Chapter 9

A Theory of National Reconciliation: Some Insights from Africa

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Unifying Judgments about Reconciliation

In this chapter, I consider how best to construe the essential nature of an attractive sort of national reconciliation. Supposing that national, or political, reconciliation is something to be sought consequent to a period of intense social conflict, what are its necessary and sufficient conditions, or at least its salient recurrent properties, and how do they account for a variety of widely and firmly held views about the subject? An answer to this question is a theory of national reconciliation, something I aim to articulate and defend here.

In advancing a theory of *national reconciliation*, I focus strictly on that concept, considering related ideals such as restorative justice and transitional justice merely in passing. In addition, I am not out to capture just anything that might be fairly called "national reconciliation," but rather a desirable instance of it, one that particularly merits pursuit. Still more, I am interested in what a good form of national reconciliation is, not what is likely to bring it about or how it can be done so permissibly; my question is strictly about what constitutes national reconciliation, though I will address other issues when necessary to answer it.

In seeking a *theory* of national reconciliation, I do not spend much time reflecting on imprecise definitions of it that one commonly finds in the literature. For instance, I pass over, or rather intend to surpass, not only vague, first-pass definitions, such as that national reconciliation is a matter of "rebuilding damaged relationships," "establishing improved relationships," or "achieving stable peace," but also metaphorical characterizations about coming to "share the same symbolic and political space" (Moosa 2000: 119), to "build bridges" (de Gruchy 2002: 184), or to "renew damaged social capital" (Huyse 2008b: 188; Quinn 2009: 183). In addition, taking a theoretical approach to the topic means considering neither one or two examples of it in detail, which already pepper the literature, nor one or two piecemeal facets of it, say, insofar as it bears on forgiveness (Helmick and Petersen 2001), apology (Barkan and Karn 2006), or acknowledgment (Govier 2009b).

In contrast, my aim in this chapter is to be clear and comprehensive; I propose a basic principle capturing the "underlying structure" of an attractive sort of national reconciliation that entails and plausibly explains a wide array of disparate judgments about the subject. Such a theory would provide specific and systematic guidance about the myriad things that states, institutions and individuals should aim for when seeking to promote national reconciliation, and it would, one hopes, provide strong evidence that the category of reconciliation is a useful one for normative and descriptive analyses, and is not merely "little more than a buzzword, an amenable but loose framework for different contents, depending on the user … " (Hermann 2004: 41).

There are extant theories of national reconciliation in the literature, most of are which informed by Kantian, liberal-democratic and similar perspectives (e.g., Gutman and Thompson 2000; Crocker

2002; Moellendorf 2007).[1] In contrast to those accounts, I spell out one grounded on a comparatively underexplored sub-Saharan ethic. As I and others have been working to show recently (Bujo 2001; Ikuenobe 2006; Metz and Gaie 2010), there are communal approaches to morality prominent in sub-Saharan worldviews that should be taken no less seriously than Kantianism, utilitarianism, contractualism and the like. My foremost aim here is to demonstrate how African ideals about community, still largely unfamiliar to an international audience, do a promising job of providing a unified foundation for the roles of truth-telling, apology, forgiveness, compensation, amnesty, and related practices often associated with national reconciliation. A systematic comparison and defence of the Afro-communitarian principle with competitors must wait for another occasion.

I begin by spelling out what nearly all those who have reflected on national reconciliation would agree is inherent to it, my aim being to articulate an uncontested core that clarifies the subject of enquiry and debate as something distinct from, say, national unity. Next, I articulate a conception of community that lies at the heart of much African thought about morality and, in the following section, present an account of national reconciliation that is grounded on an Afro-communitarian moral ideal. I then apply the principle to several facets of national reconciliation, demonstrating its explanatory breadth and depth, often in the context of South Africa to illustrate. I conclude by suggesting that it would be worth critically comparing the theory of national reconciliation that I advance with rival theories in future work.

National Reconciliation: Some Uncontroversial Elements

My overarching aim in this chapter is to provide a theory of national reconciliation, and, so, to provide clarity about the subject of this theory, I start by differentiating it from related topics and point out some definitional facets of it that virtually all theorists would accept. I here bring out what competing theories of national reconciliation are *about*. Although I do not intend to be presenting anything particularly controversial in this section, it should be revealing to see what the uncontested facets of the concept include.

First off, national reconciliation, of the sort I theorize about in this chapter, is a kind of relationship between people. One group is thought to reconcile with another group, which differs from a kind of reconciliation that I do not address, one in which a group comes to terms with its past and seeks to "get on with life" (much of the focus in Dwyer 1999; Villa-Vincencio 2000; Hughes 2001; cf. Murphy 2013: 4451–3). The latter sort of reconciliation often does require relating to other people in a particular way in order to eventually "move forward." However, it need not; imagine the culprits have all died, leaving the victims on their own to adjust and to accept. The key point is that being reconciled *to the fact of one's having been mistreated or harmed* differs from being reconciled *with other people who mistreated or harmed one*, where I am interested strictly in the latter, essentially relational condition.

In addition, national reconciliation is an interpersonal relationship that, by definition, follows a period of serious societal conflict, characteristically one in which was there was grave injustice between at least two groups. This is one major respect in which the concept of national reconciliation differs from ones such as national cohesion (*contra* Quinn 2009: 183). Seeking the latter condition does not imply a prior condition of civil war, large-scale oppression, moral atrocity or the like.

