forgiveness and Resentment", in Murphy JG and Hampton J (eds.) *Forgiveness and Mercy*. Cambridge: Cambridge University Press, 2.

have argued that apology in the form of words alone is not sufficient for wrongs that rise to the level of atrocities, and that reparations are also needed to demonstrate the sincerity of the apology offered.²⁴ However, whether alone or in combination with reparations, Tutu believes that an appropriate apology triggers the second step of atonement, namely forgiveness, which “arrives on each victim’s desk like a subpoena; it necessitates a response.”²⁵

Tutu’s main interest is in the forgiveness dimension of atonement, making it a basis for his rejection of what he calls the “Nuremberg trial paradigm.”²⁶ He offers both pragmatic and substantive reasons to defend his focus. On the practical side, he expresses the familiar view that if trials were the only means of reckoning with past wrongs, then proponents of apartheid would have thwarted efforts to negotiate a transition to democratic rule. The South African court system, biased as it was on apartheid, would not have reached reliably just verdicts and sentences. In addition, trials are inordinately expensive, time consuming, and labour intensive – diverting valuable resources from such tasks as poverty alleviation and educational reform.

As a normative stance, atonement eschews the infliction of punishment, albeit with certain qualifications, on the ground that (a) punishment is retribution, (b) retribution is vengeance, and (c) vengeance is morally wrong. Moreover, “retribution, resentment and revenge have left us with a world soaked in the blood of far too many of our sisters and brothers.”²⁷ Although Tutu accepts the common distinction between vengeance (a privately administered system of punishment) and retribution (a state-administered, public system of punishment),²⁸ he finds both morally wrong because they involve the intention to inflict harm on a person in response to his prior wrongdoing.

Most important, he ties atonement to the indigenous African humanistic ideal, encapsulated in the concept of *Ubuntu*, to offer a “forward-looking, perpetrator-focused and restorative” solution to both historical wrongdoing and contemporary

24 Brooks RL. 2020. “Framing Redress Discourse”. Presentation to the annual conference of the American Society for Political and Legal Philosophy, on “Reconciliation and Repair: Mending Frayed Civic Bonds”, 25 September 2020, 8.

25 Brooks, “Framing Redress Discourse”, 8.

26 Tutu, *No Future Without Forgiveness*, 19.

27 Tutu D. 2007. “The Doctrine of Revenge”, *The Guardian* (UK), 13 November. Although Tutu is in company with Bishop Joseph Butler and Jeffrie G. Murphy on the conceptualisation of forgiveness as requiring the “forswearing” of resentment, Murphy qualifies his position by offering what seems to be a robust justification of resentment. This is because of a double harm that a willful and wrongful act inflicts on the victim, namely, the injury itself and the implicit statement of superiority that the perpetrator conveys by the conduct. A reactive attitude of resentment by the victim is thus a rejection of this claim of superiority; it is a counter assertion of that person’s self-worth. See Murphy, “Forgiveness and Resentment”.

28 For a helpful discussion of the similarities and differences between these concepts, see Kaufman WR. 2013. *Honor and Revenge: A Theory of Punishment*. New York: Springer, 93-112.

atrocities.²⁹ Although his model of redress prizes forgiveness, reconciliation and harmony over retribution and vengeance, Tutu does not completely jettison trials as political and legal mechanisms for handling wrongdoing, as they can have other aims besides the punishment of offenders, such as vindicating the rights of victims and generating truth (i.e., having offenders confess) about past wrongs. Tutu admits that victims of past wrongs have the right to press criminal charges against and seek restitution from those who abused them. Yet he extols the “magnanimity” of individuals who, like former South African president Nelson Mandela, have not exercised this right but are willing instead to forgive and seek harmony (*Ubuntu*) with their oppressors.

