

# Paths to Truth, Justice and Reconciliation in Argentina

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## Abstract

Argentina has been following different paths to deal with its past repression after the dictatorship that ended in 1983. Attempts at truth and justice were the creation of the CONADEP (National Commission on the Disappearance of Persons) in 1983 and the condemnation of nine Argentine junta members. However, three amnesty laws were created afterwards: Full Stop, Due Obedience and Pardon ('Indulto') laws. As stated by Webb and others (2010) "the former military leaders called for amnesty whereas almost all the victims believe that reconciliation and justice can only be achieved through punishment of the perpetrators" (pp.26-27). The creation of those laws caused negative reactions among most parts of the Argentinean society.

After 37 years Argentina succeed in prosecuting its worst perpetrators, as an institutional response to repression and public trials are contested in many cities of the country. This paper will argue that public trials might contribute to truth, justice and reconciliation, at national and personal levels.

**Keywords:** justice, reconciliation, public trials, testimonies, truth.

Like many other countries in Latin-America, Argentina has many open wounds left by a brutal and violent dictatorship. Many scholars such as Juan Méndez (2004), Elizabeth Jelin (1994, 2003), Pilar Calveiro (2005) and Diane Kordon and Lucila Edelman (2007) believe that these wounds cannot be healed by giving amnesties or trying to forget what happened during the last horrendous dictatorship. They highlight the importance of keeping the memory alive and creating and maintaining a just society in Argentina. Trying to erase past events is not a way of moving forward into a peaceful and reconciled society, on the contrary, it is only a way of denying the past by not acknowledging the terrible events and remembering the victims. A society that does not acknowledge its history does not properly heal - it cannot look forward by forgetting its past and will simply pretend to be at peace. When amnesty laws were created in Argentina, after the CONADEP report (1987), it felt as if the country was going backwards instead of advancing and seeking justice.

The Argentinean people in general and many of those I interviewed for my PhD thesis, felt betrayed.

The repression's main characteristics during the dictatorship were: illegal detention, torture, 'disappearances', forcing of people into exile and disappearance of children, this last one unfortunately unique in Argentina, constituting all severe forms of gross human rights violations.

Malamud-Goti (1996) argues that in the period of transition from dictatorship to democracy, trials of human rights abusers are fundamental. Trials can bring a sense of justice in society being regarded as the way of combating impunity. However, we also need society's recognition of facts and victims; it is only after recognition that we can talk about symbolic justice. The remaining painful wounds from that obscure period in Argentina need to be healed through justice, truth, memory and good human rights practice; otherwise they will continue hurting people and disrupting society.

Three types of justice will be considered here in more detail because they are expected to contribute to the process and achievement of individual and social reconciliation in Argentina: distributive justice, retributive justice and restorative justice.

### ***Distributive justice***

Rawls' (1999) conception of justice as fairness relates to the idea of distributive justice. This suggests that justice is more important than all the other moral values a society might seek to achieve. He argues that the primary subject of justice is the basic structure of society. To be precise, it is the way the main social institutions distribute fundamental rights and duties and determine the distribution of the advantages gained from social mutual assistance.

The justice of a social system therefore depends fundamentally on how essential rights and duties are assigned and on the economic opportunities and social conditions of the different sectors of society. These ideas were also explored by Sen (1999), when he developed the concepts of human agency and human development. When social conditions and economic problems arise in a society, they impact also in the development of the individual.

### ***Retributive justice***

According to retributive justice theories, the pain and experiences of victims can be compensated by punishing perpetrators for their crimes. This theory of justice states that the suffering of victims may be recognized in their communities as well as the responsibility of the accused for the harm caused. Many scholars, such as Fletcher and Weinstein (2002, p.586) hold that retribution contributes to the alleviation of the pain that victims experienced, and additionally, they believe that by punishing perpetrators it is possible to eradicate the potential threat of having a new military regime thereby preventing future abuses. According to those scholars, trials embrace one, if not all of the following goals:

1. To discover and publicize the truth of past atrocities
2. To punish perpetrators
3. To respond to the needs of victims
4. To promote the rule of law in emerging democracies
5. To promote reconciliation

## Discovering and publicizing the truth of past atrocities

According to Fletcher and Weinstein (2002) learning the truth of what happened is necessary for healing a society and victims have the right to know the truth and the system of international justice and human rights, as it is stated by Amnesty International. Achieving transparency about the past is necessary because facts are often denied by a large part of the population. In the case of Argentinean society, this had the effect of making the suffering of victims' even worse, as they were unable to rebuild their lives and integrate into their communities.

Knowledge of the facts of what happened to the 'disappeared' people and murdered and knowing about the experiences of those who survived, together with the latter publication of the facts by the State, would help victims and the whole society to be free from their past, to be able to move on and to construct a new life. Although it is not their primary purpose to discover the truth, trials can acknowledge it – but – one way of publishing the truth is through a new kind of institutional mechanism - the Truth Commission.

Amnesty International (2010) declares that "...the establishment of Truth Commissions has often been considered as an alternative to the investigation and prosecution of crimes under international law before national courts." (p.7). It also states that their aim is to discover the truth and to ensure justice and accountability prevails.

According to Teitel (2003), a Truth Commission is an official body, often created by a national government, whose purpose is to investigate, document, and report human rights violations in a country during a specific period of time. Ames Cobián and Reátegui (2009) argue that Truth Commissions are first of all a measure of transitional justice, tackling the restoration or recovery of the truth about past human rights violations - promoting the recognition of the abused and the harm done to them. For example, the Nunca Más reports for Argentina and for other Latin American countries are not based on discovering only the veracity of the stories, but also on discovering the inner 'truth' of each story - of the survivors' experiences and of what they can remember (see, for example, CONADEP report, 1987). They also demonstrated the need to shut down the political, institutional, social and cultural mechanisms that allowed that dreadful violence to happen.

When we tell stories, we share with listeners our personal 'truth', the way we see things and by doing that we build important connections to those who are listening. Historical truth is not the main concern in narrative; the important issue is to consider the life story as truthful, more than true, as Atkinson (1998) recounts. However, historical truth is important for Truth Commissions and trials.

