JUSTICE AS RECONCILIATION: POLITICAL THEORY IN A WORLD OF DIFFERENCE

by

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DISSERTATION ABSTRACT

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Divisiveness routinely turns violent, thus making research into alternative means of dealing with conflict an urgent necessity. This dissertation focuses on the politics of divisiveness and the techniques of conflict transformation. In this, I offer a robust and operable theory of reconciliation. I argue that reconciliation is the first principle of justice. In this sense, the ideal of justice is enacted through the improvement and coordination of social-political relations, which requires the development of trust and institutions that facilitate the ever emergent demos.

This is not to suggest that alternative approaches to justice, such as distributive models, are useless or wrong. Rather, justice requires a consensus which cannot be realized when persons see their neighbors as enemies. In conflicts, activities that benefit the enemy Other, such as the redistribution of wealth, will be taken as an injustice by other embattled social groups. As I demonstrate through various cases, interpersonal and institutional responses, like redistribution, often escalate discord and rarely create a shared sense of justice. Thus, conflict becomes a cyclical and multilevel problem. I explore how we can better respond to the cycle of conflict at individual, social, and systemic levels, in order to realize a legitimate notion of justice.

I use an interdisciplinary approach to defend my arguments, drawing on

philosophy and Conflict Resolution (CR). CR is an emerging field that emphasizes practical responses to conflict, often with advocacy for reconciliation. However, more theoretical work needs to be done to explain the ideal of reconciliation that directs CR practices. Within philosophy, little work has been done on the topic of reconciliation. A vast literature exists on the topic of justice, but this literature offers few practical descriptions of how persons come to agree upon the terms of justice. Thus, theories of justice are often labeled as 'ideal' simply because they are disconnected from the fragmented and conflict-ridden reality most people experience. This dissertation, as a project in non-ideal political theory that is empirically informed by cases and concerns in CR, fills these gaps in both philosophy and CR.

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CHAPTER I

WHY RECONCILIATION?

"*The Nation has not yet found peace from its sins; the freedman has not yet found in freedom his promised land*." - W.E.B. Du Bois[1]

"*A Dutch innkeeper once put this satirical inscription (Perpetual Peace) on his signboard, along with the picture of a graveyard. We shall not trouble to ask whether it applies to men in general, or to heads of state (who can never have enough of war), or only to the philosophers who blissfully dream of perpetual peace*" - Immanuel Kant[2]

1.1. General Claims of *Justice as Reconciliation*

In *Justice as Reconciliation: Political Theory in a World of Difference,* I present a theory for post-conflict reconciliation and I defend reconciliation as the conditions of the possibility of justice. By conflict I mean a violent cyclical relation that ruptures and thus prevents stable social relations. By cyclical I mean that conflict fractures social relations

[1] Du Bois 2014: 4.

[2] Kant 1970: 93.

and when such divisions are left unreconciled, they repeat themselves, compounding, lingering, and haunting throughout time. Indeed, history is often narrated in terms of perpetually repeating conflicts, a flat record caught on repeat. But historical description is not a future determination and we can free ourselves from the haunting past to reclaim our present and future. In this sense, reconciliation is a means of liberation.

In more abstract terms, I take reconciliation to be a specific sort of enactive process that attempts to repair relations wherein the coordinating conditions that come prior to cooperative meaning making are absent or highly asymmetrical. Reconciliation is a means of liberating shared meaning or value. Along these same lines, conflicts are those social and political circumstances wherein the conditions for the possibility of cooperative meaning making are absent, highly asymmetrical, or damaged. The main conditions of cooperative meaning making or ethical social-political life are basic forms of trust and respect, or what Hegel calls recognition.[3] In conflict, persons are left vulnerable because basic forms of trust and respect are absent, thus making violence and strategic action lingering facts of life, and cooperative meaning making a distant possibility.

Thus, when asked 'why should persons reconcile?' I maintain that reconciliation is an ideal that cannot be seen as obligatory. War and conflict are like infection or disease, strikingly similar to addiction. The addict cannot be forced to recover and she may die before finding the resources and relations needed to survive. As the above quote from Kant's perpetual peace suggests, the alternative to peace is, like the alternative to recovery, death. For many, the dire alternative of perpetual conflict is a sufficient

[3] Hegel, Miller, and Findlay 1977; Hegel et al. 1979.

motivation to reconcile. Peace is always preferable to war. But peace requires more than a mere cessation of conflict because, as already noted, conflicts linger when unreconciled. Thus, we *ought* to reconcile in order to prevent the repetitions of conflict and in order to realize a lasting peace. Until we can engage cooperatively, discussions of alternative futures organized according to agreed upon principles of justice will remain vacuous or utopian.

Hence, central to my analysis are philosophical issue of justice, specifically what have come to be called *transitional* and *restorative* justice. Political theory, especially theories of justice, often discuss transitional justice as a necessary step toward liberal democratization and thus as the achievement of a status which makes such societies worth discussing as normal, liberal, and democratic. This means that much of the political work done before and during the transition to a democracy is largely overlooked or discussed in terms of intervention.[4] It is rarely suggested that liberal democracies or what Will Kymlicka and Bashir Bashir refer to as 'established' societies could learn from transitional societies.[5] Subsequently, Kymlicka and Bashir rightfully point out, there is a gap between political theories for established societies—such as ideal-liberal theories, which half-heartedly address their own divisive conflicts through the Politics of Difference—and theories for transitional societies which address the politics of reconciliation.[6] One broad goal of this dissertation is to bridge this gap. I maintain that

[4] See, e.g., Rawls 1999.

[5] Kymlicka and Bashir 2008. There are exceptions to the claim that established societies do not learn from transitional politics, such as the Greensboro Truth and Reconciliation commission (Magarrell and Wesley 2008), but in general political theory ignores transitional societies and focuses on liberal theory, and institutions continue to operate uninfluenced.

[6] Ibid.

there cannot be a sharp distinction between justice and the transitions which move us toward justice, because justice is not a static thing which is or is not realized. Justice is always in transition, demanding restoration and integration, and my claim is that a practical realization of justice must address the techniques of reconciliation which are presently operating throughout the world to overcome violent divisions.

Social-political conflicts make it impossible to even discuss justice, and those discussions that do emerge fall flat as failed utterances, speech-acts that lack the total situation, the affirmation of an empowered demos, needed to guarantee their felicitous success. In this sense, we cannot legitimately speak of justice unless social relations are stable, social and political trust is present, and institutions are working to not merely represent the demos but also help the demos to find self-cohesion by providing a space for direct political participation.

Justice As Reconciliation does not begin with an assumption about what Others would agree to as fair in imaginary and veiled circumstances; rather, it begins with our non-ideal war-torn reality and asks: How can we transform ourselves and our conditions such that agreement is actually possible, and how can we elevate our consensus into a legitimate politics? *The first principle of a robust and useful conception of justice is reconciliation because it is only through reconciliation that we can begin to legitimately discuss Justice*. Justice can only be legitimately understood through reconciliation, hence reconciliation makes justice possible.

1.2. The General Structure of *Justice As Reconciliation*

Justice As Reconciliation is comprised of 6 chapters including this introductory chapter: I) "Why Reconciliation?"; II) "Cyprus As Exemplar"; III) "Groundwork for a

Theory of Reconciliation: Coordinating the Terms of Agreement in Potential Societies"; IV) "The Will to Reconcile: Materiality and Co-experience As Motivational Strategies in Conflict Transformation"; V) "No Future Without Transition: A Critique of Liberal Peace and the US Prison System"; VI) "Reconciliation Politics and the Post-Domination Society: Legitimacy and Trust Through Explicit Consent." Each of these chapters builds upon the previous, but each chapter also contains independent arguments engaging with relevant contemporary literature in ethics, social-political philosophy, conflict resolution, political-science, history, and criminology.

In chapter II, "Cyprus As Exemplar," I discuss the ongoing Greco-Turkic conflict and peace-process. I work to answer two general questions: how do people end up in conflicts? And, how do conflicts get reconciled? I focus on Cyprus because it represents, as Allesandro Ferrera says, "what is as it should be."[7] The force of the Cyprus example is manifold. Cyprus is an ambiguously Middle-Eastern-European nation that is divided along a UN monitored green-line, and like most spaces that emerged from the West's dissection of the former Ottoman Empire, it is marked by violent conflict. Unlike other former Ottoman territories, however, Cyprus has embarked upon a slow but highly successful path toward peace that is focused on reconciling the division that separates north from south. Hence, Cyprus does not just exemplify the ethics, politics, and techniques of a successful grass-roots reconciliation effort; but, Cyprus also represents stability and peace in a region that has historically been categorized by Orientalists as backwards, irrational, naturally war-like, and thus in need of western 'guidance' as

[7] Ferrara 2008: 3.

imperial-colonial domination.[8] Contra reified notions of history and peoples, I treat Cyprus as exemplar because it can account for, as Ferrara argues, "much of the change undergone by our world over time, for the rise of new patterns and the opening of new paths."[9] Though imperfect, Cyprus remains an exemplar of reconciliation because it illuminates new possible modalities of life. The modalities illuminated by the Cyprus example stand in stark contrast to the mythical modalities of war that chicken-hawks would have us believe are normal and natural. Cyprus reveals that peaceful transformation is possible.

In chapter II, sections 2.1 and 2.2, I discuss Cypriot nationalist imaginings that are based in a blame which justifies conflict. Of course, the problem of ethnic nationalism perpetuating conflict is not unique to Cyprus; but, Cyprus is an interesting case because of its relation to the European Union and the Middle-East. The problem with nationalist interpretations of historical-political contexts is that such interpretations often exclude the narrative accounts of Others, but, at the same time, the hermeneutics of nationalism—those interpretive frames that determine a world by closing it off to other possibilities—also inform how one should understand and work with others. The transformation of conflict therefore requires a sensitive and inclusive approach to historical problems, especially in places like Cyprus, with deeply contested historical understandings of the present. In section 2.3 I show how, when approached with a different hermeneutic sensitivity, the Cyprus conflict has been transformed, divisions have been overcome, and reconciliation is being realized.

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[8] For in-depth discussions of this Orientalist attitude and its role in war-history, see e.g. Said 1978; Dabashi 2008.

[9] Ibid.

In chapter III, "A Tiered Contract Theory: Hegel, Levinas, Marx, and Reconciliation," I turn to the history of philosophy in order to appropriate scaffolding for a theoretical framework that explains reconciliation and opens it to application. When I first began exploring philosophical accounts of reconciliation, the only theorist I found to explicitly discuss the concept before the 20th century was G.W.F. Hegel. In retrospect, however, I now believe that Kant and many post-Kantian thinkers indirectly discuss reconciliation in part because the Kantian project is a rationalization of the Christian moral project, driven by a demand for universal moral principles based in agents negotiating their desires and actions according to reason, or the desires and actions of Others. It is no coincidence that the main formulations of the categorical imperative, which is often described as the negative golden rule, commands that persons "act only according to that maxim whereby you can at the same time will that it should become a universal law without contradiction."[10] I do not root my theory in Kant, however, in part because the concept of reconciliation is not made explicitly central to his theory and, more importantly, because the categorical imperative and the deontological project in general is speculative, based in assumptions about what could and thus should be, without actually engaging Others directly. Hegel, on the other hand, explicitly bases his notion of reconciliation in the active encountering of and struggling with Others. Unfortunately, even Hegel's enactive project is not secular and remains beholden to a teleology that guides personal and political Geist to an absolute God's-eye-view of experience, the Absolute. It is through the lineage of Ludwig Feurbach, Karl Marx, Georg Lukács, Walter Benjamin, and most recently Jürgen Habermas, that the inherited notion

[10] Kant 2012: 34

of reconciliation divorces itself from invisible hands and is an entirely material, contextually emergent process. Hence, in this chapter I trace the concept's emergence through the Hegelian tradition, and I extrapolate a tiered theory of social-political experience that I blend with the liberal contract model in order to explain the spheres through which reconciliation differently operates. Chapter III separates out three spheres of experience—individual, social, and political—and thus forms the theoretical basis for the work I do in the remaining chapters, where I explore reconciliation in each of these spheres.