Tutu also endorses the credible threat of punishment, as a social tool to encourage perpetrators to tell the truth about their wrongdoing. The TRC did not grant a blanket amnesty to human rights violators or pardon all those convicted of rights abuses committed during apartheid. Instead, the TRC offered amnesty to *individual* perpetrators *only if* (1) their disclosures were complete and accurate, (2) their violations were politically motivated and (3) their acts of wrongdoing were proportional to the ends that they hoped to achieve. Without such a threat of trial and punishment, the TRC was unlikely to have the number that it did of perpetrators, who came forward to confess gross wrongdoing. Besides offering perpetrators “an opportunity to reclaim [their] moral character and initiate conditions that help repair [their] broken relationship with the victims”,³⁰ Tutu also defers to traditional African jurisprudential understanding of basic fairness to defend the requirements of confession and apology. For example, the Yoruba people have a saying: “*Bi iku yoo pani aa gbo tenu eni; opitan ni nfi itan gba ara a rekale.*” (“If death will kill one, it should listen to what one has to say; he who tells tales may by that means deliver himself. That is, one should not impose punishment before hearing from the offender.”)

Despite this reluctant utilitarian or pragmatic use of punishment for the sake of recognition and as a deterrent, Tutu’s core theological position is that retributive justice generally prevents or impedes reconciliation. Drawing from the moral wisdom of another African proverb from the Yoruba people, Tutu believes: “*Bi a ba ri oku ika nile, ti a fi ese ta a; ika a di meji*” (“If one sees the corpse of a wicked person on the ground and one kicks it, there are then two wicked people.” That is, “if one returns evil for evil, one joins the ranks of the evil”). In Tutu’s words:

We contend that there is another kind of justice, restorative justice, which was characteristic of traditional African jurisprudence. Here the central concern is not retribution or punishment. In the spirit of *ubuntu*, the central concern is the healing of breaches, the redressing of imbalances, the restoration of broken relationships, a seeking to rehabilitate both the victim

29 Murphy C. 2020. “Comments on Brooks”. Presentation to the annual conference of the American Society for Political and Legal Philosophy, on “Reconciliation and Repair: Mending Frayed Civic Bonds”, 25 September, 2.

30 Brooks, “Framing Redress Discourse”, 8.

and the perpetrator, who should be given opportunity to be reintegrated into the community that he has injured by his offense.³¹

He understands the “central concern” of restorative justice as the reconciliation of wrongdoer not only with his victim but also with the society he has harmed with his conduct. The concept of *Ubuntu*, combines the Yoruba ideal of mutual beneficence, the disposition to be kind to others (*inu rere*), with the ideal of solidarity (*isokan*). *Ubuntu* thus prescribes a framework in which all human relationships are understood to be covenant relationships. To so understand human beings involves believing that everyone participates in the moral community by entrusting themselves to and accepting entrustment from each other and that in the moral community each member has enduring responsibility to all the others.³²

Tutu concedes that South Africa must in some way “balance” a plurality of important interests and values – “justice, accountability, stability, peace, and reconciliation.” By contrast, whatever “subverts” or corrodes social harmony “is to be avoided like the plague.” In an important sense, *Ubuntu*, for Tutu, requires a prudent balancing of interests among members of the political community, and he furnishes a conception of forgiveness that is not only therapeutic, but also political, and which “emerges as an aspect of the common good, the good-for-we and not only the good-for-me”.³³ Thus, it is not just the victims of the South African apartheid system who are capable of a morally transformed perspective, but also those whose many evil acts aided and abetted the system; for Tutu was convinced that a flickering ember of remorse in the latter could be nurtured into a flame of reconciliation. As he says, “we all have the capacity to become saints.”³⁴ Yet, it is this Tutu’s belief in virtue egalitarianism that limits the practical efficacy of his atonement and forgiveness theory, because it presupposes an understanding of wrongdoing that is primarily interpersonal or interactive, whereas the kinds of injuries to which victims of political atrocities are often subjected tend to be structural and institutional, consisting in “radical denial of moral standing or in relentless enforcement of degraded moral status of individuals” by systemic conditions that persist over extended periods of time.³⁵ Political atrocities alienate their victims from their political societies by disabling them from seeing themselves as self-realising agents capable of creating a home in the world.³⁶ Thus, without