## Punishing perpetrators

In line with the conclusions of Fletcher and Weinstein (2002), through trials perpetrators are accused, they face their accusers (lawyers and the state) and also their victims. If found guilty, they are punished for what they have done. The prosecution of the perpetrators for the crimes they committed and also the accountability for what happened are ways of giving the victims a moral and ethical response to their suffering and confirming their lack of culpability. Responsibility about the past might also contribute to avert future violations, although trials might not stop human rights violations or war crimes from occurring again.

Perpetrators can be accused at trials, but social condemnation is also needed and a recognition by society of the victims and of the harm done to them. This can place victims in a position of dignity in their society and allow them to rebuild and integrate their lives again.

On June 28th 2011, trials of perpetrators of human rights abuses during the last Argentine dictatorship started in Bahía Blanca, my home town, as well as in others parts of the country. I took part in them as a psychologist working for the CPV Centro de Protección de los Derechos de la Víctima (Centre of Victims' Rights Protection) – programme that is part of the Ministry of Justice of the province of Buenos Aires. It is a challenging and motivating job to support victims of state terrorism and a huge step towards achieving retributive and restorative justice. People feel this as an historical moment and what is being done here in Argentina has no precedent in other trials. Here, when victims give their testimonies before the court, public prosecutors, perpetrators and the general public, they are accompanied by a psychologist. This is a demonstration the government wishes to punish perpetrators, recognize and support victims and heal the whole society.

### Responding to the needs of victims

Fletcher and Weinstein (2002) declare that people who support a legal response to war crimes justify the necessity of having international criminal trials to meet the needs of the victims, so that they can get to know what happened to their relatives, learn the truth, receive acknowledgment of the harm they suffered, and achieve justice in the sense of condemning perpetrators and somehow being healed. According to Herman (1992) the victim's healing is a long process that entails more than an emotional catharsis and, in many cases, the courtroom testimony or Truth Commission setting might not be healing for them. This happened in Argentina, when after the set up of the Truth Commission, two amnesty laws were created and victims testified at the 'truth trials'. There is also a need for having a public acknowledgment of the suffering of the victims, the removal of the victims' responsibility for what happened to them and the restoration of their dignity.

### Promoting the rule of law in emerging democracies

The criminal prosecutions of perpetrators of gross human rights violations can achieve a public consensus in repudiating the violence committed and can also demonstrate shared moral values regarding the respect of human rights. Prosecutions also mark a new period of the country's history in which trials symbolize the legality of a new government - they show that the judiciary is working. As Fletcher and Weinstein (2002) declare, to support the rule of law is also to promote democracy, safeguarding human rights and preventing future violations.

### Promoting reconciliation

When a country experiences mass violence, there is a need for social recovery and healing to re-build a healthy community and close that period of history. There is also a need for the victims to understand traumatic events in order to be able to move on to a normal life. The acknowledgment of what has happened through Truth Commissions and human rights investigations also recognizes their suffering and need for dignity. This helps society build a new national narrative of mass violence events. Through trials individual criminal accountability is demonstrated, which can promote reconciliation.

According to Dzur (2003) the aims of retributive justice are linked to punishment and those of restorative justice to creating a consensual, productive and open process in a particular community. Amnesty International (2010) emphasizes how these are not mutually exclusive concepts:

States should recognize that ‘retributive’ justice and ‘restorative’ justice (i.e. criminal justice and truth-seeking mechanisms) do not exclude, but supplement each other. (p.5) Historically, my country has been through a transitional democracy which has been heavily debated. Scholars like O’Donnell (1992) have argued that the transition did not end in what Dahl (2000) refers to as a polyarchy - or ‘rule by the many’ (in contrast with monarchy, ‘rule by the one’, or oligarchy or aristocracy, ‘rule by the few’). In this case, polyarchy refers to a modern representative democracy with universal suffrage’ (p.90) in what O’Donnell calls ‘delegative democracy’<sup>1</sup> (DD) Dahl (2000, pp.85-6) states that a ‘large-scale’ democracy requires the following political institutions:

- 1 Elected officials. Control over government decisions about policy is constitutionally vested in elected officials.
- 2 Free, fair and frequent elections. Elected officials are chosen in frequent and fairly-conducted elections in which coercion is absent (or it should be).
- 3 Freedom of expression. Citizens have the freedom to express themselves on broadly defined political matters without danger of severe punishment. This should include the ability to criticise officials, the government, the regime, the socio-economic order and the prevailing ideology.
- 4 Access to alternative sources of information. Citizens have a right to seek out alternative and independent sources of information from other citizens, experts, newspapers, magazines, books, telecommunications and the like. Moreover, alternative sources of information that are not under the control of the government or any other single political group attempting to influence public political beliefs and attitudes, should exist and be effectively protected by law.
- 5 Associational autonomy. To achieve their various rights, including those required for the effective operation of democratic political institutions, citizens should also have a right to form relatively independent associations or organizations, including independent political parties and interest groups.
- 6 Inclusive citizenship. No adult permanently residing in the country and subject to its laws can be denied the rights that are available to others and are necessary to the five political institutions listed above.

Thus, democracy rests on essential civil and political rights, such as the right to vote, the right of association and the right of freedom of expression.

Argentina has a history of a weak judiciary and amnesty laws which make trials difficult to establish. As a consequence, it is difficult to imagine how the three types of justice discussed above can be achieved in Argentina. Argentina’s state of transitional justice can be understood as ‘the conception of justice associated with periods of political change, characterized by legal responses to confront the wrongdoings of repressive predecessor regimes’ (Teitel, 2003, p.69), for example, reporting perpetrators of human rights violations and the recognition of victims through criminal prosecution, truth-telling, reparations and institutional reform and distributive justice (i.e. seeking to eradicate poverty and reduce inequality), as Addison (2009, p.112) argues.

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1 According to O’Donnell (1992) DD are not consolidated democracies (i.e. institutionalized) democracies, but they may be lasting. The basis of the DD is that whoever wins election to the presidency is thus unconstrained, able to govern as he or she sees fit, becoming the main custodian of the Nation and defining its interests.