In Chapter III section 3.1, I discuss Hegel's process theory of reconciliation that was adopted by Marx and many in the critical theory tradition under the rebranded label of revolution. Through this analysis I frame the ethics of reconciliation, or social reconciliation, through a discussion of recognition. In the second section I turn to Lévinas's critique of Hegel in order to discuss the experiential tension that exists between the self and the collective. Here, I position my view of recognition between Hegel's and Lévinas's, because I believe that human experience alternates between the individual and the collective, such that 'I' is an equally precarious ethical achievement as 'We'; thus, social reconciliation must take care and respect the primordial tension that always exists between the individual and collective.[11] In this sense, social reconciliation must be open ended, creative, and not solely backwards looking. In the third section I discuss various elements of an institutional-systemic approach to reconciliation. Here, I emphasize the importance of truth-commissions in creating participatory opportunities for persons to both overcome a certain sort of political alienation and also to help bridge the gap

[11] Many thanks to Dr. Elena Clare Cuffari for, amongst many things, allowing me to borrow her term 'primordial tension' to describe the fluid relation between self and Others.

between the system and the social world. Truth-commissions also reveal that systemic recognition is not just about the granting of rights, but is also about repairing the historical damages and preventing future damages by coordinating meanings between the system and social world. Ultimately, the reconciliatory model I am defending contains within it an implicit notion of a social contract that is yet to come, which demands collective meaning coordination and political authorship in both micro and macro political spheres. The work in this chapter sets the stage for a closer analysis of each sphere of reconciliation in chapters IV-VI.

Chapter IV, "The Will to Reconcile: Materiality and Co-experience As Motivational Strategies in Conflict Transformation," is primarily focused on the ethics of reconciliation. By the ethics of reconciliation I mean the interpersonal and social conditions that afford reconciliation. In the previous chapter I suggest that the central problem of social reconciliation is motivating persons to reconcile. Thus, in this chapter I critique two explanatory models, the pathos model and the confessional-forgiveness model, which suggest that reconciliation is motivated by a limited range of moral attitudes. I work to open the range of motivating attitudes through which reconciliation can be achieved and I argue that the minimal conditions of the possibility of reconciliation are basic human respect and the willingness to risk reforming or repairing with the Other, in person, the social fabric of trust. Chapter IV develops the foregoing critique, regarding those notions of reconciliation found in various religious traditions, Kant's masked rationalization of certain of those traditions, and more recent iterations found in defenses of empathy; reconciliation may involve these various characteristics, but it cannot be reduced to their presence and it must privilege the material that allows

the Other to speak for him or herself.

In Chapter IV section 4.1, I discuss movements in contemporary moral psychology which focus on emotional reaction and motivation, rather than universally rational and applicable rules. I begin with motivation in order to critique popular models of reconciliation in section two, which predicate said motives on a limited range of attitudes and beliefs. In section 4.2, I focus on two alternative models of reconciliation: the confessional-forgiveness model, and then what I call the pathos model, which emphasizes sympathy or empathy in its different iterations. Although these models may capture attributes of some reconciliation processes, they are simultaneously too demanding in their narrow focus on certain attitudes, at the dismissal of others, and yet they are not robust enough to describe what is needed for parties to begin the reconciliation process. Rather than praising empathy and forgiveness, I suggest we focus on the underlying assessment and motivation driving interpersonal encounters such that reconciliation does or does not occur. Through this discussion, I argue that the minimum requirements for reconciliation to be possible are that persons be willing to risk engaging with Others, face to face. Here, I emphasize that the will to reconcile may sometimes appear as an empathetic or forgiving expression, but it may also emerge with anger, resentment, and a wide range of other moral emotions. The entire range of emotions must be respected by way of inclusion throughout conflict transformation processes if the ideal of a creative, trust forming reconciliation is our goal; that is, in section 4.3 I advocate for a model of reconciliation that emphasizes the development of trust and respect.

In chapter V, “No Future Without Transition: A Critique of Liberal Peace and the US Prison System,” I turn to the political sphere and critique the liberal tradition that

suggests the world will know peace when all states are representative liberal-democracies. My main critique is not that liberal states tend to maintain war-like relations with non-liberal states, although they do; rather, I argue that liberalism lacks a legitimate means of maintaining internal stability and thus uses methods of war to maintain control over its own territory and populations. I focus on the US prison-industrial complex as a primary example of how the liberal war tendency is uncontrollable and ultimately undermines its own theoretical and practical ends. By imprisoning en mass, the 'liberal' ideal of liberty is nominal at best, while the practical end of a legitimate peace is shown to be equally farcical as the social world becomes increasingly violent and unstable with each violent police encounter. I close with a discussion of the restorative-justice movement as a functional alternative to mass-incarceration that appeals to practical principles of reconciliation: repair, reintegration, and stability through an inclusive peace not submission through war-like domination.

In section 5.1, I discuss the liberal peace model as it emerges through Kant's writings, and I suggest that without reconciliation the liberal-democratic system—as the sum of the complex legal-political and institutional parts—is at constant risk of what Jürgen Habermas calls a *Legitimation Crisis*. Expanding on Habermas's work, I argue that the legal-political response to social conflict in the United States maintains a certain state of crisis that causes a shared sense of justice to be lost in social conflict. The current state of social conflict in the United States is in part a result of systemic attempts to forcefully control the social-world, which prevents a stable and reciprocal-democratic base from emerging. Hence, in section 5.2 I discuss the ramifications of the police-control state through an analysis of the US prison system. Here, I illuminate what liberal-

democracy looks like without reconciliation. By responding to instability with force, the US penal system increases social conflict by fragmenting communities and maintaining an individualistic order that is combative, rather than cooperative. I focus on the prison because it functions as the center of social control and is in many ways the starting point of US politics. In the final section, 5.3, I discuss alternative responses to instability that are practiced in the margins of the developed world under the banner of restorative justice. Here, I describe the practices that are attempting to bring about reconciliation in the developed world, while also emphasizing that there is still much work to be done. By juxtaposing the current state of politics with the emerging counter-politics of reconciliation, I argue that liberal-democracies need reconciliation as it is being practiced through the restorative and transitional justice movements because reconciliation affords a demos that agrees upon and thus co-creates its social-political conditions. Thus, reconciliation works to prevent instability by improving the relation between system and social-world, which affords legitimacy and makes a shared sense of justice possible.

In Chapter VI, "Reconciliation Politics and the Post-Domination Society: Legitimacy and Trust Through Explicit Consent," I argue that a legitimate, stable, and peaceful politics requires explicit consent, and this overlapping consensus can be facilitated through tactics and technologies that are definitive of reconciliation politics. Following various critics of contract theory, I begin section 6.1 by suggesting that most political systems emerge not through consent, but through violent force and domination; thus, the claim that the legitimacy of political authority is granted via tacit consent includes within it an often overlooked reality of violent force that makes other forms of consent seem impossible, or illegal and thus revolutionary. Of course, real consent is

complicated by other competing goods and needs. I address the difficulty of competing public goods in section 6.2 through a discussion of legitimacy and representation. Here, I claim that reconciliation politics prioritizes a certain form of legitimacy that emerges through explicit consent. Further, I suggest that this higher order legitimacy facilitates the peaceful realization of other public goods, specifically group identity and economic redistribution.

Insofar as I reject approaches to difference, transition, and conflict that advocate domination, in section 6.3 I explore one approach to alterity that has the potential to avoid the trappings of domination and strives to realize the legitimate consent described in sections one and two: Truth and reconciliation commissions (TRCs). Learning from truth-commissions, in the closing section I offer suggestions for a future reconciliation politics. Here, I defend certain aspects of the Occupy movement, which, despite being problematic for a range of reasons, was to a certain extent exemplary in its claiming of public spaces for democratic participation. Occupy's illumination of the ubiquitous Neo-Agora represents an opportunity and a challenge to the global social-political world to risk engaging and transforming our conditions through peaceful collective meaning making, through a peaceful ethics and politics of reconciliation. Thus, I suggest that conditions of the possibility of reconciliation and a truly legitimate politics are present, despite state violence that attempts to crush the demos wherever it appears, and the question of actualization remains open.

Hence, these six chapters can be understood as operating together: Chapter II acts as the exemplary starting point that destabilizes popular notions of history and politics that claim war is natural and unavoidable, and Chapter III works to theorize this starting

point by taking a tactical approach to overcoming violence in our ordinary encounters, as well as in the system. Chapter IV expands on the ethics of reconciliation by discussing the conditions of its possibility. Chapter V and VI expand upon the politics of reconciliation by first describing why reconciliation is needed in all societies, including the United States, and then describing the means through which a politics of reconciliation can and already has begun to emerge, despite heavy resistance from ideologues and police forces, throughout the world.

In each chapter I advocate an ongoing and participatory politics that works to maintain a reciprocal relation within the social world, as well as between the social and the system. A future oriented politics of reconciliation is an opportunity to rectify the failures of domination politics. Rather than being fearful and believing that humanity will always come back to war, in a morose eternal return, it is important to bravely and hopefully face the risky open future with Others and will a new possibility through creative cooperative efforts. Social-political relations will strengthen with each successful collaborative agreement and over time a 'We' can emerge through these reconciliatory experiences, allowing us to abandon hope because of trust, rather than broken desperation.

CHAPTER II

CYPRUS AS EXEMPLAR

In describing the history of the Cyprus conflict, I am working to answer two crucial questions: how do people end up in violent conflict and how can conflicts be reconciled? Central to these questions are two assumptions: *first*, despite the jingoism human groups seem to generate, almost universally surrounding human nature and the repetitions of history, violent conflict is not a necessary occurrence; and thus, *secondly*, we can realize the world in different nonviolent ways.[12] It is important to note these assumptions because there is a tendency amongst those who study global politics or history to become pessimistic and disregard the importance of possibility. Insofar as this pessimism is not unique to academics, however, it is worth stating these assumptions at the outset because they are also ethical decisions. Reflecting on hermeneutic approaches is crucial because it is through our interpretive starting points that we participate in co-creating the world. I argue that it is this same sort of general ethical hermeneutics that make both conflict and reconciliation possible. In other words, we co-create the world through our beliefs and habits, and as Howard Zehr notes in a Hegelian fashion: "The

12 See e.g. Machiavelli et al. 1995; Hobbes 1651/1968; Hume and Aiken 1948; Benjamin et al. 1996; Schmitt 2007; Agamben 2005.

lens we look through determines how we frame both the problem and the "solution"."[13]

The problem of interpretation informs Ioannis Papadakis's recollection of the one question which captivates the minds of Greek Cypriots (GCs) and Turkish Cypriots (TCs) alike: "Who is to blame?."[14] Something tragic resonates throughout Papadakis's discussion of this question, insofar as blame, as the accusation and potential persecution of others, removes responsibility from the inquiring subject and places that responsibility on another. There is an inherent tension in blame: in conflict there are blameworthy actors and clear victims; but, blame, as the inability to see oneself as enmeshed in and therefore as a potential participant in the actualization of a problematic situation, is not effective in overcoming division and tends to catalyze the conflict cycle.

For example, in sections 2.1 and 2.2, I discuss Cypriot nationalist imaginings that are based in a blame which justifies conflict. Of course, the problem of ethnic nationalism perpetuating conflict is not unique to Cyprus; but, Cyprus is an interesting case because of its relation to the European Union and the Middle-East. The problem with nationalist interpretations of historical-political contexts is that such interpretations often exclude the narrative accounts of Others, but, at the same time, the hermeneutics of nationalism also inform how one should understand and work with others. The transformation of conflict therefore requires a sensitive and inclusive approach to historical problems, especially in places like Cyprus, with deeply contested historical understandings of the present. In section 2.3 I show how, when approached with a different hermeneutic sensitivity, the Cyprus conflict has been transformed, divisions have been overcome, and reconciliation

[13] Zehr 2007: 178.