31 Tutu, *No Future Without Forgiveness*, 54-55.

32 Allen JL. 1984. *Love and Conflict: A Covenantal Model of Christian Ethics*. Nashville, TN: Abingdon Press, 17.

33 O’Connor J. 2002. “Fostering Forgiveness in the Public Square: How Realistic a Goal?” *Journal of the Society of Christian Ethics* 22:169.

34 Quoted in Beresford D. 1997. “Fisher of Men, Seeker of Truth”, *Mail & Guardian* (South Africa), 9 December.

35 Walker MU. 2006. “Restorative Justice and Reparations.” *Journal of Social Philosophy* 37(23):380.

36 See Lu C. 2023. “Reconciliation as Non-Alienation: The Politics of Being at Home in the World”, in Schwartzberg M and Beerbohm E (eds) *Reconciliation and Repair, Nomos LXXV*. New York: New York University Press, 7-41.

overhauling those systemic conditions and the institutions that legitimate them, urging forgiveness seems like a bait to seduce victims to capitulate to their own subordination and oppression a second time.

SOYINKA ON RESTITUTION AS A BASIS FOR RECONCILIATION

Soyinka's reflections on the promise and perils of forgiveness as a mode of intervening in post-violence and post-atrocity situations are most clearly articulated in his book, *The Burden of Memory, the Muse of Forgiveness*. Soyinka assigns a prominent role to memory as such societies endeavor to rebuild themselves, seeing it as both a foundation and a tool that can foster a shared future for peoples divided by cultures, races and other constructed identity markers. As he sees it, a people who do not preserve their memory risk forfeiting their history.³⁷ In the same vein, Soyinka contends that some memories are better than others. The homage that memory pays to the past must be of the right kind, a test that he thinks the TRC failed woefully.

In light of the country's historical baggage, Soyinka asks, "Is reconciliation between the oppressed and the oppressor even possible?" He considers three possible options for initiating a process of "purgation of the past, the creation of a new sense of being [...] after the collapse of a discredited and criminal" regime.³⁸ The first is the "mob justice" model as demonstrated in Ghana by Flight Lieutenant Jerry Rawlings between 1979 and 1981 when he took over the government of the country in a military coup. The 15-member Armed Forces Revolutionary Council (AFRC), primarily composed of junior officers, which Rawlings inaugurated, executed by firing squad 8 senior military officers, 3 former heads of state, all Supreme Court justices, other mid-level military officers, and over 300 other Ghanaians. Rawlings invoked the language of "house-cleaning" to justify his actions. Many Ghanaians agreed with him, for the former system had been irreparably corrupt and oppressive. A Catholic priest commented in the Ghanaian *Catholic Standard*: "This revolution is not a wedding party – this is the time to literally baptise the whole nation [...] We do not love those executed less, but we love our country more [...] Of course, the executions are not the only solution, but they certainly form part of the solution."³⁹ A medical doctor echoed a similar sentiment in *West Africa* (London, July 2, 1979): "Ghana's only cleansing lotion is the blood of those who so badly let her down through selfishness and corruption [...] To remove the grime and ingrained dirt, the AFRC has to go a great deal further."⁴⁰

Soyinka rejected this approach. As he says, "History teaches us to beware of the excitation of the liberated and the injustices that often accompany their righteous

³⁷ Soyinka, *The Burden of Memory*, 58.

³⁸ Soyinka, *The Burden of Memory*, 19.

³⁹ *Catholic Standard*, 29 July 1979.