## Restorative Justice

This is another type of justice, also important for processes of reconciliation and social reconstruction. It is concerned with the needs and roles of victims, offenders and community members and requires complete and mutual participation and if possible a direct meeting of victims and offenders (this however, may be considered impossible to happen in Argentina as described later). Zehr (2002) argues that restorative justice is about equalizing concern for all parties involved, encouraging results that endorse responsibility and reparation and healing for everyone. In addition, Johnstone and Van Ness (2007) point out that the restorative justice movement focuses upon changing social responses to crime and misdeeds, repairing the harm done, materially and symbolically, and preventing future wrongdoings or conflicts.

Zehr (2002) addresses the needs of the victims and of the offenders as follows:

### *The victims need:*

- Information about the offence directly from the offender;
- To be able to tell and re-tell their stories, to those who caused them harm so that they can develop an understanding of what they have done and also to their communities, so that they can receive public acknowledgment;
- Empowerment over their lives again and what has been taken away to be returned (so that they have power over their property, their bodies and their emotions);
- Restitution or vindication that involves the symbolic recognition of the harm they have suffered;

In the case of Argentina these may be considered as utopian for three reasons. Firstly, most of the offenders are not willing to give any information about the disappeared people and the kidnapped children. Secondly, the only way I can envisage the victims being able to tell their stories to the offenders is during the trials. Thirdly, the regaining of power over their lives is a very slow process and things can never be the same as before. However, the symbolic recognition of the harm suffered, is being demonstrated in the Argentinean society and is supported by the former and current governments.

### *The offenders need:*

To recognize their responsibility and understand the harm they have caused to the victim(s). This might encourage empathy and ‘shame transformation’. However, although this seems a good idea in theory, in practice and in the case of Argentina, there appears to be no shame. From the majority of perpetrators, as they consider that what they have done was the right thing to do and some even express that they would do it again.

Zehr (2002) argues that the community also has needs and obligations towards victims and offenders, for the general welfare of its members. Communities have a duty to support and help victims and offenders to meet their needs, to actively integrate all parties and encourage the conditions that support healthy communities. Restorative justice advocates engagement and participation, this means promoting a dialogue between parties, where victims and offenders share their stories and may come to an agreement. However, such an encounter is not always feasible and in cases such as the last Argentinean dictatorship, it may be undesirable and sometimes offensive.

For example, the first torturer to be convicted for crimes against humanity in Argentina was Julio Simón, known as ‘El Turco Julián’ or ‘Julián the Turk’ –well-known for his habit of offering tea and cigarettes to detainees between torture sessions. During the trials of former torturers in 2003, many survivors went to Buenos Aires to give their testimonies, but very few

survivors were willing to meet their torturers face to face. A Uruguayan journalist, Gerardo Brusezzi, returned to Argentina in 2003 to confront Julio Simón, his former torturer, in a filmed meeting 2, in which he became the interrogator. The aim of the meeting was to discover the real names of two other former torturers, known as ‘Kung Fu’ and ‘Colores’. He did not accomplish this aim, though. Julio Simón had an opportunity to have this dialogue with one of his victims, but he refused to accept any responsibility for the harm he had inflicted and he was far from showing any signs of repentance or apology.

From what I have observed in recent trials in Bahía Blanca, when the court has heard testimonies from some of the victims, the accused perpetrators mocked their stories and some even sketched cartoons or posed provocatively. They complained about trivial issues and tried to delay trials by all means. However, some members of society will not give up - they have waited more than thirty-five years for these trials to happen. Personal testimonies started on 9th August 2011 and some victims started then to share their testimonies in a public court.

Nevertheless, “individual healing and closure is different from political reconciliation at national level” (Skaar Elin and others, 2005, p. 21). In addition, Mark Freeman and Priscilla Hayner (2003) argue that truth is an important element to pursuit reconciliation.

A conceptual framework regarding reconciliation will be provided in order to reflect upon its methods and the feasibility of achieving it, at different levels. Firstly, an approach to the concept of reconciliation will be presented, and then I will pose the cognitive aspects that form the psychological changes needed by society members in order to achieve reconciliation. I pose these specific societal beliefs because they are connected with the ideas that people had about dictatorship and its victims, and especially those stated through common phrases heard at the time: ‘por algo será’ (there must be a reason for what happened to them), ‘algo habrán hecho’ (they must have done something). Those phrases have a strong inner meaning that shows us how people reflect upon dictatorship in particular and victims in general.

Following on from this, I will discuss intra-societal and intra-individual reconciliation. The process of reconciliation, along with the relevant transitional justice mechanisms will be considered as ways of healing the wounds from dictatorship and reach reconciliation in Argentina.

## Defining reconciliation

The concept of reconciliation has been discussed not only in the context of social sciences but also in political science and political psychology. Thus, there are many approaches to understanding the meaning of reconciliation following violence, taking into account the type of conflict and its historical, political, economical and social contexts. As a consequence, reaching a consensus on a general understanding of that concept might not be easy. A broad and multidisciplinary approach to reconciliation is needed, considering the social, cultural and historical context we are referring to. Several approaches to the term will be discussed, before reaching a working definition that will be adopted in this thesis. When we think about reconciliation, what normally comes to mind is the thought of restoring or healing a conflictive relationship between people who disagreed or argued over some ideas, beliefs or issues and which in the worst cases, may end in violence or even in war.

According to Bar-Tal (2004) reconciliation goes beyond having a non-violent co-existence. Imagine that the conflict has ended; does this lead immediately to reconciliation? Usually not, because the core of reconciliation implies a psychological process, a change of societal beliefs

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2 In the video of Julian ‘The Turk’ at:<<http://www.youtube.com/watch?v=uf94OjrY6Ak>> (People and Power-Interrogating a torturer-30 Sept. 2009) he is seen facing one of his victims, a journalist from Uruguay (accessed 12/11/2014) . There is a note from the newspaper Puntal.com.ar at: <<http://www.puntal.com.ar/noticia.php?id=1153>> (accessed 12/11/2014) showing his conviction.

(collective memories), attitudes, motivations, goals and emotions about the conflict by the majority of society members. The cognitive aspects of reconciliation are discussed below.