[14] Papadakis 2005: XIII.

is being realized.

Unfortunately, for some the conflict must go on. The goal here is not to persuade the arbiters of violence, but rather to reclaim justice from those who would blame and impose harm in its name, giving violent retaliation its own conceptual space—as vengeance or spite. Another way of putting this is to say that although claims about justice have been misappropriated by the violent, justice is not based in violence. I am challenging given notions of justice by shifting our focus and elaborating the importance of inclusive and cooperative interpretation as an ethical-political activity. Through the case of Cyprus, it should be possible to establish a grounded sense of the force the hermeneutic problem has when approached with ethical sensitivity. Hence, I begin with a general historical overview of the Cyprus conflict in order to answer the first question—how did the Cypriots find themselves in conflict? I address the second question—how can conflicts be reconciled?—by analyzing what is being done differently through the citizen based, grassroots peace movement.

2.1. A Historical Overview of the Cyprus Conflict

Since 1974 the island of Cyprus has been divided along a green-line or geo-political border that was drawn by Major-Peter Young of the British peace force in 1963 to ameliorate the fighting that had displaced and claimed the lives of many Cypriots. The northern half of Cyprus or, since 1983, the Turkish Republic of Northern Cyprus—a state that is only recognized by Turkey and cannot, therefore, trade with or receive aid from other states—is home to a mostly TC population, as well as Turkish nationals who settled in Cyprus after the 74 conflict, and expats of various origins. The southern Republic of Cyprus is home to a predominantly GC population and has been a member of the

European Union (EU) since 2004.[15] In April of 2003, the unthinkable happened: the green line was opened allowing GCs and TCs from both sides of the divide to cross over for the first time in 30 years. The peaceful opening of the green-line marked a critical transition in the island's history of violent conflict. The present conditions in Cyprus are the emerging result of an extensive history, a collective identification with exclusive interpretations of this history which position the Other as enemy, and in recent years the reinterpretation of history in the formation of new identities which include the Other as friend and sibling.[16]

Ottoman and British Colonial rule are the most significant historical periods for understanding the present conflict. Ottoman Cyprus is of specific interest because it represents a time when the already thoroughly mixed population of Cyprus came under the control of the Ottoman Empire, but was allowed to maintain its intertwined pluralism. Various non-Islamic belief systems including Christianity and Judaism were not only protected, but were recognized, and to a certain extent empowered, through the millet system.[17] The cosmopolitan pluralism of the Ottoman Empire was not unique to Cyprus and the majority of what we now understand as the Middle East, as well as other border spaces that are ambiguously both Middle Eastern and European, Asian, and African, were a part of the Ottoman Empire and shared in this pluralist existence.

To put this in more concrete terms, consider that prior to the 1923 treaty of

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[15] Other ethnic populations in Cyprus include Marronites, Armenians, and Latins.

[16] Artifacts have been found on the island which trace human activity in Cyprus to the Neolithic period. Also, Cyprus has played a central role in various historical periods: Hellenistic, Roman, Frankish, Venetian, Saracen, and Ottoman, to name a few.

[17] This is not to suggest that certain political policies were not imposed on non-muslim groups. See Deringil 2012.

Lausanne the states we now understand as Greece and Turkey—which were previously Ottoman territories comprised of Ottoman citizens of various religious types—did not really exist in their present forms. Only after extensive population exchanges in which pluralist communities were torn apart, were the Greek and Turkish states realized in their present form.[18] In other words, the Ottoman Middle East enjoyed almost three hundred years of relative stability as a politically unified, pluralist cosmopolitan society. The reality of this pluralism is evident throughout Cyprus, even in the present atmosphere of conflict. So how did the pluralistic and stable Ottoman existence end up so brutally divided?

The Ottoman Empire began to collapse as western forces put pressure on its boundaries, and various ethno-nationalist groups, some of which were supported and armed by those same western forces, emerged and launched guerrilla campaigns under the banner of national liberation.[19] For instance, in 1821, with the support of various Western nations, a collection of Greek nationalists sought to realize the Big Idea and declared the independence of the 'Greek' nation from Ottoman rule.[20] Subsequently, Cypriot relations—between many Christians, some of whom came to be identified as Greeks, and Muslims, but who eventually identified as Turks—which may have been tense at various points but still remained relatively peaceful, began to crumble. Many of the genocides that predated the Holocaust, but were used as models for such 'ethnic

[18] Obviously many other conflicts followed 1923, but the pluralism of these middle eastern spaces was thoroughly damaged by these exchanges. For an excellent account of this history, see Clark 2009.

[19] For an extensive and detailed history of the rise and spread of nationalism, see Hobsbawm 1990. For a concise and reader friendly history of the fall of the Ottoman Empire see Fromkin 1989; also, the biography of Kemal Ataturk by Mango 2002. For a more extensive account see Shaw 1976.

[20] See, e.g., Finlay 2001.

cleansing,' occurred during this period, within this contested space.[21] The nationalist revolts throughout the Ottoman had influences on the Greek-Christians and Turkic-Muslims living outside of the areas where the revolt was initiated. Indeed, before the late nineteenth and early twentieth centuries, Harry Anastasiou notes, "the primary identities of the people of Cyprus were Muslims and Christians" but, he adds, "these identities were superseded by the more exclusivist, ethnonationalist identities of Turks and Greeks."[22]

Christians and Muslims who existed throughout Ottoman territories, such as Cyprus, continue to be influenced by the nationalist movement. Regardless of where one allied oneself, the identities of Christians and Muslims shifted because of the nationalist conflicts that fragmented the Ottoman. In this sense, the Greco-Turkic identities cannot be understood as separate, because they emerged as a pair of world-views that presupposes the other.

The Greco-Turkic national war slowed with the aforementioned treaty of Lausanne, which marked the end of the Ottoman Empire and the formation of the present states of Turkey, Greece, and various other places claimed by the Ottoman. The treaty of Lausanne is critical for reasons beyond the aforementioned population exchanges which separated many peacefully coexisting Greeks and Turks on the mainland and effectively reified the present states of Greece and Turkey: This forced homogeneity and reification did not include Cyprus. When the treaty was signed, Cyprus was under British control—it had been since 1878, when it was exchanged for British support in the Ottoman's war with Russia—and Cyprus's status as a crown colony was formalized in 1925.[23] Rather

[21] For an introduction to this insufficiently discussed history, see Jones 2011.

[22] Anastasiou 2008: 92.

[23] For a record of British presence in Cyprus, see, e.g., Varnava et al. 2009; Georghallides 1979; Holland

than becoming an extension of Greece or Turkey, or an independent state, Cyprus remained plural, but was now colonized by the British. Subsequently, Cyprus became a concentrated war zone for the ongoing Greco-Turkic conflict, as well as a battle against colonialism.

Under colonialism the Greek and Turkish nationalist identities became fully politicized. Maria Hadjipalou stresses this point:

> The division between Greeks and Turks and prevalence of a binational consciousness crystallized during the anti-colonial struggle against the British of 1955–59. The Greek population of Cyprus wanted union (enosis) with motherland Greece and, in the event of them achieving it, the leadership of the Turkish sector promoted partition (taksim) and union of their part of the island with motherland Turkey (2010: 78).

The unreconciled tensions which marked the island at the end of the Ottoman period were intensified by colonialism, and nationalism became entrenched through the formation of hardline political groups. Two main groups were formed: in 1955 GCs took up the banner of EOKA (National Organization of Cypriot Fighters/Εθνική Οργάνωσις Κυπρίων Αγωνιστών) in resistance to colonialism and with the ideal of unification (enosis) with Greece as the end toward which they were fighting—an idealism which had been outlawed in 1931, making the EOKA agitations illegal. Fearful that the GC nationalists would terrorize and harm the TC minority in Cyprus, TCs responded, with support from Britain and Turkey, around 1957 by forming the TMT (Turkish Resistance Organization/Türk Mukavemet Teşkilatı). The TCs held the ideal of Taksim as the end toward which they were fighting. "In other words," Hadjipavlou says, "both main ethnic communities looked to outside parties to realize their visions. The absence of a common political culture or sense of Cypriotness created the ethnic nationalisms that led to a

2006, 2012.

culture of intolerance, mutual suspicion and fear."[24] The EOKA nationalist vision did not include the other inhabitants of the island—namely the largest minority population of Muslims who identify as TCs, as well as various other minority populations like the Maronites and Armenians. The British were skilled in suppressing uprisings and armed the TMT in order to resist EOKA. In other words, the British encouraged a horizontal conflict in order to prevent a vertical conflict from overthrowing the crown.[25]

In 1960, however, after five years of anti-colonial struggle, the British signed the London-Zurich agreements which effectively ended colonial rule and anti-colonial guerrilla tactics, thus shifting the conflict in Cyprus and abroad. Signatories included GCs, TCs, Britain, Greece, and Turkey. At the same time the Treaty of Guarantee was signed, allowing Britain, Greece, and Turkey to maintain a sort of paternalistic role in relation to the island in order to "reestablish the state of affairs."[26] The treaty was supposed to make Greece, Turkey, and the United Kingdom responsible for maintaining the Cyprus Republic, but it was eventually interpreted as a right to intervene to protect ethnic populations.[27] Through these agreements, neither Enosis nor Taksim were realized. Instead, an independent bi-communal *Reluctant Republic* was formed which required a GC president, Archbishop Makarios III (born Michail Christodolou Mouskos) and a TC vice-president Fazıl Küçük.[28] The agreements also allowed the British to keep two

[24] Hadjipavlou 2010: 78.

[25] Similar techniques of divisive conflict fostering can be seen in India, Ireland, and in the US we see this in the prison where racial/ethnic gangs are 'allowed' to exist and be in tension with other gangs, so that the prison carries less risk of the population organizing and rising against the guards.

[26] "Greece—Turkey—United Kingdom: Treaty of Guarantee of Cyprus" August 16th, 1960 (1974).

[27] Ibid. Anastasiou 2008: 100.

[28] Xydis 1973.

military bases on the island—a move which remains problematic for various reasons, but is underdiscussed.[29] Unfortunately, the unreconciled instabilities rooted in nationalism caused the bi-communal government to be unstable and conflict escalated between the GCs and TCs.

Both communities also have internal divisions, specifically between right and left political ideologies. Of specific interest was the right-wing military leader of the EOKA movement, general Giorgios Grivas (Digenis), who was a retired colonel from the Greek army and was staunchly anti-communist. Grivas was known for targeting, torturing, or assassinating left-Marxists for being traitors, which, at the time, was a practice in mainland Greece that was in many ways legal and quite common.[30] Grivas recruited young, easily manipulated, spirited men, and all EOKA members had to take an oath of blind obedience to the movement and its leader. Grivas's militant nationalism eventually led to his forming a second EOKA movement, EOKA B, in order to overthrow the left leaning president of Cyprus, archbishop Makarios, in 1974.

Thus, in 1974, with U.S. support, right leaning coups took place in Greece and Cyprus. The confusion of this 1974 civil war between EOKA B and the Makarios leadership, as well as the coup in Greece, presented an opportunity for the TCs and Turkey. The Turkish military landed in the north of Cyprus, occupying or liberating the northern portion of the island and its TC inhabitants. Within days, the Turkish military had taken the northern portion of Cyprus and killed or displaced many GCs, as well as other Cypriot groups. Many TCs were also killed during this time. The UN, which was

[29] For one example of how UK military bases still pose a problem for Cyprus, see Jonathan Franzen's *New Yorker* piece on the problem of Songbird trapping in Cyprus (2010).

[30] For an excellent analysis of the anti-left wing dogmatism of Greece, and the political techniques used to crush the left, see Panourgiá 2009.

already present in Cyprus and working to ameliorate the growing tensions, had established a green line or a ceasefire line in 1963 when the intercommunal fighting had escalated, which, after the 74 coup and Turkish invasion/liberation became a fixed barrier that remains the dividing mark to this day. The north of Cyprus remains under Turkish military protection/control.