Although the "re" in the word "reconciliation" might be thought to imply that there must have been an absence of conflict at some point in the past (Krog 1998: 109), few mean something so

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1   There are of course also those who reject reconciliation as something illiberal, too (e.g., Ash 1997), or as otherwise asking way too much of a state or its people (Gerwel 2000).

literal by the term. Instead, nearly all academics, activists and policy makers would agree, upon reflection, that it is conceivable for something they call "reconciliation" to emerge from groups that have always been deeply antagonistic toward each other (as per Dwyer 1999: 83; de Gruchy 2002: 14–15; Hamber and Kelly 2009: 294). Hence, "reunification" is also not an exact synonym of "reconciliation" (*contra* Hughes 2001: 130; Alie 2008: 133).

Another fairly uncontroversial element of national reconciliation is that it is not a socio-political ideal, in the sense of an unsurpassable condition, let alone the "Holy Grail" (as per Gerwel 2000). Achieving a state of national reconciliation hardly implies utopia, or even a somewhat lower standard such as, say, the absence of injustice. Instead, nearly all agree that reconciliation is a way station or a stepping stone toward an even more desirable condition for a nation.

Now, just because national reconciliation is not an ultimate end-state for a society does not mean that it is necessarily to be valued merely as a means. Some do emphasize the instrumental nature of reconciliation as a path toward a better socio-political condition, while others suggest that it is *also* something good for its own sake. Although I think that the sort of national reconciliation most worth pursuing is one the value of which is not merely instrumental, I doubt that this is part of the mere concept of national reconciliation or true by definition. For instance, I balk at the suggestion that reconciliation is *analytically* a matter of justice, whether distributive, transitional, restorative or something else. A desirable sort of reconciliation might well be a form of justice (à la de Gruchy 2002; Philpott 2009), but, if so, it is not the case by definition. It is an open question whether reconciliation is just (see, e.g., Dwyer 1999), and, indeed, some radicals in South Africa are currently calling for doing away with reconciliation as a hindrance to the realization of distributive justice (not the usual suspect of retributive justice).[2] Hence, I simply point out that national reconciliation is by definition neither of merely instrumental worth, nor of inherently final value. It may or may not merit pursuit in itself to some degree, and, if it does, it may or may not be a matter of justice.

For yet another relatively uncontested idea, most would readily say that national reconciliation is the sort of thing reasonably expected to be promoted to some degree by a TRC (or some similarly named body) doing things such as making informed judgments of political wrongdoings, hearing out victims, assisting them with compensation for their losses, and facilitating ceremonies between them and their oppressors in which the latter express remorse or at least accept responsibility for what they have done. Almost no one believes that the workings of a TRC can be sufficient for national reconciliation, but most believe that the former can, under certain conditions, noticeably help to realize the latter.

Finally, national reconciliation is often captured with phrases such as "reestablishing broken relationships" and "healing deep wounds," which are meant to convey something more richly interactive than merely a truce or peaceful coexistence. These characterizations are not inaccurate, but I maintain that it would be intellectually and practically useful not to rest content with them; it would be of interest to articulate a theory of national reconciliation, a principle that articulates the core of a desirable instance of reconciliation at the political level, and then to show how that core accounts for topics such as listening to victims, dealing with emotional trauma, accepting responsibility for misdeeds, offering amnesty, and many other, related practices. In the rest of this chapter, I provide such a theoretical account, one that is informed by characteristic sub-Saharan prizing of community.

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2   This is an explicit element of the manifesto of Julius Malema's new party intended to rival the African National Congress (Economic Freedom Fighters 2013: paras 29, 35).

An African Ethic

As is well known, pre-colonial sub-Saharan societies often resolved conflict with an eye toward neither deterrence nor retribution in the first instance, but rather reconciliation or harmony of some kind (Aja 1997; Ramose 2001). The aim when responding to wrongdoing was by and large to resolve conflict between the offender and his victims, or, more precisely, between his family and the families of those whom he had wronged. It has been no accident that reconciliation has figured prominently (even if with varying degrees of success) in responses to widespread conflict taken by countries such as Zimbabwe, South Africa, Rwanda, and Sierra Leone.

In the following, I appeal to salient values in the sub-Saharan tradition to articulate an ethic that is distinct from the dominant ones in the West and that grounds a promising conception of national reconciliation. In doing so, note that I am neither recounting traditional African ethics as they may have been understood *in toto* by a particular people, nor seeking to defend any specific reconciliatory practices that a given sub-Saharan society employed. My aims are instead constructive; I spell out a way of understanding African morality that is philosophically refined and will appeal to an analytical temperament, and then use that to spell out a novel theory of national reconciliation that is revealing. Although I draw on elements of traditional African culture, I am not seeking to describe or mirror the past, but rather to develop something out of it that will be of theoretical use now for sub-Saharan societies, although not only them.

According to one large swathe of sub-Saharan thought about morality, one's basic goal in life should be to realize one's humanness ("*ubuntu*," as it is famously known among southern Africans), which one can do if and only if one enters into community with others. One should strive to live a genuinely human way of life, something that is largely, if not solely, a function of prizing communal relationships with other human persons.