Reconciliation might involve two or more parties that are or have been in conflict. How can these two parties come together in a peaceful relationship? In many cases, it can happen that the parties did not have a peaceful relationship before, but they may have had a less violent one. What are the conditions required for reconciliation to take place? One important condition is that offenders recognize the harm they have inflicted. This recognition can be carried out in a public setting - where the apology is made before the community - or in a private setting - face to face with the victim. The latter case becomes more difficult when the violence is institutionalized and rooted in society. It is also important that besides recognizing the harm done, the perpetrators repent of their actions. However, this does not happen very often, and as in the case of Argentina, perpetrators usually do not express remorse or even acknowledge their wrongdoing. In addition, Govier (2002) argues, even if the victims forgive, it will be a unilateral forgiveness and they will be prudent with their relationship with the perpetrators, as this relationship leaves them vulnerable to future exploitation or abuse. Victims might not trust the perpetrators and also might feel unable to be reconciled with them.

Bar-Tal and Bennink (2004) argue that reconciliation requires the support and desire of society as a whole or of the majority at least, to achieve a stable peace. Reconciliation is a basis by which relationships between people may be restored, and a fundamental change of beliefs, of values may be needed in order to accomplish peaceful relations. Besides that, it is also necessary to restore institutions, the economic and political systems from the structure of the society, that have been in place for sometime but that might need re-structuring.

Cognitive aspects of reconciliation and changes in societal beliefs required to reach reconciliation will be examined below. I have chosen the approach of Bar-Tal and Bennink to reconciliation because I believe that there has to be a change in people's societal beliefs<sup>3</sup> in order to enable a move forward into the process of reconciliation. Those societal beliefs are regarded as the psychological basis that is grounded in the group's collective memory.

### Cognitive aspects of reconciliation

The cognitive aspects of reconciliation refer to the psychological changes required to reach reconciliation in both parties and in society in general. Bar-Tal (2004) argues that five themes of societal beliefs were formed during conflict and that it is necessary to change them to reach reconciliation. These societal beliefs concern:

- the group's goals
- the rival group
- one's own group
- relationship with the past opponent and
- Peace

I will add three more themes concerning societal beliefs because I believe they can complete the psychological changes needed to achieve reconciliation:

- justice
- power and behaviour asymmetry and

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3 Societal beliefs are defined as 'society members' shared cognitions on issues that are of special concern to society and contribute to its unique characteristics. They are organized around themes and consist of contents as collective memories, ideologies, goals and myths'. (Bar-Tal and Bennink, 2004, p.38).

- moral values

Societal beliefs about the group's goals:

The rationale and construction of the conflict parties' own goals offer an epistemic basis for the conflict. Those goals could be determined by each party according to their political, social and cultural points of view, and thus, define them. Thus, new goals, new symbols and new myths should be re-shaped and changed.

***Societal beliefs about the rival group:***

Bar-Tal (2004) refers to the images that parties form of the rival group(s). There is a delegitimization of the opposing group, whereby even violent actions against them are justified. For example, in Argentina, before the dictatorship started, the AAA Alianza Anticomunista Argentina (Argentine Anticommunist Alliance), the police, the FFAA Fuerzas Armadas Argentinas (Argentine Armed Forces), a large part of the civil society and the military discredited and delegitimized the political activism of the youth, stating that it was dangerous and violent. Abusers thereby justified their actions against their 'enemies'; starting to kidnap, torture and, in thousands of cases, murder them. Perpetrators dehumanize their rivals and are therefore able to harm them, because they do not see their rivals as human beings having feelings and consciousness.

To be able to talk about reconciliation it is essential to re-legitimize the opponent group, to confer humanity on the opponent group and personalize its members, thereby recognizing the rivals as individuals and as human beings.

***Societal belief about one's own group:***

There is a tendency for each group to have a positive view of itself and of censoring and throwing a negative light on the rival group. In the reconciliation process, it is necessary to carry out self-introspection and self-reflection of the negative past acts and attitudes of one's own group. Staub (2003) argues that psychology research demonstrates human beings tend to split the world into 'us' and 'them', creating 'in-groups' and 'out-groups', differentiating ourselves from members of the out-group. There are ties that bind people together; causing them to group themselves in a certain way and giving them the feeling of belonging to a group through, for example, shared goals, affection, and recognition of a shared destiny. On the other hand, the attitude to the out-group is one of fear and anxiety of the strange and the unknown.

The training of torturers and murderers usually consists of making strong in-group ties that differentiate them from the rest of the world. Because human minds work by categorization, it is then plausible to devalue the out-group, through, for example, their race, religion, status, wealth, power and/or political views. In Argentina, people with liberal ideological views were defined as anticommunist, against the leftists, who were seen as the enemy. Another example of in-group ties was seen during the dictatorship when perpetrators identified themselves with special nicknames, their own language and a group name. They used especially nicknames such as 'Laucha' (mouse), 'Tigre' (tiger), 'Lobo' (wolf), 'Gato' (cat), 'Rata' (rat), 'Jeringa' (syringe), 'Delfín' (dolphin), 'Hormiga' (ant), 'Leon' (lion), 'Bicho' (bug), 'Puma' (puma), among others, to identify themselves according to their role or personality feature in the concentration camps. Almost all victims at the crimes against humanity trials in Bahía Blanca, talked about them in their testimonies, they can also be found at the CONADEP (1987) report.

### ***Societal beliefs about the relationship with the past opponent:***

In this cognitive aspect, it is important to support the value of cooperation and of building friendly relations between rival parties. I believe that for these beliefs about the development of relationships to succeed, it is essential to develop empathy and sympathy among groups, to enable them to be receptive to and to act according to the needs and suffering of others.

### ***Societal beliefs about peace:***

Bar-Tal (2004) points out that it is important to identify the conditions and methods needed to reach peace between rival parties and to draw attention to the needs and purpose of both groups. Reconciliation requires that the group members are able to develop positive emotions and expectations of peaceful future events, changing the feelings of fear, anger and hatred into positive ones such as hope, peace and common assistance. These points are connected with the ideas posed by Zehr (2002) about restorative justice, which were discussed in chapter one. According to Webb's comments (2011) peace treaties and agreements do not guarantee achieving peace – just a break (or truce) in the fighting. Peace building and reconciliation processes are needed to prevent a recurrence of violence.