For roughly thirty years no one was allowed to cross the buffer zone from the south to the north or north to south. Personal property, historical spaces, and persons, specifically the bodies of persons who are now generally assumed to be dead—though GC nationalism maintains that they are missing, in hopes of their return—are still lost on both sides of the divide; however, due to extensive grassroots peace efforts and the support of the U.N. (which I discuss in section 2.3) checkpoints were opened in 2003 allowing movement and interaction between communities.

2.2. Identity Politics and the Heart of Reconciliation in Cyprus

Various forces have influenced the Cyprus conflict. Economic conditions, coupled with a long history of being claimed by various imperial or colonial forces undoubtedly catalyzed instability. Though these elements are important factors in understanding conflict, they do not adequately address the intractable, persistent, and nonlinear quality of conflict.[31] Rather, a focus on identity politics more fully addresses the root causes of conflict. On this point, Lederach criticizes the failure of cold-war statist approaches to conflict which emphasize ideology as the primary motivation for discord.[32] The cold-war

[31] In other words, the situation in Cyprus is not exclusively an issue of nationalist identity, because as Hadjipavlou points out (Hadjipavlou 2010), there are deep economic issues and issues of power which influenced the emergence of the conflict. What is important about identity is that it cuts across class and status, uniting peoples for reasons that have not been thoroughly explained by analyses focusing exclusively on class or power.

[32] Lederach 1997. Lederach says: “the post-Cold War era, which has seen the crumbling of animosities

assumption was that social-political actors function according to established hierarchies of power. Perhaps this analytic made sense in relation to the battling superpowers; but, in countries where the cold-war was hot, the conflicts extended beyond the historical bounds of the ideological era. Appealing to Mats Friberg, Lederach suggests that the identity focus is better suited for conflict analysis: "In situations of armed conflict, people seek security by identifying with something close to their experience and over which they have some control. In today's settings that unit of identity may be clan, ethnicity, religion, or geographic/regional affiliation, or a mix of these."[33] From the perspective of identity politics, we can understand conflict as emerging where persons feel they have no other means of securing those things which are central to who they are, the things they care about and will defend. In this section I address the implications of this focus on identity politics and historical narrative, specifically in Cypriot identities which are a mix of various identity units.

Once politicized, Greek and Turkish nationalism became the central world-defining identities in Cyprus. The nationalist identities in Cyprus are based in selective and, as Benedict Anderson suggests, imagined historical ethnic lineages.[34] Nationalism in Cyprus is, as Anastasiou points out, "a world- and life view deeply rooted in historical, sociological, and existential conditions, both as an antecedent and consequent".[35] Nationalism originated almost purely in the minds of upper class intellectuals, tracing

between former enemies [the U.S. and the Soviet], has witnessed neither a drastic reduction nor a dramatic increase in the numbers of wars suggests, however, that ideology was not an adequate explanation for the conflicts of the Cold War" (Ibid. 1997: 7-8).

[33] Friberg 1992; Ibid. Lederach 1997: 13.

[34] Anderson 1991.

[35] Ibid. 2008: 17.

back to the treaty of Westphalia and the French revolution.[36] Hence, the nation was first imagined well beyond the material foundation in Cyprus, but was then taken up by the social world giving it a dynamically nominal reality.

The danger of nationalism is that it can become an all-encompassing identity with scripts or roles persons are expected to realize; that is, it can constrain persons in various ways. In some cases a failure to conform to given roles places one at risk of being at best ostracized, but also tortured or killed. When nationalist movements emerge they create a pressure to be dedicated to the good of the nation. In the case of Cyprus the good of the nation included liberation from the enemy.

Hence, nationalism also risks creating binary social-political relations and excluding alternative positions as recreant or traitorous. The polarized identity is dangerous because it is intrinsically closed to alternative ways of relating to the world. Indeed, difference is a threat to the traditions of the imagined community. Difference is therefore excluded from contributing to the formation of the national identity; but, difference is required in the positive formation of the national identity because it acts as a negative foundation for determining what the identity is not.

Therefore, the risk of the nationalist perspective is two-fold: on the one hand, one takes up an identity which has been determined from beyond oneself.[37] On the other hand, one contributes to the reproduction of a collective mode of existence that is

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[36] For a history of the discovery of Greece and the creation of Hellenic nationalism see Constantine 2011; Bernal 1991.

[37] A move that enlightenment thinkers like Kant and Mill found to be immoral insofar as it is a rejection of one's freedom—which is ironic because both Kant and Mill were advocates for the expansion of and universalization of liberalism, which was frequently championed under the banner of nationalism (Kant 1970; Mill 1975).

opposed to difference which effectively limits one's own experience by closing off the rich variety of possible worlds that are available. Hence, nationalism can actively and passively silence alternative views, which helps explain why little has been written about other minority populations in Cyprus.

Of course, it is difficult to choose a different identity because, as Hadjipavlou says, "the traditional right to choose a lifestyle that differs from the socially prescribed one is considered 'out of line'."[38] The realization of the national identity is almost pre-reflective insofar as one is merely living the life which has been made possible by one's conditions, avoiding going against norms out of a desire to remain on good terms with the rest of the social world. People generally do not want to be ostracized and the nation bolsters the benefits of staying in line by claiming to offer protection via exclusive membership. The protection of the nation is framed as a freedom from domination, which is presented as a likely outcome if one lacks commitment to the norms of the people. On this point Lederach notes that a common characteristic of conflict is that persons "seek security in increasingly smaller and narrower identity groups" and this is tied to an immediacy of experience, wherein one relates to those who share in a common experience which is often not recognized nor actively taken up by broader institutions such as the state.[39] Similarly, when one is steeped in a local and narrow identity group, the ability to exit or see beyond the group is constrained; hence, communication between groups, especially those locked in opposition, becomes incredibly difficult because the Other is seen as enemy threat and because persons do not know how to see beyond their

[38] Ibid. Hadjipavlou 2010: 2.

[39] Ibid. 1997: 13.

own normative view of the world. Another way of putting this is to say that persons with rigid combative identities lack alternative interpretive models.

The hermetic world of the combative identity is solidified through the appropriation of various spaces, symbols, and shared practices; that is, the world is epistemologically and physically transformed according to identity norms. For example, in Cyprus the epistemological transformation involved, Anastasiou notes, "an effort to revive the classical Greek and Byzantine cultures for the purpose of constructing a glorious, ethnonational Hellenic past."[40] In this glorification of the Byzantine Empire as a Greek empire, however, the abstract nationalist narrative ignores the fact that the empire itself was pluralistic and did not embody the ancient Hellenistic ideals in part because the Hellenistic world, which is also misconceived, was comprised of a collection of city states that were frequently at war and not a unified Greek nation. Anastasiou states:

> The Grand Idea was in essence a nineteenth-century romantic vision of a greater Greece whose political agenda came to be the integration of all Greek people into the Greek nation-state. Like so many other ethnically based visions of the time, it was founded on the nationalist assumption that the establishment of a single ethnonational state, composed of a homogeneous ethnic population, defined the quintessence of freedom. *As a mode of thought, revolution was conceived both as a value and as the legitimate means by which to attain such a state.*[41]

Anastasiou captures two key aspects of nationalist ideology as domination: first, as noted earlier, the spaces within which the Big Idea (Μεγάλη Ιδέα) was to be deployed are not homogenous; thus, the Greek ideal violently rejected those who did not fit the category of the ideally described person. The violence of the national movement was excused for the sake of 'freedom' or 'liberation,' in this case from those who do not belong to the nation.

[40] Ibid. 2008: 76.

[41] Ibid.

Here, violence was masked by false ideals—freedom, liberation, or justice. In fact, none of these ideals could be realized in a stable sense through the method of exclusion. Secondly, and perhaps more insidiously, the national idea itself was not initially formulated by those upon whom it was taken up or imposed, meaning that the discourse which afforded the Grand Idea was violently intended even prior to its material implementation. This sort of multi-level violence is the foundation of many ethnic-national identities throughout the Middle-East.

In this case, the Greek nation emerged by way of appropriation and the national context was transformed in various ways for the sake of maintaining power over what was claimed. In this transformation, a palimpsest formed that worked to overwrite the island's extensive history as a meeting point of various peoples and cultures. The real pluralism of the island shines through the national imaginary, however, both in the people and their common habits, customs, and looks—you cannot tell a GC from a TC just by looking—as well as in the lingering remnants which mark the landscape, most obviously seen in religious spaces, mosques and churches, which were frequently built next to each other.

Indeed, upon visiting Cyprus it is immediately apparent that the national problem is the central unresolved political issue. From popular news media to anonymous graffiti, all signs point toward the green-line which continues to divide the island. Entire museums are dedicated to the national struggle, on both sides of the divide, and it is mandatory for school children on both sides of the green-line to visit these monuments to the conflict. The presence of memorials in Cyprus is one example of how symbols and spaces are appropriated and used to help reproduce the nationalist narrative. These

symbols condition subjects to cultural and political norms.

Consider death. Many GCs and TCs, as well as others, have died in the Cyprus conflict. It is difficult to say exactly how many people have died, in part because the Greek and Turkish nationalist views death in an abstract relation to the nation. The nationalist, Greek or Turkish, selectively glorifies, condemns, withholds, or emphasizes the number of people who have died and how they have died. Death is central to the nationalist identity on both sides of the Cypriot divide.[42] Hence, the relation between history and sacrifice are central to nationalist identities in Cyprus, as a reminder of what is at stake, what has been lost, what the progress of the nation has required. To disrespect the sacrifice of the nation is to disrespect the nation itself; the dead become tools for maintaining and glorifying the nation.

For example, the GC national struggle museum emphasizes Ottoman domination, British colonialism, the EOKA resistance—especially the roles of General Grievas (the military leader of EOKA) and Archbishop Makarios (the political leader of EOKA)—the way in which Enosis has been prevented, forcefully keeping GCs separated from their Greek 'mother' country, and most importantly the sacrifice of those who fought for the nation, for freedom. Throughout the museum and the island one is more likely to see a Greek flag waving on the southern side of the island than a Cypriot flag, even though the island of Cyprus is a sovereign nation. The GC museum of national struggle progresses upward through several floors until one reaches the uppermost section of the exhibits, which is a walled memorial commemorating all of those who died for the Greek nation.

[42] Anastasiou extends this argument to include all forms of nationalism: "the reference to committing human life to the presumed sacred value of the nation is present in all nationalist movements and states" (Ibid. 2008: 66).

The walls of the memorial surround an opening in the floor, above which hang three nooses—representative of the actual gallows in the British colonial prison, which is the only prison on the GC side, where many EOKA fighters were executed. The portion of the colonial prison where the revolutionary fighters were held and executed by the British is now a memorial museum that emphasizes the same historical narrative.

The TC national struggle museum, on the other hand, is located within the confines of what seems to be a military complex. The initial exhibit acts to glorify and commemorate three periods—1571 or the beginning of the Ottoman Empire, the 1974 conflict which solidified the present division of the islands population, and 1983, the year in which the Turkish Republic of Northern Cyprus declared itself an independent state. Various relics from the Ottoman period are included in this initial exhibit. Along with flags, northern Cyprus also has various murals and statues of Mustafa Kemal Atatürk, the founder of modern secular Turkey. The second aspect of the museum is marked by paintings and various narrative accounts of the struggle, but also various weapons which were used in the conflict—guns, bombs, knives, and various other instruments of death line the exhibit. Here, it became clear that the violent nationalist takes pride in the force used in the realization of his or her perspective. This second stage is the most extensive part of the museum and leads one into the third and final section, which is a massive monument commemorating all of the TC and Turkish people who were killed during the struggle. Just like the GC nationalist museum, the TC museum ends by relating back to those who have died trying to secure the TC nationalist project. In both museums the nationalist ideology clearly works to preserve the wounds left open from the conflict and simultaneously exploit these painful memories to justify itself.