⁴⁰ *Catholic Standard*, 29 July 1979.

thirst for justice.”⁴¹ Contrary to its desired objective, a hasty and mob approach to justice unfortunately disregards the healing potential of historical memory, which is its insistence on allowing all the parties to wrongdoings – perpetrators and victims alike – to revisit the details of past breaches and injuries in their common quest to create a legitimate and more just society. Most importantly, Soyinka rejects the mob justice approach, because he believes it violates the moral argument for proportionality for punishment of crimes as contained in the Yoruba proverb that “*ori bibe ko ni oogun efori*,” that is, “cutting off the head is not the medicine for headache.”

For the same reason, and on three main grounds, he rejects the other extreme that he believes was modelled by the South Africa’s TRC-based forgiveness. His first concern is that the TRC did not make genuine expression of remorse a condition of forgiveness. Soyinka argues that truth-telling is insufficient as “the sole exaction or condition for reconciliation.”⁴² Missing is “remorse and, thus repentance” which, though “too nebulous to assess,” would help to show that participants in the discredited regime have experienced some “sense of credible transformation.”⁴³ What the world saw at the TRC instead, Soyinka complained, was a “risk-free parade of villains, calmly – and occasionally with ill-conceived relish – recounting their roles in kidnappings, tortures, murders, and mutilation, at the end of which absolution is granted without penalty or forfeit,” which is nothing but “a glorification of impunity.”^{44,45} While Soyinka’s observation about the arrogant

41 Soyinka, *The Burden of Memory*, 16.

42 Soyinka, *The Burden of Memory*, 12-13.

43 Soyinka, *The Burden of Memory*, 35.

44 Soyinka, *The Burden of Memory*, 29.

45 Interestingly, Soyinka was not alone in requiring a wrongdoer to pay a high moral price as a precondition for forgiveness. Jeffrie G. Murphy similarly argues that the victim of willful wrongdoing may only forgive perpetrator if: (1) he repented or had a change of heart, or (2) he meant well (his motives were good, or (3) he has suffered enough, or (4) he has undergone humiliation (perhaps some ritual humiliation, e.g., apology ritual of “I beg forgiveness”), or (5) for old times’ sake (e.g., “He has been a good and loyal friend to me in the past.”). See Murphy, “Forgiveness and Resentment”, 24. Similarly, Alex Boraine, the Vice-Chairman of the TRC, registered his objection to blanket amnesty for South Africa, fearing it would be misconstrued as an enshrinement of impunity whose ills may be worse than the evil the society was trying to correct. According to him, impunity threatens belief in a democratic society; confuses and creates ambiguous social, moral, and psychological limits; institutionalizes and defends lies and denials by the laws of the country; tempts people to take laws into their own hands; invalidates and denies what has happened and thereby limits the possibility of effective communication between fellow citizens; strengthens powerlessness, guilt, and shame; and most significantly, affects belief in the future and may leave a historical “no man’s land” in which there is both an official and unofficial version of events – something that may give rise to historical stagnation, limiting the possibility of moving ahead and creating a common just society. Cited in Ntsebeza D. 2000. “The Uses of Truth Commissions: Lessons for the World”, in Rotberg RI and Thompson D (eds). *Truth v. Justice: The Morality of Truth Commissions*. Princeton: Princeton University Press, 164-65.

countenance of the witnesses at the TRC is undoubtedly accurate, it has been objected that the Truth Commission's value should be measured in "whether it successfully delegitimated the conduct of the criminals, not whether it reformed them."⁴⁶