I have added the following three themes to those suggested by Bar-Tal, because I believe that they are fundamental to the beliefs of people of different societies tackling post-conflict situations:

### ***Societal beliefs about justice:***

Different types of justice – i.e. retributive, restorative and distributive were discussed above. Members of rival groups will often hold different ideas of the meaning of justice. This makes it more difficult to reach a consensus regarding mechanisms of transitional justice and raises questions such as: “Is a Truth Commission appropriate?” “Should retributive justice and punishment of some of the perpetrators be part of the healing and reconciliation process?”

For some people justice would be equivalent to court trials and punishment. But it is one thing to prosecute someone and another thing to punish them. Also – in some cases violence has been stopped because amnesties have been promised. For others, symbolic justice is more important, that is the acknowledgement by society at large of what happened, and the recognition of victims, as it happens under the restorative type of justice. I believe that both are necessary to heal society and also to reach certain levels of reconciliation such as intra-personal and intra-societal reconciliation. In addition, if this is the way to reach justice, who will actually be punished? All wrongdoers or only some of them? How can we determine the number of perpetrators that should be prosecuted? Some would argue that perpetrators should acknowledge their crimes. However, this is not happening in Argentina and probably will never happen, thus it is difficult to talk about reconciliation at certain levels, for example between perpetrators and society in general. There is another question that might arise: “is it necessary for perpetrators to feel repentant to achieve justice? Or is it enough that they make a public confession, as it happened in South Africa?” In the case of Argentina, repentance is not likely to happen, and public confessions may not be enough – so this will therefore be only theoretical possibilities.

### ***Societal beliefs about morality:***

Craig (2005) states that morality is:

“A distinct sphere within the domain of normative thinking about action and feeling: the whole domain however, is the subject of ethics” (p.713).

He also says that morality is a system of value and custom (moral principles) that entails the conceptions of right and wrong, guilt and shame and so on. That is to say, how individuals should act. Those moral principles guide individuals when they decide what they should or should not do.

However, according to Olen J., et al (2005) we do not only act individually but also collectively and we should always take into consideration fairness and respect for people. Respect for people, often called Kantian respect, is judged by the moral principle: never use others merely as a means to your own ends. To respect people is to be aware of their autonomy as human beings and consequently treat them appropriately. Thus, any kind of coercion can be considered as a failure regarding the respect of somebody's autonomy.

In Argentina the moral values held by the military and those who supported them differed from those of the civil society in general. There was therefore a clash between the military and a part of civil society concerning moral values. What the military and those who supported them from civil society considered as being 'good' or 'acceptable' did not coincide with the moral basis of a large part of the community in general. Perpetrators did not recognise the humanity of 'others' respect for their dignity or the value of their lives. This made them able to commit terrible atrocities.

The way one group values another determines how they behave towards them. Bullying is a tactic used to intimidate others into submission. It may start with words but can easily end up with murder. All it needs is for one group to identify itself as morally superior and thus designate other groups as inferior. With the assumption of power, a moral basis for action and in-group identification, people may abdicate their own personal responsibility and surrender their power to the group, as Larrain (2005) and Staub (2003) argue regarding these issues. In doing so, they become willing to do bad things for the supposed greater good of the group, which they justify by devaluing the humanity and rights of those who 'oppose' them. The only way to prevent this is for every individual to be prepared to stand by their own moral code and authority and refuse to act against others without good and personal cause. It requires courage and strength. We have seen how important the way we value ourselves and others is, how our individual and social identities are shaped by our societies and culture. We can all develop an awareness of our common humanity with other people, creating this way positive and caring relations.

### ***Societal beliefs about power and behaviour asymmetry:***

Malamud-Goti (1996) argues that the political power of a terrorist regime, such as Argentina's last dictatorship, is followed by an extensive confusion and disinformation among the population that split people's reality. He also says that under state terrorism, power is characterized by a lack of moral authority, an absence of communication in which the articulating power is restricted, and hence, power is disarticulated through the use of violence. In Argentina, for example, during and after the dictatorship, a part of society started to look at the victims of repression as the ones to be blamed, as a result, people transferred their anger from the perpetrators to the victims.

Members of the groups involved should be aware of the existence of the power asymmetry between them. In the case of Argentina, one group had inflicted great harm on another one. However, parties did not agree about the degree of power asymmetry that existed. For example, the military took control with an ideology that the State was to be defended at any cost. The military, the FFAA and the police had the power and also the economic resources to maintain that power. The opposition was made up of relatively small groups with few resources and were usually unarmed and without military training. Behaviour refers to what the military and their accomplices were willing to do against their 'enemies' to win. Power

distribution between the military and the civilians was particularly asymmetrical and imbalanced.

### Reconciliation and levels

#### Intra-societal reconciliation

There are many approaches to reconciliation. One of them is the intra-societal reconciliation for the reconstruction of society in a post-conflict context. Lederach (1997) hypothesizes that four elements are necessary for intra-societal reconciliation: truth, mercy, justice and peace (see Figure 1). Truth entails unlocking the past, the acknowledgment of past wrongs, transparency and disclosure. Mercy calls for the renewal of relationships, forgiveness, sympathy, empathy and healing. Justice points towards fairness, restoration and social reconstruction; and Peace involves security, respect, and all that is related to guarantee the welfare and agreement of people in a shared future.