In visiting either the GC or TC national struggle museum, it becomes clear how both sides present one-sided accounts of history—the GC museum did not address the TCs who died or went missing throughout the conflict, and the TC museum was similarly guilty of overlooking or dismissing the 'other side.' Of course, it is not just the museums that work to reinforce and thus reproduce this one-sided world-view. While walking the streets on either side of the divide, one is constantly reminded of the conflict by way of posters, graffiti calling for *enosis* or *taksim*, bullet holes, armed military personnel, UN workers, the news, and the way in which a student's history books address the issue depending on which side the authors and the students are on: The island is steeped in the conflict.

Another example of the relation between death and the national identity can be found in the GC Museum of the Missing, which is a church and memorial to those GCs who disappeared during the conflicts. The Eastern Orthodox Church has been deeply involved in the reinforcement and reproduction of nationalism on the Island and abroad. Consider that the church waves two flags: the Greek flag, symbolic of the motherland from which the GCs remain separated, and the flag of the Byzantine Empire which represents the romantic and mythological past through which the GCs and other Greek nationalists identify. The tour of the museum of the missing thus begins in the Church, which is small and decorated with traditional Orthodox icons; but, there is an additional set of icon-like objects in the back of the church: pictures of 1619 peoples who have been missing since the height of the conflict. After a brief explanation of what these photos represent and the present state of relations between GCs and TCs on the issue of the missing, the tour moves to a separate building which contains various sculptures and

murals that depict the national struggle in relation to the missing. One sculpture represented a mother reaching through a set of bars, symbolic of the dividing line, toward the other side where her child is supposedly lost. On the bars a young male is shackled above the mother, reminiscent of Jesus, and also symbolizing the continuous presence of the missing in the minds of the GCs. A striking mural depicts several men in a prison cell and etched on the walls of the prison are the words Κύπρος and Ελευθερία, Cyprus and Freedom—freedom being the first part of the Greek nationalist slogan, the second part being 'death' which was written on the faces of the subjects in the mural, and Cyprus etched in Greek symbolizing return and the realization of the Hellenic state. The prisoners were waiting for all three events. The use and manipulation of symbols, specifically those symbols which are connected to trauma and death, are present everywhere on the island. These symbols act to constantly remind the Cypriots of their identities and the pain of their current situation.[43]

However, at various points while researching in Cyprus, Cypriots on both sides of the divide offered an explanation of their circumstances that was in direct opposition to the nationalist identity. For example, when the tour of the museum of the missing ended, the guide said that she holds no resentment towards the TCs. "We are siblings," she said, and then admitted that both sides did terrible things—an admission neither side is fond of making. She said GCs and TCs were both guilty of violence, and that she wants reunification and an end to the conflict. She then went on to explain that she and her father were imprisoned by the TCs. After being released she was resentful of TCs, but she

[43] The presence of flags is just one obvious example, another is the presence of memorials and the placement of political propaganda which appeals to sentiment and a public memory based in loss and trauma, and the idea that the lives of loved ones will have been lost for nothing if the fight is not *won*. I return to this problem of winning later in the dissertation in order to argue against liberal ideals such as competition, which I suggest is opposed to the ideal of reconciliation and thus justice.

did not make this resentment public, especially near children, because she did not want her pain and anger to be shared by the next generation. In other words, despite the lingering and ubiquitous force of the nationalist identity, there is also a hopeful desire and movement toward recognition, reconciliation, peace, and a new identity framework, even in the most nationalist of spaces. Similarly, upon exiting the TC national struggle museum, a man affiliated with the museum, presumably the curator, who had been watching our group as our TC guide led us through the museum, stopped us and showed us a photograph of his son who was in Israel working in a similar peace movement. The gentleman was positive about what our group represented and our desire to learn about his home. "We are siblings," is being whispered throughout Cyprus.

In other words, the Cypriots are not simply blindly committed to the identity that afforded the conflict. National identities and a great deal of hostility remain, but something has shifted such that both sides are opening themselves to the Other and identifying in new ways. In speaking with the Cypriots, it becomes clear that the bind of the nationalist identity is absent or loosening in places where one would think it to be the strongest. There are many signs of hope. The next section offers a description of the politics of reconciliation that have transformed the conflict and opened the border that separated GCs, TCs, Greeks, and Turks. The focus of the politics of reconciliation in Cyprus has been on the creation of an alternative interpretative identity framework that replaces the violent norms of nationalism with a peaceful and cooperative way of being with others.

2.3. The Peace Movements in Cyprus: Politics and Techniques

A central concern of the peace movement in Cyprus has been to demonstrate that the oppositional world view of the nationalist identity is neither natural nor necessary, and that GCs, TCs, Greeks, and Turks can coexist. Hence, perhaps the most important form of counter-conduct within those movements concerned with reconciliation, involves what Howard Gardner calls *Changing Minds* or what Adam Curle calls "conscientization."[44] The process of conscientization is based in critique and is not merely an analytic approach, but the beginning of a reimagined and transformed world. I will return to the notion of critique in Chapter III and IV, as it has an extensive philosophical history (one might see it as the motivation for philosophical thought) and is the first step toward reconciliation. In this section I will focus on the unique circumstances through which Cypriots, Greeks and Turks, have begun to change their minds, affording the dissolution of divisions.

The movement toward reconciliation is transitional. The ideal guiding this movement is a stable coexistence wherein historical problems are clearly recognized and addressed in open and safe public discourse. By working to deflate the shaky nationalist identity, possibilities for new identity frameworks are opening and gaining support amongst Cypriots. These alternative frameworks have only begun to be realized, but they are significant beyond Cyprus insofar as the conflict exists in a direct relation with Greece, Turkey, and other spaces in the Middle-East and the European Union—politically, legally, and in terms of identity. In other words, the changes in Cyprus are making new identities possible beyond the Island.

[44] Gardner 2006; Curle 1971.

Within Greek and Turkish identity is the assumption that both sides are naturally opposed; but, as indicated thus far, the nationalist view only accounts for select historical periods and completely overwrites the fact that those people who have come to identify as Greeks and Turks are only unrelated in a few ways, and have a long history of peaceful coexistence. The fact of shared pluralism is especially evident in Cyprus—there are still GCs and TCs on both sides of the divide who remember living in villages with the Other side, some of whom are bi-lingual. Regardless of whether the commonalities between GCs and TCs seem obvious now, to outsiders, posthoc, these are not so obvious when one is entrenched in conflict. Thus, the first step in transforming the conflict in Cyprus required that persons on both sides of the divide be willing to risk seeing the world from another perspective and open themselves to difference.

Those who first attempted to bridge the intractable divide were aided by third party organizations and experienced facilitators, mediators, and educators from the United States and the European Union. Lederach stresses that reconciliation requires a space, indeed reconciliation is itself a place on Lederach's view, and this has also been true for Cyprus.[45] The third-party conflict and dispute resolution activists would meet with GCs and TCs both on the island in the U.N. buffer zone—the unclaimed space between north and south, which forms a literal border space—in the village of Pyla, which is the last bicommunal village on the island, as well as off of the island.[46] Anastasiou describes these first meetings, which took place throughout the early 1990s:

> Through appropriate methods of facilitation, the implementation of specially designed processes of controlled communication during the first

[45] Ibid. 1997: 27.

[46] Ibid. 2008: 177-183.

> phases of all of these activities enabled the organizers to manage the conflict and render interethnic interactions constructive and sustainable...the bi-communal groups struggled through various critical aspects of the psychological, conceptual, historical, social, and political dimensions of the problem, some of which were not only complex and exceedingly difficult to deal with, but also extremely painful to encounter...As communication matured and bonds of friendship and trust gradually became established, GCs and TCs moved to the next level of joint development of conceptual structures by which a range of issues pertaining to the conflict were reframed in an expanded and more inclusive perspective.[47]

With a space wherein the bicommunal peace groups could meet and safely communicate, the movement began to transform the situation in Cyprus. These early meetings represent the beginnings of the dissolution of the preconceived binary scripts which accompany the nationalist identity through critical education about the conflict. The goal of these meetings was to dislodge persons from the entrenched mindset which assumes that GCs and TCs are naturally opposed, in order to facilitate empathy between former enemies. In other words, it is in these early meetings that GCs and TCs really began to change their minds.

As the bi-communal movement developed, other groups and projects emerged which put consistent pressure on all those who were involved in the conflict—Cyprus, Greece, and Turkey. After much struggle to communicate and gain recognition, the bi-communal movement gained some official traction when relations between Greece and Turkey shifted in 1997. Around this time many efforts were being made to change the relations between Greece and Turkey, such as an agreement at a NATO summit in Madrid which included promises that neither would use force against the other and that they would treat existing accords as legitimate.[48] Greece seemed to take the lead in changing

[47] Ibid. 2008: 177-178.

[48] Bohlen 1997.

foreign policy strategies and began to engage Turkey politically, rather than militarily, which had been the norm as was made public only a year earlier in the Imia-Kardak dispute.[49] In December of 1998 Greek and Cypriot officials decided not to have Russian missiles deployed in Cyprus, which had been a possibility prior to the 1997 NATO agreements, thus further easing tensions between both communities by standing firm on the previously made promises.[50] Similarly, in 1999 Greece and Turkey engaged in what Nicholas Burns called "earthquake diplomacy," as each side quickly offered support to the other after being struck by devastating earthquakes.[51] Regular formal negotiations about the Cyprus conflict continued throughout the late 1990s into the early 2000s, but these peace talks consistently met a dead-end and many, including Boutros-Ghali, were skeptical that a solution could be found.[52]

Though negotiations were still quite volatile and complex throughout the 1990s and early 2000s, the dual pressure of the bi-communal peace movement and the softening of tensions between Greece and Turkey, coupled with the desire of both Turkey and Cyprus to enter into the European Union created a unique opportunity for the Cypriots interested in dissolving the green-line. In an effort to demonstrate a spirit of cooperation and also to aid Turkey's chance of entering into the EU system, the TC leader Rauf Denktash agreed to open the green-line in the capital city of Nicosia, allowing GCs and TCs to 'travel' provided that Cypriots from both sides return home the same day.[53] Once

[49] Ap 1996.

[50] "Cyprus Leader Cancels Plan To Deploy New Missiles" 1998.

[51] "Earthquakes Help Warm Greek-Turkish Relations - New York Times" 2013.

[52] For a macro-political analysis of the Cyprus transformation, see Hannay 2005.

[53] "Emotion as Cyprus Border Opens" 2003.

the flood gates were opened, however, the demand from citizens for more border openings and longer periods of stay rapidly increased.[54] GCs and TCs were able to visit their former villages, important religious sites, and beyond travel, opening the border also opened new economic opportunities. Similarly, opening the border allowed these supposedly natural enemies to be in direct contact and thus afforded the possibility of an increase in peaceful communication. Though the green-line still stands and the north still declares its independence as a state that is only recognized by Turkey, the south is now part of the European Union and through various mediated peace talks, the identities of GCs and TCs have gone through a radical destabilization and transformation since the 90s.

The peace movement in Cyprus has been effective for various reasons. One is the multi-level approach to the conflict; that is, leading officials in Cyprus, Greece, Turkey, and other EU countries, have been forced to respond to grassroots peace efforts. Similarly, Anastasiou points out, the reconciliation effort has been successful partly because it has redirected the focus on Greco-Turkic political relations from the big issues, namely the problem in Cyprus, to low level political issues: "Low-level politics signaled the beginning of a modest peace-building process that disclosed the historical possibility of changing interstate and intersocietal relationships between two traditional enemy countries".[55] Focusing on low-level political issues—tourism, economic development, combating terrorism, organized crime, drug trafficking, immigration, environmental protections, etc.—upon which both sides may be easily willing to agree, is important

[54] "Cyprus Contacts Gather Pace" 2003.