As for what is meant by "community" or the relationships constitutive of it, consider the following statements from a variety of African thinkers. According to the Ghanaian Kwame Gyekye, the most influential African political philosopher of the past 25 years, "The fundamental meaning of community is the sharing of an overall way of life, inspired by the notion of the common good" (2004: 16); Pantaleon Iroegbu, a Nigerian theologian, remarks that "the purpose of our life is community-service and community-belongingness" (2005: 442); the Kenyan historian of African philosophy Dismas Masolo highlights what he calls the "communitarian values" of "living a life of mutual concern for the welfare of others, such as in a cooperative creation and distribution of wealth … Feeling integrated with as well as willing to integrate others into a web of relations free of friction and conflict" (2010: 240); and, finally, the South African public intellectual Muxe Nkondo notes that if you asked adherents to an African ethic what they live for, "(T)he answers would express commitment to the good of the community in which their identities were formed, and a need to experience their lives as bound up in that of their community" (2007: 91).

As I have spelled out in detail elsewhere (Metz 2011, 2013), implicit in these and other analyses of how to develop one's humanness or what community consists of in the African tradition are two distinct relationships, what I call "identity" and "solidarity." Identity is a matter of sharing a way of life, belonging, feeling integrated, and experiencing oneself as bound up with others, while solidarity consists of working for the common good, serving, expressing concern for people's welfare, and being committed to the good of others.

More carefully, identifying with another is the combination of exhibiting certain psychological attitudes of "we-ness" and cooperative behavior. The psychological attitudes include a tendency to think of oneself as a member of a group with the other and to refer to oneself as a "we" (rather than an "I"), a disposition to feel pride or shame in what the other or one's group does, and, at a

higher level of intensity, an emotional appreciation of the other's nature and value. The cooperative behaviors include being transparent about the terms of interaction, allowing others to make voluntary choices, acting on the basis of trust, adopting common goals, and, at the extreme end, choosing for the reason that "this is who we are."

Exhibiting solidarity with another is also the combination of exhibiting certain psychological attitudes and engaging in helpful behavior. Here, the attitudes are ones positively oriented toward the other's good and include a belief that the other merits aid for her own sake, an empathetic awareness of the other's condition, and a sympathetic emotional reaction to the empathetic awareness. And the actions are not merely those likely to be beneficial, that is, to improve the other's state, but also, in the ideal case, are ones done for that reason and for the sake of making the other a better person or for the sake of communal relationship itself.

Notice that community, understood as the combination of identity and solidarity, is more or less what English-speakers mean by the word "friendliness" or even a broad sense of "love." To be friendly with another is pretty much a matter of identifying with him, engaging in joint activities, and acting for his sake, giving oneself and one's resources. As Desmond Tutu has remarked of characteristically African approaches to morality:

> We say, "a person is a person through other people." It is not "I think therefore I am." It says rather: "I am human because I belong." I participate, I share ... Harmony, friendliness, community are great goods. Social harmony is for us the *summum bonum*—the greatest good. (1999: 35).

And perhaps at this point one can begin to see why I have argued in recent work that a prescription to prize community *qua* sharing a way of life and caring for others' quality of life forms the basis of a promising ethic that differs from Kantianism, utilitarianism, contractualism, egoism, divine command theory, and the other moral theories which are at the forefront of Euro-American debate (e.g., Metz and Gaie 2010). From the present Afro-communitarian perspective, what makes a person bad or an action wrong is, roughly, that one is not being friendly or is being unloving, as opposed to that one causes harm in the long run, degrades autonomy, violates a social agreement, does what has been forbidden by God, and so on. Notice, too, that this African ethic differs from salient forms of Western communitarianism, which tend to be relativistic, defining wrongness as what flouts its norms and sensibilities (e.g., Walzer 1983; Sandel 1984). In contrast, the opposite of developing humanness from a characteristically sub-Saharan standpoint consists of honoring the contraries of identity and solidarity, viz., relationships of division and ill-will. To engage in crimes against humanity and other gross forms of injustice, that is, the sorts of wrongful behavior that call for national reconciliation, is basically to prize enmity.

It is not my concern in this chapter to defend a new moral theory, but instead a new theory of reconciliation. One readily sees how a concern for reconciliation consequent to conflict would be recurrent in societies that prize community understood as the combination of identity and solidarity or something akin to that. If what is of utmost importance is relating communally or prizing people's capacity for friendly relationships, then one who acts in an unfriendly manner should be responded to in ways that are likely to counteract his unfriendliness and to foster friendliness between him and others. Imposing retribution in the manner of an eye for an eye, with no essential expectation of good to come from the imposition of harm, would be out of place.

A Theory of National Reconciliation as Partial Community

In this section, I appeal to elements of the African ideal of community to articulate the essentials of a desirable kind of national reconciliation.[3] It is only in the following section that I apply it to a variety of topics, in order both to shed light on them and to illustrate and motivate the view.

Above I contended that national reconciliation, generally construed, is a relationship consequent to serious social conflict between people tighter than mere peaceful coexistence that is desirable but not an ideal and that is typically fostered to some degree by a TRC, a body which, for example, makes public characterizations of the conflict upon careful historical enquiry, pays special attention to victims, and facilitates encounters between them and those who wronged them in egregious ways. There are a variety of different ways that such a general idea could be realized in practice. My present aim is to proffer a particular version of reconciliation that is attractive, rich, and informed by the African ideal of community adumbrated in the previous section.