Soyinka's second concern about the TRC-based forgiveness is that it is unlikely to have any deterrent effect on other despotic regimes in Africa. As a leading member of African Union (AU), Soyinka contends that South Africa cannot be cavalier about the signals it sends to the rest of the continent about the rule of law. Neither need the country imitate the method adopted by Ghana's Rawlings to demonstrate its seriousness about deterrence. In fact, the two examples cited by Soyinka to illustrate the constitutive relationship between criminal proceedings and the rule of law – the trial of Malawi's former President-for-Life Hastings Banda and the other that of Ethiopian former leader Mariam Mengistu – did not involve capital punishment. Although neither trial produced the outcome sought by the Prosecution – the former was acquitted while the latter's trial was conducted *in absentia* – the proceedings did contribute significantly to the institutionalisation of the rule of law on the continent. For the citizens of Malawi, "the process of reducing the once all-powerful controller of freedom and restraint, of life and death, to an egalitarian uncertainty with his erstwhile victims, is a model of social restitution whose validity cannot be contested."⁴⁷ Similarly, Mengistu's trial "goes beyond mere rites of vengeance; it is a process of vindication – vindication of the prolonged agony (and implicit resistant will) of society, whose end-product is restoration of its violated integrity."⁴⁸

The seemingly easy conditions for obtaining amnesty through the TRC lacked this ingredient of moral vindication, according to Soyinka, and in this respect, his argument tracks Michael Walzer's conditional defence of reprisals in the context of war. Although the law of war ordinarily takes a dim view of reprisal or retaliatory attack, Walzer permits an exception in what he calls situations of moral horror when the victim state or a third party might resort to reprisal as "a right of deterrence" to reestablish or re-enforce norms of good conduct. The use of reprisal is narrowly tailored, its zone of moral permissibility highly circumscribed; and as Walzer construes it, reprisals function as "a reactive deterrence" to vindicate "the war *convention*" and reaffirm the value of lives the convention is designed to protect.⁴⁹ In post-conflict, peacetime situations such as the TRC period, Soyinka believes that a punitive price of some kind ought to be imposed on those found guilty through a proper judicial process of adjudication. Such a process, he further argues, would serve as an expressive ritual of moral statement about the limits of acceptable

46 Boyle EH. 2000. "Gesture Without Motion? Poetry and Politics in Africa", *Human Rights Review* 2(1):136.

47 Soyinka, *The Burden of Memory*, 29.

48 Soyinka, *The Burden of Memory*, 30-31.

49 Walzer M. 1977. *Just and Unjust Wars: A Moral Argument with Historical Illustrations*. Fourth Edition. New York: Basic Books, 212, 215.

behaviour, about how much the country values the lives of the apartheid's victims, and about the country's commitment to the new political and legal dispensation.

This, then, raises the question about the kind of punishment that Soyinka considers appropriately deterrent. If remorse and repentance are the necessary moral ingredients of any post-atrocities healing strategy, the other leg on which such a strategy ought to stand is "some measure of restitution", especially in a context where the persistent denigration and dehumanisation to which the country's official policy subjected its black population took the forms of both physical violence and "dispossession".⁵⁰ Reparations are the moral minimum that can be rightly exacted on the benefactors of the old system, serving the dual purpose of proving the credibility of the new order and a corrective for the exclusionist policy of the past. Of course, this does not suggest that the victims' dignity can be evaluated quantitatively with a price tag, but a reparations policy signals an acknowledgment of the principle that the society owes a debt, at once a moral and material debt, not the fine points of how much is owed.

Following this logic, Soyinka argues that the debt is owed not just to the black people of South Africa, but to the entire people of African continent, whose *race* was the singular factor the outsiders stigmatised to subject them to the triple humiliations of slavery, colonialism, and apartheid. Slavery, colonialism, and apartheid made Africans not only "the victim race," but also "victims of devaluation" and of "psychological humiliation," subjecting their humanity to a "denial of the freedom of action, [...] of choice" and to "bondage [both] of the body [and] of the human will".⁵¹ In short, what distinguishes Soyinka's model of redress is that it is backward-looking, victim-focused and views reparations or restitutions as compensation for demonstrable historical atrocities and injuries. Although there are moral dimensions to his argument, his confidence seems to lie in the legal arena because of its presumed impartiality in dispensing justice. But if Soyinka is critical of Tutu for exaggerating the moral power of human nature to forgive, he, too, can be charged for overrating the power of law to escape its rabid politicisation and corruption by those charged with the responsibility to administer it.