[55] Ibid. 2008 (2): 32.

because it builds confidence and trust. “Low level politics” Anastasiou says,

> give policy leaders the otherwise barred opportunity to become directly acquainted and familiar with their counterparts from the enemy camp, to work systematically together, to deepen understanding of each other, to become jointly focused and creative, to share successes, and to learn the merits and prospects of consensus-based cooperation.[56]

Through direct encounters and a focus on low level politics, each side becomes familiar with the ‘Other’ as a person rather than an abstract idea, thus allowing for a more empathetic understanding and a concrete experience that undermines the myth that Greeks and Turks are essentially opposed. By establishing a potentially stable foundation of real and trusting relations, future diplomatic approaches to high-level disputes become increasingly possible.

It must be emphasized, however, that the peace movement was initiated by TC and GC citizens who imagined a different world and took steps to realize this vision through interethnic dialogue and collaborative projects to bring about a peaceful society that emerged from the ground level. The peace movement in Cyprus was initially a citizen initiated grassroots movement that received support from outside organizations like the United Nations, eventually the European Union, and other NGOs. Though many external forces supported the peace movement, it is crucial that the movement was guided by “the long-term commitment and tireless determination of the local peace builders and their leaders in pursuing a peace-enhancing vision and peace-seeking options for Cyprus against much opposition”.[57] In other words, the peace movement in Cyprus afforded a new and ‘organic’ identity that emerged in response to much opposition from the

[56] Ibid. 34.

[57] Ibid. 37.

nationalists on both sides of the divide. Despite heavy resistance, various citizen peace groups were formed and an alternative identity has begun to emerge.[58]

The new identity is, Anastasiou suggests, based on two fundamental premises: first, the new identity disassociates citizen responsibility from the nationalist narrative that entrenches the Greco-Turkik people in opposition; secondly, the vision and future of the identity was left to the shared efforts of citizens from both sides, making it effectively their own and not an abstract concept that is violently imposed.[59] In this sense, the overwriting imposed by nationalism is dissolved and replaced by a shared identity that emerges from the ground.

A major obstacle that the peace movement has been forced to navigate, besides the buffer zone which separates the people, is that the Turkish Republic of Northern Cyprus is not officially recognized as a state by any country other than Turkey. In some ways this obstacle is both a blessing and a curse: on the one hand, contemporary international relations and politics is based on an inter-state model; hence, because the north of Cyprus is not officially a state, UN support cannot be given on the macro-political level and, in fact, the north in general is closed off from most political and economic relations with the exception of Turkey. On the other hand, however, the unique situation in Cyprus has made it possible for the micro-political or grass-roots level of politics to have more power than it might have otherwise had if macro-political institutions were functioning to block the ground level movements. In other conflict zones, where both sides of the divide are internationally recognized states, the grass-roots

[58] Ibid. 40—Here, Anastasiou presents an excellent account, which he originally wrote in 1996, of this 'new hope.'

[59] Ibid. 2008: 41.

movements are blocked by upper level political actors, ignored, or demonized; but, in Cyprus the peace movement and the UN development program (UNDP) circumnavigated the inter-state barrier by empowering TC and GC citizen movements directly, rather than trying to mediate the movement through official and oppositional institutions. This allows for a dual pressure to be placed on official institutions—internal pressure is generated by the peace movement, which effectively justifies external or international pressure from outside organizations—to shift in reconciliatory directions. One of the most striking examples of this is the UNDP's relation with the youth movement in Cyprus.

UNDP officials cite various projects they are working on with the citizens of both sides—such as the implementation of a standard emergency phone number, establishing a committee on Cyber ethics, and teacher training in regards to 'global education'—as well as its specific interaction with the youth movement. The youth projects center around training young leaders and activists, as well as setting up workshops in schools that focus on ways the students can develop their own campaigns to promote peace and work toward the millennium development goals. This direct engagement with the youth is important because it gives the students a sense of power and community by focusing their efforts on shared problems or goals; thus, the UNDP effectively does away with the traditional 'banking model' of education and implements a problems based approach.[60] The empowering of young Cypriots through problem-focused education solidifies practical knowledge through experience and it further strengthens bonds in the social world. This model also coincides with the aforementioned two-part alternative identity framework.

[60] Freire 2000.

An example of a project that was supported by the UNDP, but organized and deployed by the youth of Cyprus is the 'One Streets Festival.'[61] One Streets was a multicultural street festival which brought together and celebrated the diverse cultures that exist in Cyprus. Various performances occurred along the main street of Nicosia, Ledra or Lokmaci street. This main street traverses the buffer zone and is separated by the main checkpoint in Nicosia. The divide has caused this main street to effectively become 'two,' much like the Cypriots themselves, and thus the goal of this festival—which is implied in the title—was to demonstrate and remind the people of Cyprus that it is One Street, just as they are one people, despite their differences. In other words, the festival sought to celebrate a pluralist unity that is characteristic of the Middle East but has historically operated as a reason for conflict. Similarly, the One Streets Festival worked to reappropriate symbols that had previously been used to maintain an entrenched nationalist sentiment and refashion those very symbols as markers of peace and solidarity.

Another example of present grass-roots reconciliatory efforts can be seen in the work of Maria Hadjipavlou, who has been integral to the women's peace movement in Cyprus. Over several years Hadjipavlou has worked to give the plurality of women in Cyprus their own voice, specifically because women in spaces of conflict are dually oppressed. On the one hand, women are subjected to the consequences of the national conflict—being torn from their homes, losing husbands, children, being surrounded by nationalist violence; but, on the other hand, women are frequently subjected to a second level of oppressive violence in the home—a situation that is often 'overshadowed' by the

[61] "One StreetS Festival, Youth Power Cyprus" 2013.

national issue. The extra complications which mark the female situation in Cyprus made Hadjipavlou's research difficult, but by working to understand the various social histories of the communities in Cyprus she persisted and has successfully established new community networks and effectively helped give a voice to many women in Cyprus.[62]

These are just a few examples of numerous grass-roots movements that have emerged and are successfully altering the identity of Cypriots. The pressure from the peace movement also afforded several systemic shifts in Cyprus: the obvious continuous erosion of the buffer zone; the restoration of Hala Sultan Tekke and Apostolos Andreas Monastery, as well as various other significant cultural sights such as Turkish Baths; attaining EU membership, and various other pivotal changes, all of which would not have happened if not for the peace movement. The force of the activities in Cyprus also have had a broader impact as has been witnessed in the continuous warming of relations between Greece and Turkey. Similarly, officials from both countries began to offer support—Greece began to support Turkey being accepted into the EU, both sides have offered aid in response to disaster, combating the war on terror and other international criminal activity; they continue to collaborate on issues of tourism, and they have, at various points, offered support for reconciliation in Cyprus. In other words, a shift in identity which started out very small has rapidly begun to alter the course of history.

The broad implications of this identity shift are crucial, not just for the relations between Greek, Turkish, GC, and TC persons. The broader middle-eastern identity, especially those peoples living in diaspora due to the very conflicts which need to be reconciled, can be reconceived in a similar fashion. The main problem, however, is that

[62] Ibid. Hadjipavlou 2010.

these identities must be willingly adopted and spread—oppositional national groups cannot be forced to abandon their nationalist identities; but, those groups existing in conflict zones around the world which resist the nationalist vision and seek collaborative reconciliation—Palestine/Israel, Greece/Turkey/Cyprus, Kashmir, India/Pakistan, (Northern) Ireland, and the division between Mexico and the United States, to name a few—can be empowered, the same way GCs and TCs are being empowered by various international organizations inside and outside of Cyprus. Being steeped in the conflict makes this sort of shift difficult, which is why the example set by Cyprus is so important. The various diaspora communities who are seeking similar reconciliation are of equal importance. Outside of the direct violent nationalist struggle which continues to mark the Middle East, many groups are working together to overcome these fissures and demonstrating not only that historically opposed peoples can come together, but that there is an alternative identity already forming through this reconciliation. Beyond the emergence of peace groups, however, there is the lingering problem of other nationalist forces. This problem is seen most clearly in the U.S., where Middle-Eastern peoples are constantly brought under the gaze of suspicion. In other words, the need for reconciliation in the Middle Eastern identity extends beyond imagined geographical boundaries. It is the recognition of a common history and a common desire for this recognition and the peace which comes with it. Greeks, Turks, Armenians, Israelis, Palestinians, Lebanese Christians and Muslims, Baha'is and Persians, etc. all emerged from a shared history and culture. These identities depend on each other, in various ways, and have much more in common than not; thus, as I have worked to demonstrate throughout this section with the case of Cyprus, reconciliation requires a deeper shift. It

requires altering the way we understand ourselves and our relation to the world. Cyprus is a shining example of what this shift looks like, how difficult it is, how long it can take, and why it is so important.

CHAPTER III

GROUNDWORK FOR A THEORY OF RECONCILIATION: COORDINATING THE TERMS OF AGREEMENT IN POTENTIAL SOCIETIES

3.1. Finding a Theory in Precarious Circumstances

In accounts of post-conflict peace building, the term reconciliation is often deployed with little explanation or with an explanation that only makes sense within the specific context being discussed. There at least two reasons why there is resistance to offering a universal account of reconciliation. First, as we learn through Hegel, our concepts and ideals transform as we strive towards their realization and thus the concept of reconciliation is not easily defined. In the collective struggle for reconciliation, we will not know what we are looking for until it has been found. Secondly, insofar as reconciliation relies on various tactics to achieve the end of peaceful coexistence and solidarity, the concept should not be fixed in a strict sense because it is a pragmatic pursuit.[63] When persons agree to enter into a reconciliation process, the engagement must be open to a range of creative possibilities and the means are sufficient when they are

63 Hegel and Sibree 1944. Hegel, Miller, and Findlay 1977. Hegel, Wood, and Nisbet 1991. Also see e.g. Sen 2011.

agreed to by the interlocutors. In this sense, reconciliation is an ongoing process that will emerge in various ways depending on the material conditions of its activities and the demands of the reconciling actors.

Yet, some theorists of transitional justice also suggest that reconciliation can only be understood as a process of transcending or overcoming a particular set of problems with the normative end of closure (e.g. forgiveness) and, at the level of politics, the creation of a liberal-democratic society.[64] Others would do away with normative ends entirely.[65] Some, like Judith Renner, argue that reconciliation is valuable because it is a "flexible and interpretable discursive device which can be embraced by politicians and society and adjusted to the requirements of the particular transitional situation."[66] Renner is accurate in terms of how the rhetoric of reconciliation sometimes works amongst politicians, but behind these utterances is a genuine conflict which makes those utterances more or less rational in relation to the goal of reconciliation if they do or do not secure certain ends, specifically realizing peace through the stabilization of social-political relations. In order to be more than just a process, reconciliation requires, is defined by, and demands the realization of certain normative criteria, but at the same time those criteria must be sufficiently minimal in order to be useful and consistent across cases. Hence, reconciliation processes work to illuminate the terms of agreement within and between social-political environments.

In this chapter, I argue that reconciliation is a tiered process of coordinating

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[64] Verdeja 2009; Murphy 2010; De Greiff 2012. Also, Kant and those who advocate for neo-Kantian liberal expansionism.

[65] Dewey 2008.

[66] Renner 2010: 23-40.

meaning, occurring in the social-ethical sphere and the political-systemic sphere, that works to improve an imperfect and volatile situation through the development of trusting and creative relations within the social world, as well as between the social world and the system. At both levels, reconciliation involves the development of reciprocal relations between participating subjects, as well as between the social and the systemic spheres, such that a new possible self-world relation becomes possible. On the one-hand, the process of reconciliation must be rooted in the interpersonal-ethical social sphere with persons who are able and willing to find common ground such that they can transform themselves and thus their world. Although reconciliation is a virtue, it has a non-obligatory character insofar as it cannot be forced. Hence, the central problem of *Justice as Reconciliation* is figuring out how to get persons to actually engage the Other in a transformative reconciliation activity.

Insofar as the starting point of reconciliation is an ethical reciprocal-recognition, the processes of reconciliation are those tactical efforts which work to strengthen the relation between conflicting parties. Thus, on the other hand, the process of reconciliation must be facilitated by and realized through institutional systemic practices. Institutions that fail to facilitate reconciliatory relations are doomed to a repeatedly conflicted social world, an illegitimate status in relation to that social world, and thus a laughably nominal sense of justice.