If one major proper aim of the state were to promote communal relationships in its territory, and if national reconciliation were a stepping stone toward such an end-state, then it would be sensible to think of national reconciliation as constituted by only *some* of the elements of community. Reconciliation should be seen as a substantial step on the path toward realizing a society that fully respects communal relationships, ones of identity and solidarity. Specifically, then, a promising conception of national reconciliation would be based primarily on the *behavioral* facets of a characteristically African conception of community, or at least not so much the attitudinal ones. As a first approximation, consider the view that to reconcile is for two parties to engage in cooperative behavior oriented toward mutual aid, and that it need not involve mental states such as thinking of oneself as a "we," taking pride in others' accomplishments, exhibiting sympathetic emotions, and the like.

Including the latter, attitudinal aspects would be expecting "too much" from the concept of reconciliation, veering it too closely to a social ideal. After a period of great conflict between groups, one cannot expect people's attitudes to change quickly, whereas their behavior can. Although immediately after World War II many Germans continued to favor Hitler's policies, they nonetheless conformed to a constitutional order that sought to repair some of the damage done to the Jewish population. What (desirable) changes to mind-set there were came later. Similarly, at a small-scale level of just two people reconciliation intuitively is possible despite an absence of shared pride, altruistic motivation, and the like.

Hence, if reconciliation were a stepping stone toward a society of full-blown community, then it would be plausible to think of it as consisting mainly of the behavioral facets of identity and solidarity, and not requiring all the emotional and motivational ones. Of course, people's hearts and minds would need to change to *some* degree in order to move from a conflict-ridden society, that is, one of division and ill-will, or enmity, to one with the core, behavioral components of identity and solidarity as above. However, they would need to do so to a much lesser degree than they would in order, say, to be motivated by altruism or compassion or to feel a sense of togetherness with former opponents.

Now, since prizing or honoring a final value such as community is not merely a matter of promoting it, but also expressing certain positive attitudes toward it, reconciliation will plausibly involve *something* attitudinal. Specifically, if agents are to prize communal relationships, then an attractive notion of reconciliation would be one that acknowledges when they have been flouted.

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3   I first articulated this conception of national reconciliation in Metz (2011a) and applied it to the issue of amnesty for political crimes; I did not there analyze the concept of reconciliation in general or apply my favored conception of it to a wide array of issues beyond amnesty.

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Although sometimes people who have fought and who have been treated wrongly are able to come together and repair the relationship without thinking in terms of wrongdoing, or at least not expressing themselves in those terms, my suggestion is that, in cases of gross and large-scale wrongdoing, such so-called "reconciliation" is not particularly desirable. To honor community means acknowledging when it has been seriously undermined in impermissible ways, and to treat people as special in virtue of their capacity for community means responding to them in light of the way they have greatly misused this capacity.

Putting these two ideas together, I proffer the following principled statement of what national reconciliation is:

> a condition consequent to serious social conflict in which a country's residents interact on a largely voluntary, transparent, and trustworthy basis for the sake of compossible ends largely oriented toward doing what will help one another and in which at least public institutions, if not also substantial numbers of the public and the offenders themselves, disavow grave wrongdoing that had been a part of the conflict.

This account should seem *prima facie* attractive, but in the following section I work to bring out its explanatory power.

Applying the Theory

In this section, my aims are to shed light on several aspects of national reconciliation and to demonstrate the ability of the principle advanced in the previous section to provide compelling accounts of them. I explore eight different facets of discourse about reconciliation, arguing that the Afro-communitarian view provides a unified and plausible explanation of them. By the end of the section, a powerful theory of national reconciliation will have emerged.[4]

Peace, Order, Rule of Law

It is a given that reconciliation requires, and is even by definition constituted by, the cessation of serious conflict. It is interaction that comes after civil war and related forms of enmity. It therefore is instantiated by the presence of peace, law, and order, and, some would add, democratic institutions.

By the Afro-communitarian conception, national reconciliation includes such conditions, but is far from exhausted by them; reconciliation merely as the achievement of institutional stability is "too little." Since social conflict is well understood in terms of people seeking to undermine one another's goal-seeking and to harm each other, that is, the opposites of the behavioral facets of community in the African tradition, the centrality of peace is easily accounted for by the present principle prescribing cooperation and mutual aid. However, the way that the Constitutional Court of South Africa has sometimes thinly understood reconciliation, as more or less a matter of

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4   In the following I do not address what Murphy (2010) maintains is a core desideratum for a theory of national reconciliation, namely, the ability to plausibly explain when and why it is called for. However, appealing to the African ethic, my explanation would be founded on the idea that national reconciliation is apt in response systematic, extreme unfriendliness or enmity between social groups, an account that readily captures the routine description of those in need of reconciliation as "enemies."

establishing the "proper rule of law" and "strengthening peace, democracy and justice" (2009: para. 21; but cf. para. 56), fails to capture much of what counts as reconciliation, in at least two respects.

First, reconciliation plausibly involves peace not merely in the sense of the absence of conflict, but also in Thomas Hobbes' (1651: ch. 13) understanding of it as the absence of a tendency toward it. To have reconciled means that the public by and large has a reasonable expectation that conflict will not arise again, and does not significantly act out of fear of such.