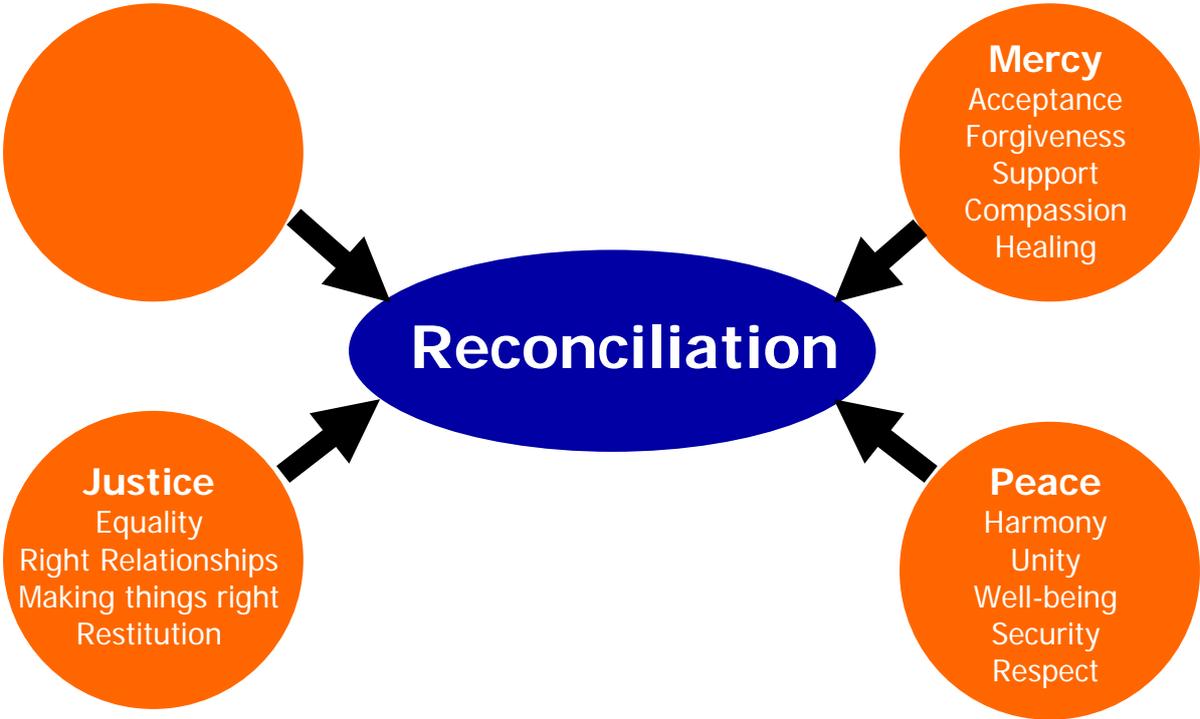


Figure 1: The Place Called Reconciliation (Lederach, 1997, p.30).

These elements were identified in Psalm 85:10, which reads: ‘Truth and mercy have met together; peace and justice have kissed’. Those words gave Lederach a strong image of their meaning in the context of divided societies. Reconciliation is thus seen as a place of encounter, of transformation where parties in conflict meet.

In the case of Argentina, three of those elements can be identified - truth (which has been worked for since the end of the dictatorship, for example, with the creation of CONADEP); justice (that started with truth trials and more recently with public trials) and peace (which can be identified in all the social restoration and reparation processes that are taking place in the country). However, there is a long way to go before mercy will be seen as taking place to any significant degree.

### ***Intra-Individual reconciliation and healing***

As it was discussed above, developing intra-societal reconciliation might help restore and rebuild post-conflict societies because it might allow people to be aware of their history, of what happened, its causes, consequences and the victims' social recognition. However, there is another level to consider when attempting reconciliation. The personal level of reconciliation is essential because it helps individuals, victims and perpetrators to be introspective about their feelings, memories, experiences, attitudes and dreams and to move on considering them. There are many factors to consider at this level of reconciliation, including the feelings that develop during the time after the victims' experiences, such as guilt, pride, healing, hatred, resentment, vengeance and hope, to name a few of them.

Intra-individual reconciliation is related to the way we internalize experiences and narratives of our lives and also to the new identities that were created during and after the dictatorship that will have an impact on the ways we develop our lives in the future.

To strengthen peaceful relations with others it is important to genuinely foster a change in our attitudes, behaviour, goals, gestures and feelings that are embedded in our hearts and minds. Hence, intra-individual reconciliation should be encouraged so these feelings can be projected into our communities.

Having said that, we also need to recognise that there are crimes that cannot be pardoned and as human beings we cannot always forgive everything. However, this does not mean that people have to live with negative feelings, such as revenge or hatred; on the contrary, they can work for a positive transformation in society by firstly achieving personal transformation.

### **The process of reconciliation**

As we have seen, there are many conditions to be fulfilled in the reconciliation process. According to Bar-Tal (2004) structural and psychological changes are required, and, although structural changes can be put into practice rapidly, psychological processes take much longer. Those changes require that parties change one or more of their beliefs, their attitudes towards the rival group, their emotions about the conflict, and/or their goals and motivations, alongside a deep desire for achieving reconciliation and peace. However, this idea seems to me to be too utopian; there may or may not be a deep desire for achieving this kind of reconciliation by both parties, but it is difficult to know if it can be reached or even if it is desirable.

The reconciliation process is not static and linear; it is dynamic and constantly changing. In addition, according to some scholars, such as Lederach (1997) and Bar-Tal (2004) there are many different ways or methods to reach reconciliation. Three methods to achieve reconciliation and promote social reconstruction that coincide with transitional justice mechanisms<sup>4</sup> will be considered here. However, I will explore mostly the public trials mechanism.

- Truth Commissions
- public trials
- forms of reparation

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<sup>4</sup> See Teitel, R. (2003) *Transitional Justice Genealogy*. Symposium: Human Rights in Transition. Vol.16. Harvard Human Rights Journal 69-94.

## Truth Commissions

### *Truth*

There is a general belief that establishing the truth helps achieve reconciliation (Desmond Tutu, 2000). In addition, the right to know the truth is established in international law. Knowledge of what happened, and public recognition of the harm inflicted is essential for individual healing, and the whole society must also recognize its past human rights violations.

According to Kriesberg (2004) the truth needs to be shared, not only in official statements, but also culturally by way of music, films, textbooks and many other types of communication. In this way information is shared about what happened and about who caused grievances and against whom. In other words there is a need to identify perpetrators and victims.

The healing power of truth is related to religious expressions, such as confession, forgiveness and catharsis, but also to psychological healing and individual closure. Another way of uncovering the truth is through trials that help to create a collective memory of the past and also assist in the construction of new meanings. Storytelling can have these effects at individual level, helping to heal victims when they talk about and share their painful experiences.

### Definition of Truth Commissions and their purpose

Truth Commissions seek to expose the causes of violence, investigating the background to atrocities and the evidence of human rights violations. In Argentina and in other Latin American countries, the outcomes of Truth Commissions have been published in reports known as *Nunca Más* (Never Again). However, as Teitel (2003) states, the Truth Commission in Argentina was not aimed at reconciliation as it was in South Africa. In Argentina the Truth Commission was aimed at knowing the truth of what happened in the dictatorship and the fate of the disappeared. Perhaps the most significant role of Truth Commissions is the opportunity they give individuals and whole communities to tell their stories and then share their testimonies, helping create a national memory for future generations.