CONCLUSION: INTERFACING TUTU AND SOYINKA

In this article, I have tried to show that Wole Soyinka and Archbishop Desmond Tutu represent two different, yet complementary, approaches to the task of moral healing and political reconstruction of societies emerging from the crucibles of wilful atrocities and oppression unleashed on citizens by fellow compatriots often with, though not always, the connivance of the government. They espouse competing visions of social cooperation, with Tutu prescribing an atonement-inflected model of nonlethal coexistence, and Soyinka that of tort model of democratic reciprocity, for such societies. As a paradigmatic embodiment of reconciliation, citizens coexist

⁵⁰ Soyinka, *The Burden of Memory*, 36.

⁵¹ Soyinka, *The Burden of Memory*, 70.

nonlethally when they no longer use their inevitable disagreements as a pretext to kill each other or routinely violate each other's basic rights. This, for Tutu, is the practical realisation of *Ubuntu*. However, he seems to have placed a disproportional burden for its achievement in the context of South Africa on the victims of a discredited regime who must abandon retribution as a dispositional sign of their commitment to forgiveness.

Thus, a vision of nonlethal coexistence predicated on a one-sided moral performance of forgiveness seems too thin a foundation of social change, especially when the vision has to be enacted in a political domain beyond the more intimate context of interpersonal relations. Tutu's optimism rests on the humanizing philosophy of *Ubuntu*, at the heart of which is a determination to redefine and recalibrate the power relations between two or more previously antagonistic parties, replacing a former status of political inferiority to which the oppressed were subjected with a higher moral status as the frontline agents of a reconciled citizenry. Rather than lament the absence of remorse from the oppressors as a precondition for extending forgiveness to them, *Ubuntu* shifts our intellectual gaze upon them as people truly in need of compassion that their victims are the only ones qualified to provide.

Like forgiveness, compassion or empathy rejects seeing the perpetrators as monsters, as outside the pale of humanity;⁵² rather, it recognises the other person as human, and therefore as worthy of compassion. However, compassion has none of the strings that attach to forgiveness. Even the most despicable human being may be worthy of compassion simply because he or she is a human being. One can feel compassion toward a murderer without betraying the victim. Far from identifying with him, we feel compassion precisely because we would never want to be in his place. It is this disposition that Tutu hopes would eventually pave the way for the renewal of human and political relationship.

In contrast to the *modus vivendi* of passive tolerance suggested by nonlethal coexistence, Soyinka envisions a more demanding model of social cooperation and reconciliation, which is democratic reciprocity. The model places the burden of remaking the society on everyone by requiring former enemies or former perpetrators, victims and bystanders to accept a common framework of social interaction and political relationships superintended by an impartial rule of law. Democratic reciprocity is intentionally egalitarian in its expectation of, and belief in, the citizens' capacity to exercise moral agency, which former victims do by extending forgiveness and former perpetrators through compensatory atonement. In effect, both sides demonstrate appropriate gestures toward their newly reconstituted society by affirming and respecting each other's dignity.

To be sure, many sub-Saharan African countries that are still divided would be justified to be sceptical of the ideal of democratic reciprocity as unrealistic and unattainable. However, it has much to commend it because of the equal respect

52 Empathy is the term Donald W. Shriver Jr. used to make essentially the same point. See Shriver DW (Jr). 1995. *An Ethic for Forgiveness: Forgiveness in Politics*. New York: Oxford University Press.

it accords to the interests of each individual citizen in the imagined new political society. Unlike the forgiveness-driven vision of nonlethal coexistence that assigns lexical priority to collective social harmony over ethical fairness, Soyinka's vision strives for an equilibrium between the moral worth of constitutional democracy and the political obligation and entitlements of all its citizens. Indeed, any reconciliation project should also seek to achieve this kind of delicate balance.