Second, if reconciliation were merely the achievement of peace, order, the rule of law, and even related conditions such as democracy, then South Africa, for instance, would be a fully reconciled society, or at least nearly so. However, most in South Africa would deny that claim; there is still much reconciliation to be achieved among different racial groups. It is common, here, to point to stark economic inequalities (e.g., Mgxashe 2000; de Gruchy 2002: 195, 200–1) as glaring evidence of a lack of reconciliation. One could also add, among other things, the clannishness of various groups, by which I mean the tendency not to trust others not of one's race and instead to favor one's own when making appointments, exchanges, friends, and the like.

One proper task of a TRC is to help "normalize" dealings between groups so that they are willing, say, to make economic exchanges, to deliberate together in the media about legislation, and to engage in academic study with one another. A commission can and should promote such relationships by expressing the state's intention that from now on things will be done differently, exhorting the populace to go out of their way to engage with one another, and encouraging by example, for instance, by showing leaders of conflicting groups speaking to one another and expressing a commitment to work to build something new.

Emotions[5]

Some might suggest that another salient respect in which South Africa, for instance, is not fully reconciled is that people's emotions are still negative, ones of anger, resentment, bitterness, and disappointment. According to some, "the essence of reconciliation is a psychological process, which consists of changes of the motivations, goals, beliefs, attitudes, and emotions of the majority of society members" (Bar-Tal and Bennink 2004: 17). In particular, some would suggest that reconciliation consists of replacing negative emotions with "positive attitudes" towards others (Bar-Tal and Bennink 2004: 15; see also Govier 2009a), perhaps ones in which one "feels a sense of belonging" with others, "embracing ... those who are different" (Hamber and Kelly 2009: 292), or in which "others are not seen in merely instrumental terms" (du Bois and du Bois-Pedain 2008: 302). These are of course desirable conditions, and, indeed, are part of the sub-Saharan ideal of community. But are they essential to national reconciliation?

I view reconciliation as a mere stepping stone to the realization of fully communal relationships, and, so, as I have indicated above, I suspect that conceiving of reconciliation as *requiring*, let alone *consisting of*, positive emotions (and related attitudes) is expecting "too much" of this category. Recall the example of two individuals who have had a fight, talked openly about what happened, and are now engaging in joint projects and doing what they expect will be good for one another. Even if they continued to have lingering negative emotions, my intuition is that they can be said to have reconciled if they are "going about their business" in ways that are cooperative and involve mutual aid. If these two also took pride in one another's activities and felt compassion for each other, these would be manifestations of a new category of value, such as full-blown friendship

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5   In this chapter I do not address the relationship between belief change and reconciliation (beyond apprehension of facts about the past), though acknowledge that it merits addressing in a fuller statement (cf. de Gruchy 2002: 152–3; Bar-Tal and Bennink 2004: 21–2; du Bois and du Bois-Pedain 2008; Eisikovits 2010).

or community, and not reconciliation. (Or, at most, I suggest they would be instances of a much *better* or *thicker* instance of reconciliation, but not necessary for reconciliation *simpliciter*.) Similar remarks apply at the political level.

Although some dissipation of anger, achievement of closure, and the like are *usually instrumental* for reconciliation to occur, what I deny is that they are essential to it. I accept that it is often the case that one could not have reconciliation without some emotional change, and yet I deny that reconciliation is well understood as consisting of it.

Forgiveness

One might still reasonably suspect that my account of reconciliation leaves out too much when it comes to people's mental states. In particular, forgiveness lies at the heart of national reconciliation not only for many whose views are grounded on the Christian tradition (e.g., Tutu 1999, 2009; Helmick and Petersen 2001; de Gruchy 2002: 170, 178–9), but also for a notable number of those who do not appeal to any religious perspective (e.g., Bar-Tal and Bennink 2004: 19; Philpott 2009; May 2011: 589–90; cf. Auerbach 2004). I therefore devote a separate subsection to accounting for the exact relationship between the two ideas, advancing what I suspect are some under-recognized reasons to believe that forgiveness is not essential to reconciliation (but cf. Govier 2009a: 14).[6]

I want, as much as I can, to avoid the tricky issue of how forgiveness is to be understood; I do not thoroughly address what it precisely is.[7] However it is plausibly construed, it is reasonable to think it has some kind of close tie to reconciliation. I here provide additional reason to think that it is not constitutive of reconciliation, and instead related insofar as it can be a reliable cause of it.

Now, the most straightforward way of trying to show that reconciliation does not require forgiveness would be to show that it can instead come consequent to mere forgetfulness. Suppose that among two people who had been fighting, the victim elects simply to forget, as opposed to forgive. That is, imagine that he simply succeeds in putting out of mind what had happened, instead of continuing to be aware of the wrongdoing and evincing a forgiving disposition toward the wrongdoer. Having removed the offending events from his awareness, he then engages in cooperative projects involving mutual aid with the offender. Hence, it seems that one could fairly conclude that reconciliation without forgiveness is possible, even somewhat common.

Although this is a tempting maneuver, it is not one I can invoke since, as I discuss below, the Afro-communitarian principle of reconciliation implies that it is a process that includes knowing the truth about the past. A proper form of reconciliation, informed by the sub-Saharan conception of community, is one in which people come together consequent to an awareness of the wrongdoing that has occurred between them.

At this point, I could suggest that a desirable form of reconciliation would be possible if the victim and offender first became clear about what had transpired between them, the victim then elected to forget about it all rather than forgive, and then both engaged in the relevant behavioral changes. Perhaps that works to establish my point.