I expand on this tiered emergent view of reconciliation by first discussing Hegel's process theory that was adopted by Marx and many in the critical theory tradition. Through this analysis I frame the ethics of reconciliation, or social reconciliation, through a discussion of recognition. In the second section I turn to Lévinas's critique of Hegel in

order to discuss the experiential tension that exists between the self and the collective. Here, I position my view of recognition between Hegel's and Lévinas's because I believe that human experience alternates between the individual and the collective, such that 'I' is as equally precarious of an ethical achievement as 'We'; thus, social reconciliation must take care and respect the potential individual and collective. In this sense, social reconciliation must be open ended, creative, and not solely backwards looking. In the third section I discuss various elements of an institutional-systemic approach to reconciliation. Here, I emphasize the importance of truth-commissions in creating participatory opportunities for persons to both overcome a certain sort of political alienation and also to help bridge the gap between the system and the social world. Truth-commissions also reveal that systemic recognition is not just about the granting of rights, but is also about repairing the historical damages and preventing future damages by coordinating meanings between the system and social world. Ultimately, the reconciliatory model I am defending contains within it an implicit notion of a social contract that is yet to come, which demands collective meaning coordination and political authorship in both micro and macro political spheres. The work in this chapter sets the stage for a closer analysis of each sphere of reconciliation in chapters IV-VI.

3.2. Groundwork for a Theory of Social Reconciliation

Before the rise of the present discourse on reconciliation, philosophical discussion of the concept was limited to Hegel and the Critical-Theory tradition.[67] Indeed, Hegel is one of the only philosophers to discuss reconciliation (die Versöhnung) explicitly or to

[67] Reconciliation has an even longer history of recorded practice dating back to early Judeo-Christian communities. I am starting with Hegel because he offers a systematic explanation of reconciliation that still operates in critical-theory.

place it as the heart of his project.[68] I appeal to Hegel, not just because he was the first modern theorist to discuss reconciliation, but because he was critically responding to the rise of liberalism from within the eye of the storm, where the nation, capitalism, individualism, and empiricism converged. Hegel acts as a rooted precedent from which criticism of our present continues to draw. He is an important precedent because he believed the developed world needed to take seriously the notion of reconciliation and, insofar as the present is only now thinking about reconciliation, Hegel remains valuable even if his legacy is problematic. Hegel and his followers are particularly useful insofar as they implicitly critique liberal contract theory by demonstrating that the terms of our social order are neither explicit, nor agreed upon; rather, as I argue throughout this chapter, the social contract is often (mis)taken as given, while the political contract is established through force. I will hold on to the contract model for critical purposes, but the contract I am discussing is a future agreement that requires the work of reconciliation.

3.2.1. Mutual Recognition As the Ethical Starting Point of Reconciliation

Hegel was concerned with the relation between persons and institutions in a world where relations were becoming increasingly alienated. In the modern-liberal world, people feel split and powerless in relation to the system of social and political institutions which have increasingly come to represent them, creating a sense of hostility between the institutions and the people, but also between peoples. Hegel's response to the problem of alienation is a theory of reconciliation.

Hegel describes alienation through his critique of social relations and the division of labor. He says that the individual has become dependent upon the “social

[68] Hyppolite 1969, 1974; Hardimon 1994; Williams 1997.

environment" which, Hyppolite clarifies, replaced "the natural environment."[69] Persons are dependent upon social arrangements for the satisfaction of needs—the social order also creates needs— but as a community all persons become dependent on the structures they co-create, allowing the structures to have power over persons.[70] The sublimation of habituated norms creates the opportunity for individuals to be objectified and estranged from themselves as well as their circumstances. In situations where systemic processes become divorced from the needs and values of individuals, the individual may feel powerless in relation to the system they tacitly participate in maintaining. Alienation is later taken up by Marx in his critique of labor, but Hegel argues that it is not just life under capitalism, but life as such, that is alienated. The alienated subjects thus feel estranged from themselves, others, and the system. Hence, Hegel responds to the problem of alienation by discussing reconciliation as an ethical and a political remedy to the ill of alienation.

For example, in writing about the "Unhappy Conscious" Hegel focuses on how one is confronted by the experiential wall of alienation in the realization that one is, contra Cartesianism, unable to truly conceive of oneself as an isolated cogito:

> This unhappy, inwardly disputed consciousness, since its essentially contradictory nature is for it a single consciousness, must forever

[69] Ibid. Hyppolite, 1969: 79. Here, Hyppolite reads Hegel as believing in a 'state of nature' or pre-social situation that was the natural starting point of human existence. I remain skeptical of pre-social mythology, but it is worth noting because Hegel does not claim that sociality emerged out of a need to end all war; rather, Hegel suggests that we are social creatures from the beginning and that the current state of civilization is merely a unique emergence in our history. Marx maintains this sort of epochal view of sociality. See the first chapter of Honneth's struggle for recognition for a description of how Hegel parts with other theorists on the origins of society (Honneth 1995). As I will suggest in a moment, I think this first level of sociality is the non-propositional trusting relation that we establish with our fellow persons when said persons participate in ways that do not violate that trust (e.g. they do not act hostile or war like).

[70] For an analysis of how systems create needs, see Marcuse's "The End of Utopia" (1970: 62-82). Also see Graeber 2011.

> have present in the one consciousness the other also; and thus it is driven out of each in turn in the very moment when it imagines it has successfully attained to a peaceful unity with the other.[71]

The subject recognizes and forms itself through Others. This potentially objectifying and alienating recognition through Others is a process wherein one simultaneously realizes oneself while shedding the skin of one's former self. In the *System of Ethical Life* and the *Phenomenology of Spirit* (PdG) it is clear that life, specifically the intellectual and philosophical life, is marked by this ongoing struggle with the ephemeral self that is alienated and eventually transformed through the world of others; hence, transformative contemplation is, according to Hegel, "the way of despair."[72] The way we understand ourselves, specifically through the recognition (or misrecognition) of others, largely determines the way we engage with and thus (co)author the world because the world is this activity of co-created meaning making.[73]

The PdG begins with this problem of contested truth precisely because Hegel is concerned with how the world is shaped by our understanding or perception. He frames this problem by first addressing cognition metaphorically, noting that if cognition is an instrument then its use "sets out to reshape and alter" the very thing it attempts to grasp and understand.[74] But, he also points out that if cognition is a medium "through which the light of truth reaches us, then again we do not receive the truth as it is in itself, but only as it exists through and in this medium."[75] The problematization Hegel sets out in this dual

[71] Ibid. Hegel 1977: 126.

[72] Ibid. 49. Also, Hegel's System of Ethical Life...***For a more complete discussion of this problem, see *Warum Denken Traurig Macht?* (Steiner 2008).

[73] Hegel's notion of recognition is coming out of Fichte. See Williams 1997.

[74] Ibid. Hegel 1977: 46.

[75] Ibid.

metaphor does not merely challenge the project of securing truth and thus knowledge, but also sets the stage for his unique phenomenological method which treats both truth and knowledge as a shared experience.

The constant struggle to know and be known, only to have what appears evaporate in the process and thus give way to a different experience, is what moves Hegel's phenomenology through its various stages. More importantly, Hegel believes that this continuous activity of grasping what appears as known, specifically ourselves, only to have the known object taken away, negated, and transformed through experience, is what makes life alienated. It makes sense that one would feel powerless, uncertain, and alienated when one's self and thus one's world of meaning are constantly transformed through various experiences. Hence, the central problem we face is not one of objectivity, for objectivity is not really possible; instead, we must determine how we can best navigate in this ephemeral world of competing value and truth claims. In other words, Hegel is concerned with how it is that we deal with the problem of interpretative difference: How do we reconcile ourselves with others who have different experiences, different views of the world, and thus different claims to knowledge that challenge our world-being?

One historically popular option discussed in PdG is seen in a master-slave relation. A master-slave relation emerges as persons undermine or dominate one another for the sake of affirming their own self realization, their own claim to truth, meaning, and value.[76] The master-slave relation is problematic insofar as agents dominate Others and attempt to negate their freedom, but, insofar as Others remain agents, they defend

[76] Ibid. Hegel 1977: 111-119. Also, Williams 1997: 2.

themselves thus affording conflict. When agents objectify Others through domination, an asymmetrical and unstable relation emerges. In other words, the master-slave relation is a description of conflict.[77] A master-slave relation is asymmetrical and alienated, and contains a risk of war, which is the logical outcome of a situation involving domination. In a master-slave situation, neither side is ethically realized and the world too is lacking in the richness of possibility that would exist were all parties realizing themselves together; thus, a new relation must be formed.

Indeed, contra Kojéve and the French reading of PdG, Hegel advocates an alternative form of recognition wherein both parties affirm each other mutually and freely.[78] Here, Robert R. Williams's suggests that we can understand Hegel's notion of recognition as a threshold that "is reached when the other comes to count."[79] In this sense, the master-slave relation is based in an ethical choice to relate to the Other as an object and not as a mutual interlocutor with whom one should engage through a reciprocal

[77] When asked 'what is conflict?' persons frequently emphasize that conflict can be positive. The positive view of conflict emphasizes how it can lead to creativity and growth, etc. I am sympathetic with this move, but I think it is important to not conflate conflict with those things we see as positive which may or may not be a response to conflict. That is, I think we should understand conflict as always being problematic and the creative form of agonistic interaction should be understood as struggle. Conflicts, and those who are arbiters of conflict, tend to exclude persons and indeed seek to crush others who do not support their side/view/identity. Here, I find Habermas's notion of rationality helpful. Habermas discusses rationality as an openness to reasons, learning, and growth. Irrationality, which is the nature of conflict as I understand it, is closed to possibility and is not itself creative. Struggle, on the other hand, can be inclusive and collective. We can struggle together and though there may be tension in our struggle, we continue to move toward some end which we can potentially agree upon. When the struggle collapses, we find ourselves in conflict. It is in this struggle to find meaning and value with others while, at the same time, not crushing or closing off others as valuable possibilities, that we creatively realize ourselves. Conflict, especially in a historical sense, is destructive and though great things can come out of destruction, those things are not conflict — they are efforts to overcome and move beyond the raw destructiveness of conflict. In other words, Hegel's master-slave relation and reciprocal recognition capture this distinction between conflict and struggle.

[78] Kojève and Queneau 1969. Sartre 1956. Hegel's other view of recognition is most clearly stated in the *Philosophy of Right* 1991.

[79] Ibid. Williams 1997: 7.

exchange that effectively transforms and liberates those involved. Axel Honneth grounds these forms of recognition in more concrete terms: The objectification of the Other is a disrespect, whereas the reciprocal way of relating to Others is a granting of a certain base level ethical status or a respect of the Other.[80]

These two modes of engagement are not contradictory; rather, they are descriptions of how persons interact, interpret, and thus co-create the world.[81] These two modes can also be seen as points of distinction in Hegel's theory of reconciliation. For example, Michael Hardimon's discussion of reconciliation in Hegel appeals to a distinction between the meaning of the German term Versöhnung, which translates as reconciliation, from reconciliation as it is sometimes understood in common English usage.[82]

Frequently the term reconciliation, when used in English, evokes a sense of submission or resignation. One reconciles *to* something and thus bows to the will or ideals of another. Here, the act is mono-directional and the individual more or less accepts something about which she may have been hesitant. This initial, more common understanding of reconciliation as submission captures the master-slave relation in a way that most people experience it, wherein one party dominates another though not necessarily through the use of chains. Of course, it is also common that persons are actually enslaved, with chains, and so the master-slave relation functions along a self-

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[80] Honneth 1995.

[81] The split between mutual recognition and recognition as dominance is later taken up by Habermas as the foundation for his distinction between strategic action and communicative action.