Hayner (2002) suggests that the purpose of a Truth Commission is to encourage reconciliation at a national level through speaking openly of a silenced and conflictive past; this might help to prevent further conflicts and the resentment that might arise between rival groups. She states that, at individual level, topics such as healing and reconciliation are totally personal processes. Thus, these two levels, i.e. the personal and the national levels, involve different processes but strive towards a common goal: to facilitate coexistence (in society as well as inter and intra personally) not by forgetting or altruistic forgiveness, but by verbalizing and acknowledging a violent and conflictive past.

To sum up, truth for society and acknowledgments and reparations for the victims. When talking about Truth Commissions it is essential to consider the historical and political context in which they are developed.

### Public trials

Public trials of particular individuals charged with human rights violations and crimes against humanity can be seen as another method that facilitates the reconciliation process. However, this could be regarded as retributive justice rather than restorative justice, and it is argued by some interviewees, restorative justice would be better or at least desirable also.

Trials give an opportunity to reveal the misdeeds and to punish criminals that are found guilty; giving the victims the sense that justice has been carried out. However, problems arise when criminals are not found guilty and therefore remain unpunished. These trials also might

serve as a deterrent, as warnings, by showing that those who commit such crimes can be found, tried and punished.

Malamud-Goti (1996) argues that in the period of transition from dictatorship to democracy, trials of human rights abusers are fundamental. In Argentina, the trials commenced only a few years ago, when the amnesty laws “Full Stop” (1986), “Due Obedience” (1987) and Pardon laws (1989) were abolished in 2003. Trials of perpetrators may have strengthened the authoritarianism, becoming a new cause of conflict. Lieutenant Colonel Aldo Rico and Domingo Bussi are clear examples; they rebelled against human rights trials that started under Alfonsín’s democratic government, to “restore the dignity and unity of the army”(p.5). In 1989, Rico was pardoned by President Carlos Menem, beginning his candidacy for governor of Buenos Aires only a short time after. His party, MODIM, won four seats in the national lower house. Domingo Bussi, who was a tyrant governor during the 1976-1983 dictatorship, won 43 % of the votes in the election. The punishment of human rights abusers is expected to give society an understanding and knowledge about their recent past. This also legitimizes governmental institutions in the eyes of the people.

Trials can bring a sense of justice in society being regarded as the way of combating impunity. However, we cannot think of reaching reconciliation only through trials and retributive justice; we also need society’s recognition of facts and victims; it is only after recognition that we can talk about symbolic justice.

These trials also might serve as warnings, by showing that those who commit such crimes can be found, tried and punished. In Bahía Blanca, my home town, as I said above, the trials of crimes against humanity commenced on Tuesday June 28th 2011, a very important historical fact not only for the city but for the whole country in its recovery process. I work on those trials as a psychologist<sup>5</sup>, assisting victims and eyewitnesses. Together with other psychologists, belonging to another assistance program, we support victims, previous to giving their testimonies at court, during their declaration and afterwards, whenever it is required. Assistance is important because it may allow them to face the anguish of re-experiencing their pain through memories of what happened and also of declaring before court. They also receive personal protection, some financial support for transportation and accommodation when needed, among other things.

When assisting victims at the TOF Tribunal Oral Federal (Oral Federal Tribunal) in Bahía Blanca, I would normally sit close to the victims, so that they can feel supported. It has been a very rich experience personally (as I’m also a direct witness and victim of the dictatorship, during which many of my family members were kidnapped and held in concentration camps and prisons) and also professionally in my country’s history and it has been particularly challenging to be part of it. It has also been stimulating to work with lawyers and judges, the plaintiff and other colleagues throughout the process, as it is shown in the graphic below (Figure 2).

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5 I currently work as a psychologist at CPV (Centre of Victims’ Rights Protection) Ministry of Justice, Buenos Aires province.