Here, though, is another rationale for thinking that forgiveness is not necessary for reconciliation, one that does not appeal to the idea that reconciliation could come upon the victim forgetting the wrong done to him. I accept that *part of* forgiveness is essential to reconciliation to the extent that forgiveness by definition involves the absence of an inclination to inflict harm or to rebut another's end-seeking. Since reconciliation by the African view is roughly a matter of cooperation and mutual

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6   Often those who reject forgiveness as essential to national reconciliation have worries about whether it is a realistic and permissible goal for a state to pursue.

7   I am sympathetic to the account in Allais (2008).

aid, there must not be a behavioral tendency to engage in the opposites on the part of the victim. However, I maintain that forgiveness *as such* is not necessary for reconciliation since forgiveness is invariably understood to be more than merely a change in behavior. Forgiveness plausibly also involves an emotional element such as "a changed view of the wrongdoer as a person in which you cease to have towards her the personal retributive reactive attitudes that her wrongdoing supports, without a change in judgment about her responsibility for the wrong" (Allais 2008: 57). Whatever extra element that forgiveness includes beyond the letting go of conflict, it is something that is not essential to reconciliation. To see this, return once again to a case of two persons. Imagine that the victim remains fully aware of the wrong done to him (instead of forgetting), that the victim and wrongdoer have had it out about what transpired, perhaps with the latter apologizing, that the victim and wrongdoer then successfully embark on cooperative projects involving mutual aid, but that the victim continues to harbor negative emotions toward the wrongdoer. He just cannot shake a feeling of resentment, at least for a long while. To the extent there is the latter condition, there is an absence of forgiveness. However, I submit that the two parties are plausibly described as having reconciled; for there is the *commitment* to commune (cf. Villa-Vincencio 2009: 154). And what applies to a case of two individuals would readily seem to apply to a case involving two large groups.

Of course, it will sometimes be the case that the change in behavior could not come about without a prior or accompanying change of mind. Many times, then, forgiveness will be a particulalry fruitful means to reconciliation. But not always, not necessarily. And it is of course also true that the offender might well want more than merely a change in behavior on the part of the victim, and in addition to be viewed in a positive light. However, emotional change is usually hard to come by in the short to medium term after conflict and therefore is not so clearly a matter of reconciliation, a basic form of which can, in contrast, often be expected in that time frame.

Listening to Victims

Central to most people's thoughts about national reconciliation is the hearing out of victims. It is not enough that, say, a scholar interview victims and report on what they said in a professional journal. Instead, a crucial part of reconciliation is a process by which, in the ideal case, offenders listen to their victims, and, failing that, some kind of public body does so. A satisfactory theory of national reconciliation must entail and plausibly explain why this is so.

Notice that it will not do to appeal to the value of truth, here. Of course, one way to access the truth about the nature of the social conflict would be to listen to victims. However, it appears that the historical facts could also be ascertained behind the scenes by academic interviews that are then published in scholarly forums and newspapers as well. While an interest in truth supports the idea of listening to victims, it does not uniquely do so.

To make sense of why it is important that victims address specific people, such as their offenders or the public in general, one must appeal to something beyond the content of what victims have to recount. For instance, in South Africa, a common explanation given of why victims needed to be heard, by offenders or by the TRC, has been that it would help them to achieve catharsis and obtain closure, which, in turn would enable them to move forward to create a peaceful and democratic order (see, e.g., Constitutional Court of South Africa 2010). In short, it is not just what victims have to say, but the fact that they say it to a certain audience, which promises to produce a desirable outcome.

Such a rationale might be part of the reason to hear out victims, but it cannot be all of it. Suppose, for instance, that such an order could have been created without listening to victims, as

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basically happened in Chile and Argentina. Or consider a case in which it has already been created, but not all victims have yet been heard; there would be reason to continue to listen to the remaining victims, despite large-scale nation building proceeding on track. Similar remarks apply even if the broader socio-behavioral facets of reconciliation, i.e., cooperation and mutual aid, are considered.

Another reason that reconciliation plausibly requires victims to be heard, beyond the content of what they have to say, is that it is a way for the public, and in the ideal case offenders, to disavow the injustice that was done. Recall that honoring community means expressing disapproval of when it is egregiously undermined. For offenders to take responsibility for their misdeeds and to express contrition for what they have done requires being willing to undergo the discomfort of hearing how one has wrongfully harmed others. And for a public institution such as a TRC, to disavow injustice means coming closer to victims, while tending to distance itself from offenders, where coming closer to victims naturally involves listening to the way they were mistreated and, as I now discuss, offering assistance.

Compensation

Another core element of national reconciliation is the attempt to help victims overcome their plight. Offenders themselves should offer restitution to their victims, or at least express an apology with the aim of easing psychological burdens. And where offenders are unwilling to do that, or unable to cover the extent of victim suffering, it is common to hold that the state ought to step in and use public funds to help compensate victims.

The Afro-communitarian conception of reconciliation naturally accounts for these judgments. If hearing out victims is a way for offenders to disavow their misdeeds, then so is offering victims resources to help make up for their losses. When considering what it is that should be offered to victims, it is natural to consider what was taken away in the first place. If land was stolen, then there is strong *prima facie* reason to think that land should be returned. However, there can be considerations favoring the offer of something other than repayment in kind for what was unjustly taken. National reconciliation is a process that takes time, and the kind of compensation offered should ideally be one that supports an ongoing improvement in the extent to which there is cooperation and mutual aid between formerly antagonistic groups.

For instance, in South Africa, an interest in national reconciliation probably does not, all things considered, prescribe an immediate and systematic transfer of farmland and mineral wealth from whites to blacks.[8] The reason is that whites are primarily the ones with the skills and knowledge to run farms and mines, and it is well known in South Africa that a very large majority of what little transfers of farmland have been made so far has become unproductive. Those who suffered under apartheid, and their descendants, would be unlikely to be better off were South Africa to be no longer able to feed itself or to extract the minerals in an efficient manner. In this context, the right sort of compensation would not be merely the return of land, but also the transfer of the ability to make use of it. Or it might be to provide resources that would enable black people to flourish in urban areas, should they prefer that kind of support.

A commission can help to facilitate compensation for those who have been particularly wrongfully harmed by the conflict. It can identify the latter, for one, and it can make sensible recommendations about whom precisely should take responsibility for working to make up for their losses. Sometimes it should recommend that particular wrongdoers be the ones to do so, a particularly welcome form of reconciliation in which wrongdoers would also be disavowing

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8　Here I draw on ideas first published in Metz (2011b: 551–4).

their wrongdoing by working to make restitution to their victims. However, national reconciliation would also be fostered if those not responsible for wrongful harm pitched in to improve the lot of victims, something a commission is in a position to recommend, as it did in the case of South Africa's TRC, which recommended that the government pay a certain amount of public tax money to some individual victims of political crimes.

Truth

Another key facet of national reconciliation, or at least a desirable form of it, is the search for, and dissemination of, truth about the social conflict that occurred. As I now point out, salient accounts of how truth relates to reconciliation conceive of it instrumentally, as something that fosters reconciliation in the long run. In contrast, the theory I support entails that reconciliation is partially constituted by obtaining the truth about the past. From this perspective, to speak of "truth and reconciliation," as per some influential commissions, is ultimately redundant, as the right sort of reconciliation itself includes truth.

Why think that reconciliation, properly conceived, requires digging up the truth about the past? Why not just "move forward," rather than stir up negative memories and emotions, as many white people in South Africa have favored? The standard answer to these questions in the South African context has been that victims can move forward only upon expressing themselves, being heard and releasing negative feelings.

However, while this might be a plausible rationale for listening to victims, it is not a particularly good one for a mandate to get at the truth, which would require much more than obtaining the perspectives of victims. Offenders' stories, too, would add to the truth, as would more impersonal and dry enquiries such as forensic investigations into gravesites and academic scholarship about the negative influences of social conflict on institutions, relationships, and opportunities. While the latter kinds of information might help to foster solace and closure on the part of victims, including ones who were not direct victims of political crimes, they might not. Even if victims had already obtained solace, or even if they never would obtain it, reconciliation intuitively would demand obtaining clarity about what transpired between conflicting groups. This is one way to grasp a recurrent criticism of South Africa's TRC, that it focused mainly on crimes done to individuals, and did not also highlight evidence of more collective wrongdoing and its foreseeable effects.

According to the theory of national reconciliation that I favor, accurate and comprehensive historical awareness is partially constitutive of national reconciliation. Part of genuinely *sharing* a way of life among formerly antagonistic groups, which includes the idea of cooperative behavior between them, is acting consequent to knowledge of what has happened between them. That means not merely the absence of deception, but also the revelation of truth.

If one has a serious fight with one's spouse, reconciliation of a desirable sort would involve clearing the air. It would mean that both parties listen to one another, and that they move forward in light of a clear understanding of what happened, or at least of the various perspectives about what did. A genuine sort of reconciliation would not sweep the fight under the rug. Similar remarks apply at the political level.

One might question the analogy in that it appears merely to require both parties to the conflict to be heard, and not to support the more academic and scientific enquiries that I maintain are central to national reconciliation. However, upon reflection, the analogy is strong. Couples rarely have access to a third-party who has the time, resources, and interest to comment on what happened between them. However, sometimes they do, and when they do, a welcome form of reconciliation would involve taking such a perspective into account. For instance, if a couple has been seeing a

counsellor, one would expect the pair to bring up the issue of the fight with her, and to be open to her opinion about what caused the conflict and how it has likely affected a given party. An ideal kind of reconciliation is one in which those who were for a time enemies together seek to get to the bottom of things. To the extent that one party attempts to hide things, or one party fails to acknowledge things, or both parties close their eyes to the input of a sympathetic and informed observer, there is less of a shared way of life, less reconciliation, than there could and should have been.

Orientation toward the Guilty

A possible sort of reconciliation is one in which there is no thought of wrongdoing, or at least no talk of it, or censure for it. However, it would not be a plausible sort, at least by the Afro-communitarian account, which includes the requirement of disavowing injustice, ideally on the part of offenders, and at least on the part of public institutions.[9]

Here is one respect in which I believe the South African Constitutional Court has judged correctly about national reconciliation, when it says the latter must not be understood as permitting the guilty to receive "the lion's share of benefits" or as requiring the state "to ameliorate hardship for the perpetrators of human rights abuses" (2009: 53, 55). If reconciliation did not include judgments of culpable wrongdoing, then guilty parties would have no less of a claim to the receipt of benefits and the lifting of burdens as their victims. For instance, it would apparently mean that, say, a state should allow neither a newspaper to call a perpetrator of an atrocity a "murderer" (see Constitutional Court of South Africa 2011), nor an organization, such as the police force, to take into account a person's political-criminal past when deciding to hire or fire (Constitutional Court of South Africa 2009).