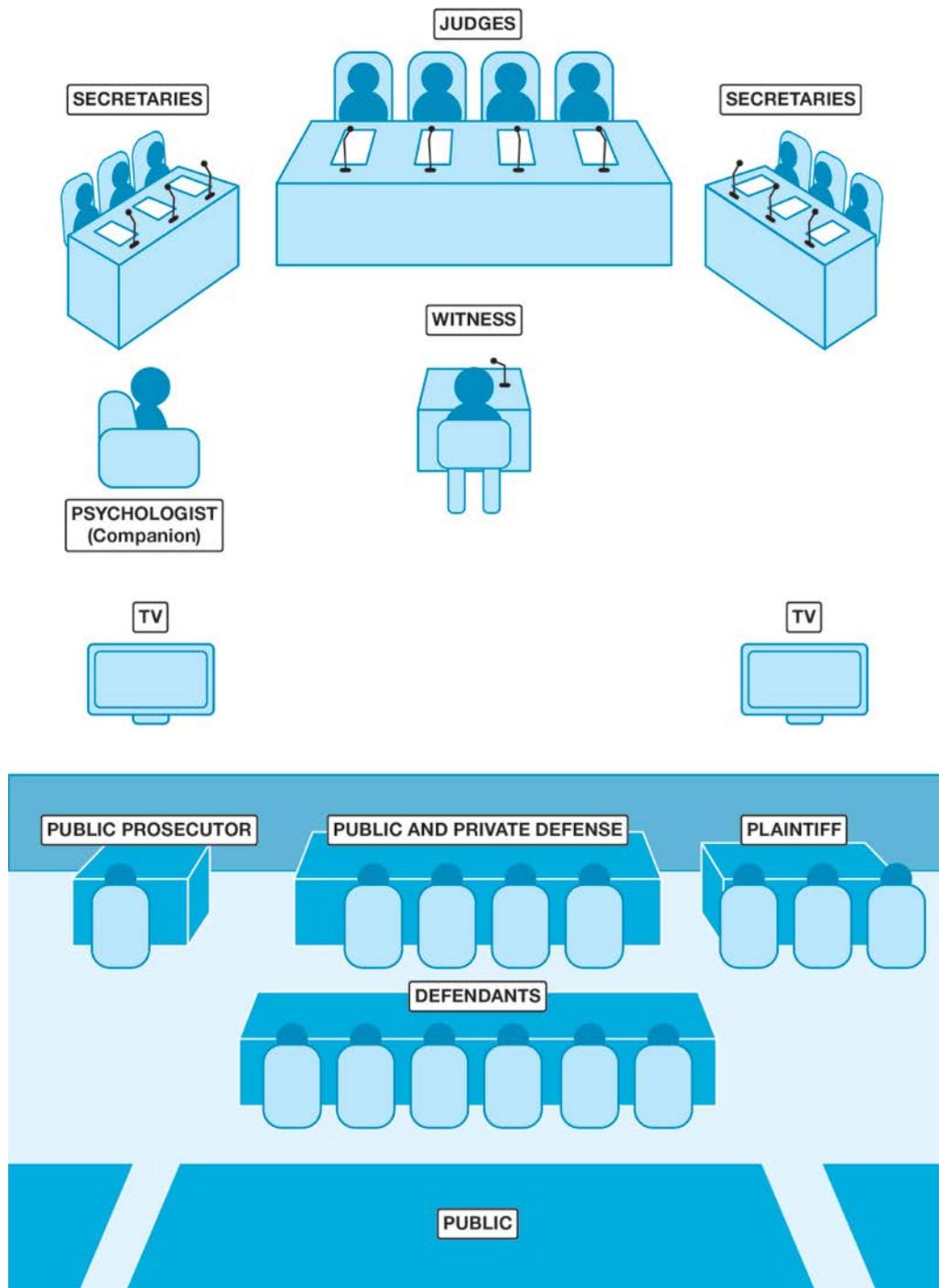


Figure 2: TOF Bahía Blanca

## Truth trials (Juicios por la verdad) and the right to know the truth

According to Méndez (2004) the Latin-American transition from dictatorships into democracy had to face the problem of what to do with the legacy of massive and systematic human rights violations updating the fundamental principles of international law. As a consequence, there appeared developing international principles laws, known as “principio emergente” according to fundamental human rights, i.e. right to life, physical integrity and fair trial. The emergent principle recognizes the way of interpreting those norms for situations that were not predicted at the time. The state has the obligation to investigate, process and punish those responsible and disclose to victims and society all that could be found about facts and circumstances of violations. The right to know the truth is inseparable from the right to justice and is also

related to the right of information the State owns. “State obligations arising from these crimes are four: obligation to investigate and make public the facts that can be consistently established (truth); obligation to process and punish those who are responsible (justice); obligation to fully repair the moral and material damage (reparation) and obligation to remove from security forces who are known to have made, ordered or tolerated such abuses (security forces creation worthy of a democratic State)”. (Méndez, J., 2004, cited in Abregú. M., 2004, p. 526).

Méndez says that it is necessary to make a huge effort to elucidate the truth about the repressive structure that led to commit crimes against humanity, including the command lines, orders issued, sites and mechanisms used for such purposes that guaranteed impunity. The State has elements that constitute a starting point to know what happened with each disappeared person.

The revelations of Captain Adolfo Scilingo are a clear example; in 1995 he recognized his participation in the illegal repression of the last dictatorship. Journalist Horacio Verbitsky wrote a book ‘The Flight’, in which he disclosed Scilingo’s revelations about the well-known “vuelos de la muerte” (death flights), where thousands of Argentines were thrown into the Ocean, alive, naked and drugged, saying that military chaplains comforted officers afterwards. Also the historical message of General Martín Balza 25th April 1995, where he recognised the existence of torture and deaths during the last Argentine coup, criticising the methodology they used<sup>6</sup>. During some victims’ testimonies at trials of crimes against humanity taking place in Bahía Blanca, one of them was from a former soldier<sup>7</sup> in his twenties at the time of the coup. He talked about some military operations he was part of. I assisted him as psychologist before and during his declaration. He gave details of those operations and also provided names he heard of his superiors, enriching victims’ cases we are working with, such as the case of Alicia’s kidnapping. He told me he was not able to sleep well for many years, thinking of the fate of that young woman and her little girl, until he learned that they were fine living in the United States. By giving and sharing his testimony, he thought he was contributing to the truth, and he was indeed. When Alicia knew he was giving his testimony about her case, she was very glad about that, this is a clear example of a path to reconciliation.

Méndez also states another aspect of knowing the truth is the process in which victims are invited to be heard by a state entity its main purpose is to heal wounds and establish the truth. To recognize also helps to transform the historical truth when it is assumed officially by society and the State. That way, society tells victims their suffering is known and recognized and intends to prevent it to be repeated in the future.

In the late 1990s ‘truth trials’ were convened in Argentina. This was a judicial process developed in the Federal Chamber of La Plata; its goal was to find the whereabouts of those who ‘disappeared’ in the region during the military dictatorship in Argentina and also to determine who were responsible. The objective, however, was not to prosecute perpetrators but to know the truth. Since September 1998, the Court has taken oral and public hearings every Wednesday. The investigation has more than 2,200 records and over 800 witnesses have spoken but no cases have been solved. However, some testimonies were considered as they were useful anyway for public trials, e.g. Von Wernich and Etchecolatz after so many testimonies were eventually considered responsible for crimes against humanity occurred in Argentina. Christian Von Wernich belonged to a rich family and used to travel abroad very often, he has a casual style and lavish and frivolous life and he used to say that he wanted to

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6 See Balza’s historical message at: <<http://archivohistorico.educ.ar/content/declaraci%C3%B3n-del-jefe-del-estado-mayor-de-ej%C3%A9rcito-m-balza>> (acceded 12/11/2014).

7 Testimony given by former soldier, Néstor (who was doing an obligatory military service during the Argentine dictatorship) on 17/02/2012, before the TOF (Tribunal Oral Federal) Federal Oral Tribunal, in Bahía Blanca.

be a priest to work only on Sundays and rest during the week. Mignone (2006) and Verbistky (2006). He is the first Catholic priest to be prosecuted for human rights violations during Argentina's dictatorship.

To sum up, I would say that I strongly believe Argentina is on its way to heal its wounds. Justice is slow and in transition as reconciliation it is as well, but it is still working and that the dream of a fair and equal society of those idealist young adults of the 1970s, including members of my family, is still in their hearts, alive and will remain as a motivation and inspiration for future generations.

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