Although such a neutral approach would of course provide the utmost encouragement to the guilty to participate in so-called "reconciliatory" processes, it would come at the expense of a failure to adequately respect the value of community, which, as per above, requires taking account of when this value has been seriously undermined. A better sort of reconciliation is surely one in which offenders themselves acknowledge their wrongdoing, apologize for it, and contribute to making victims better off because of what they have done, and in which, at least if offenders are unwilling to do these things, public institutions step in to stand by victims.

A commission would be well positioned to assist with the public disavowal element. It would have become accurately and comprehensively informed about the wrongdoing, and might well itself express disapproval of it on behalf of the government or the new society more generally. In addition, it could furnish other public institutions, particularly the executive branch of government, but also, for instance, universities and accrediting bodies, the grounds for further expressions of disapproval.

Amnesty

In the previous two subsections, I indicated that the Afro-communitarian conception of national reconciliation implies that the truth about the past as well as disavowal of injustice are both inherent to it. However, as is well known, one cannot expect these two desiderata to be maximally jointly fulfilled. In order to get substantial truth from offenders about their unjust behavior, a state often must reduce the extent to which it otherwise would have responded negatively to them.

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9   While Bashir (2008) is good about highlighting the idea that reconciliation centrally involves the relevation of truth about misdeeds and the censure of them, I am afraid that he appears to reduce reconciliation to these conditions alone.

This point must not be taken to be a strike against the present understanding of national reconciliation; in fact, I submit just the opposite. It is a plus for the Afro-communitarian view that it plausibly accounts in a new way for a widely recognized tension in reflection about national reconciliation. It explains the tension not in terms of any conditions external to reconciliation, as, say, between truth and justice, but rather as intrinsic to reconciliation itself. A fully reconciled society would be one in which there is *both* a completely accurate picture of the nature of the conflict *and* a systematic disavowal of the extent to which that conflict was unjust. Although such a state of affairs is possible, it is not likely to obtain, and achieving the most reconciliation that a given society can along the two dimensions requires careful judgment about how much to trade off disavowal for the sake of truth.

One salient strategy by which to balance these two elements of reconciliation has been to offer amnesties to offenders in exchange for full disclosure about their misdeeds, as was done by South Africa's TRC. Sensitivity to context will determine whether amnesty, and which sort, is necessary to obtain an adequate amount of truth from offenders.

Conclusion

In this chapter, I have sought to unify several concepts routinely associated with thought about national reconciliation by providing a principle that purports to capture its essential nature. According to this view, reconciliation is a condition consequent to serious social conflict in which a country's residents interact on a largely voluntary, transparent, and trustworthy basis for the sake of compossible ends largely oriented toward doing what will help one another and in which at least public institutions, if not also substantial numbers of the public and the offenders themselves, disavow grave wrongdoing that had been a part of the conflict. I have spelled out this principle, demonstrated that it follows from a *prima facie* attractive ethic informed by sub-Saharan values, and argued that it plausibly accounts for myriad practices such as truth-telling, forgiving, listening to victims, offering amnesty, and the like.

I have lacked the space to defend this theory of national reconciliation systematically against those who would question it. On the one hand, there will be those who doubt the theory because they reject one of its implications, say, that forgiveness is not essential to reconciliation. On the other hand, there will be critics who favor alternate theories (see esp. Murphy 2010; Philpott 2012). I have hoped in this chapter merely to articulate a new theory grounded on African communitarian values and to show that it is attractive enough to merit rigorous comparison with rival perspectives in future work.[10]

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10　I am thankful that Lucy Allais, Alex Broadbent, and Nir Eisikovits who took the time to read an earlier draft and to offer supportive comments. This chapter has also benefited from the input of audiences at a colloquium sponsored by the University of Johannesburg Philosophy Department and at a workshop to honor the jurisprudence of former Constitutional Court of South Africa Chief Justice Sandile Ngcobo organized by Drucilla Cornell's Ubuntu Project at the University of Pretoria School of Law.

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Theorizing Transitional Justice

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Theorizing Transitional Justice

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Jack Volpe Rotondi, Suffolk University, USA

This book addresses the theoretical underpinnings of the field of transitional justice, something that has hitherto been lacking both in study and practice. With the common goal of clarifying some of the theoretical profiles of transitional justice strategies, the study is organized along crucial intersections evaluating aspects connected to the genealogy, the nature, the scope and the most appropriate methodology for the study of transitional justice. The chapters also take up normative and political considerations pertaining to specific transitional instruments such as war crime tribunals, truth commissions, administrative purges, reparations, and historical commissions.

Bringing together some of the most original writings from established experts as well as from promising young scholars in the field, the collection will be an essential resource for researchers, academics, and policy-makers in Law, Philosophy, Politics, and Sociology.

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Thomas Brudholm, University of Copenhagen, Denmark

This diverse and philosophically rich collection brings together some of the most thoughtful and challenging voices in current debates. Theorizing Transitional Justice broadens and clarifies the concepts and structures underpinning policies of reconciliation and reckoning after conflict – connecting them to deep theories of justice and agency, as well as art and emotion. It will be immensely valuable to scholars and students, theorists and practitioners.
Alice MacLachlan, York University, Canada

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