[82] Ibid. Hardimon 1994: 85-87.

reinforcing continuum.[83]

Hegel does not associate the term Versöhnung with the master-slave relation because being submitted to another is not reconciliation. I think it is likely a result of our social-political circumstances—which encourages and condones a master-slave relation through ideals like competition and the necessity of war, specifically defeating or claiming victory over the enemy-Other—that the English speaking world understands reconciliation as being more akin to submission or resignation.[84]

Hegel's understanding of reconciliation emphasizes an intersubjective relation and deploys the pronoun *with.* In this later case, which is closest to Hegel's Versöhnung, the emphasis of the activity is on both parties, the problem is reconciled together, and in this reconciliation, both parties are transformed in specific ways. The emotional tension between persons may be ameliorated when they reconcile together, and how they understand themselves may also shift in new directions allowing for new habits to form. What is central to this level of reconciliation is the recognition between both parties as co-contributing to an experiential situation. The emotions experienced emerge along with and are a reaction to certain behaviors. More negative emotions may not immediately disappear and in fact they might at some point intensify, but interaction is recognized as a problematic relation, which at the very least transforms the way persons relate to their own experiences in the situation. Here Hardimon notes:

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[83] The significance of this self-reinforcing character that defines domination is captured in Hanah Arrendt's discussion of the banality of evil. See Arendt 1951, 2006.

[84] Indeed, Hegel stresses that the domination of another leads to a false and enslaved existence: "This earlier and false appearance [Erscheinung] is associated with the spirit which has not yet gone beyond the point of view of it consciousness; the dialectic of the concept and of the as yet only immediate consciousness of freedom gives rise at this stage to the struggle for recognition and the relationship of lord-ship and servitude" (Hegel, Wood, and Nisbet 1991: 139).

> Versöhnung is different from resignation. To be versohnt to the social world is to view it in a positive light. Versohnung involves something like complete and wholehearted acceptance. In contrast to 'resignation', Versohnung contains a very strong element of affirmation. Thus Hegel speaks of "das versohnende Ja" (the reconciling yea; PhG, 494/409). One is versohnt only when one is in a position to say yes to one's situation, and one becomes versohnt, in part, by saying yes to it.[85]

To accept, affirm, or say yes to one's social world, does not mean that one then proceeds to defend the social world as righteous. The positive affirmation is an honesty, a recognition of how one's conditions are problematic and could be otherwise. The critical affirmation that is the starting point of reconciliation is a moment wherein involved parties critique their situation and agree to work to transform their problems together. There is a radical shift in one's identity when one moves toward reconciliation in its early stages of recognition because it involves an intense vulnerability, a risk to trust the Other and cooperate in transformative activities. In this vulnerability, one becomes open to the dormant possibilities in the world that become more apparent as one attempts to understand the perspective of others.[86]

Reconciliation does not imply that conflict will disappear. Central to Hegel's concept of reconciliation, the concept which has evolved through the critical-theory tradition, is the starting point of this imperfection that we are historically responsible for creating and reproducing. Reconciliation begins with the recognition that the social world

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[85] Hardimon 1994: 87.

[86] This critical view or openness to possibility is not unique to Hegel. Plato's parable of the cave is in many ways a story about this critical view of the world as possibility, and the importance of critique is taken up by Horkheimer, Adorno, Honneth, Habermas, and others under the banner of critical theory (Plato, Hamilton, and Cairns 1961). This may seem like a small shift for the philosophically inclined, but for those who understand reality through a fixed or reified perspective (Honneth 2008; Lukács 1971), such as the nationalist, for example, the world is not open to reinterpretation (McKim and McMahan 1997) and is a fixed and ahistorical or reified object.

is imperfect and problem ridden, that we are responsible for co-producing it, and that it is something which we can transform by transforming our relations with others. Following this approach, a theory of reconciliation must not begin by assuming that persons already agree to the terms of their existence; rather, the meaning of our circumstances, the terms of our social-political co-existence, must be coordinated through peaceful and collective tactics.

In the case of Cyprus, Versöhnung began the moment Cypriots on both sides of the green-line looked back at their histories and decided it could and indeed should be otherwise, and thus began to adjust their habits, together, for the sake of that 'otherwise.'[87] Note that a ceasefire was not the start of reconciliation, though reconciliation would have been much more difficult were it not for the ceasefire; rather, reconciliation began with the Cypriots changing their minds, thinking of the other as a being worthy of respect, and seeking the other in order to work through the problems marking the island. The central problem of reconciliation at this ethical level is learning how it is that we arrive at this starting point where we openly respect the Other and are willing to work together toward a new possible world.

3.2.2. Holism v Individualism, a False Dichotomy

Emmanuel Lévinas's critique of Hegel is a useful catalyst for further developing an account of reconciliation.[88] At the social level, Lévinas claims that Hegel's ethics of recognition reduce individuals to the absolute or the collective understanding that is holism, which effectively levels difference by making all beings the same. In conflicts

[87] For an example of mutual recognition see chapter II. Also, Anastasiou 2008; Hadjipavlou 2007.

[88] Lévinas 2012.

this reduction to the collective seems to take away individual agency which is really problematic, especially in conflict situations, because it is sometimes necessary that individuals be culpable; thus, the ethical assuming of the We over the individual requires a clause regarding the role of the individual within the collective. At the political level, Lévinas's critique points to particularly serious problems because it suggests that Hegel's politics lead to totalitarianism and the active dissolution of difference. In this section I will address the holism individualism problem. I will address the political aspects of Hegelian thought in the next section as I transition into a more complete discussion of systemic reconciliation.

If one is only able to realize oneself through Others, then Others are not truly Other, according to Lévinas, but are actually the same. Lévinas states:

> Other with an alterity that does not limit the same, for in limiting the same the other would not be rigorously other: by virtue of the common frontier the other, within the system, would yet be the same...The absolutely other is the Other. He and I do not form a number. The collectivity in which I say "you" or "we" is not a plural of the "I." I, you-these are not individuals of a common concept.[89]

Here, Lévinas emphasizes that there is a real difference between persons that cannot be disregarded, and thus there is a tension between the individual and the Other precisely because of the insurmountable experiential meaning gap that separates persons. The most radical expression of this uncertain difference is seen in Descartes solipsism, where, through sufficient isolation, one comes to experience an alienation so intense that one can only be certain that one is a thinking thing.[90] Lévinas's claim seems to stand in stark contrast to the Hegelian position which suggests that the individual forms in relation with

[89] Ibid. 39.

[90] Descartes 1984.

Others, such that the line between I and We is often blurry. These two extreme positions —the holism Lévinas attributes to Hegel which seems to leave no room for the individual, and the radical alterity he defends, which leaves persons in a self-contained bubble of difference—are misleading for at least two reasons.

First, if reciprocal recognition is read as respect, then Lévinas's interpretation of Hegel is suspect because respect is a relation to Others, which takes them as they are on their own terms. That is, respect is the acceptance of and relating to difference without attempting to submit that difference to one's will through tactics of domination. Perhaps the suggestion is that mutual recognition begins with the respect of alterity, but through the collective reconciliatory struggle that difference is once again dissolved into sameness insofar as both parties participate in forming themselves together; but, this version of Lévinas's critique misunderstands the continuous nature of self-formation. Even if commonality were established in a reconciliatory engagement that begins through the respecting relation, that commonality will not be an absolute or consistent experience insofar as persons would still interpret their experiences differently, perhaps even in disagreement, and then they would move on to other relations and other hermeneutic experiences.

One does not remain locked in a struggle for meaning with the same beings throughout the entirety of one's existence. Even within a common relation, over time both parties will experience different degrees of respect. One might respect the basic rights of Others as persons, but not recognize their activities as persons. In this sense, there are degrees of recognition. More importantly, as one gains experience through a range of encounters with difference, one's self not only transforms, but also becomes increasingly

foreign such that one can reflect on a time past and wonder how one ever existed as said person in the first place.

Secondly, all of this is to say that the distinction between 'we' - 'I' is ambiguous and that the demands of metaphysics are too rigid. Indeed, the idea that we must begin with one specific metaphysical view of human experience and meaning making is problematic because it denies the reality of ambiguous life. In other words, the holism-individualism binary is misleading because it directs attention away from the variable gradient of lived experience. Neither the collective nor the individual are given as already formed and determined things. The individual is an achievement just as much as the collective is an achievement, and even when realized either may quickly fade back into ambiguity. In fact, I think it is fairly normal for one to experience both solipsistic moments where all that seems real is the self, as well as intensely collective moments where the individual is lost to the spirit of the whole, depending on the circumstances of one's life. Although, even in the moments where the self seems lost the individual remains as an alterity that cannot be intuitively known. Thus, difference should be recognized and respected, while 'we' should be assumed as a goal, but for ethical-political reasons and not metaphysical ones. Indeed, I take this to be Hegel's point as well as Lévinas's: that our descriptions and judgments are always already ethical-political because they inform the way we think of and therefore relate with other persons. The assumption that this ethical starting point must either be based in a theory of collectivity or a theory of individualism is misleading.

Therefore, in reconciliation the ethical relation with Others must be based in the respect of the individual, even if all involved parties are very similar; but, the relation

must also be permeated by the awareness that selves and sociality are distinctly collective, relational emergences. The theory of reconciliation I am advocating is one that respects and depends on alterity, but with a We that is yet to come and always in view. In other words, reconciliation processes address individual subjects but with the goal of agreeing to and coordinating meaning such that a We can be properly spoken about. It is not just for the sake of properly coordinating meaning that a We should be ideal. We should be held as ideal for the purposes of overcoming the powerlessness that occurs within a world where collectivity is dismissed, and the individual is overly burdened in alienated isolation.

3.3. Negotiating Contracts: Trust, Sociality, and the Coming Political System

The individual must be taken seriously, especially when one violates the most basic normative expectations that organize the activities of the social world. These primary expectations are a non-propositional and non-reflective trust that persons within the social world often take as granted; that is, basic trust can be understood as the tacit form of the social contract. As one walks down the street, one assumes or trusts that one will not be assaulted in various ways; that is, it is believed that our individual embodied existence will be respected. If these primary structured relations are missing then so is the social world. In discussing this basic level trust relation, J.M. Bernstein says,

> Trust is trust in others before whom we are unconditionally vulnerable that they will not take advantage of our vulnerability. Given the exorbitance of this requirement—the forbearance of trust as the acknowledgment proper to our existential helplessness before one another—trust turns out to be most effective or most fully actual when it remains unnoticed: trust ideally occurs as the invisibility of trust.[91]

Thus, when one violates this most basic of social structures, the minimal requirement for

[91] Bernstein J.M 2011: 395.

a situation to be properly called societal, then one has created a new situation that is not based in a reciprocal meaning making; rather, by violating this most basic of trusts, one has entered into a state of conflict by not respecting the other and thus damaging the possibility of collectivity. Similarly, when one's trust has been violated or when one exists in a world where the basic relations are not present, then meaning and possibility collapse, making survival the only possible objective. In this sense, reconciliation attempts to bring the individual and the Other back into sociality by first demanding that the individual be held responsible for the damage done in the initial disrespect.

The person who violates basic social expectations and the person who is violated exist in extreme states of individuality, and that individuality must be respected because it contains within it a perspective that cannot be intuitively known because it is beyond the social. But, reestablishing the most basic terms of our possible collective existence is crucial for helping the victim survive the trauma of having said trust violated, and also reintegrating offenders to prevent individuals from being anti-social pariahs. Thus, social reconciliation or an ethic of reconciliation is concerned with maintaining or reestablishing this basic form of trust such that meaning can be coordinated in a way that includes individuals. Social reconciliation is also the means by which higher forms of trusting sociality or a shared meaning can be achieved, specifically a common sense of justice, which requires a careful navigation of the collective/individual dynamic.

Thus, there is a second possible form of social arrangement, a higher level of trust that is also possible beyond the most basic of social contracts that persons non-reflectively assume in their encounters; but, so long as persons remain unable to maintain even the most basic forms of collectivity, that higher form of agreement will remain

beyond reach. Historically, this second level of social relation has been imposed rather than agreed upon because it is beneficial to whoever happens to be on top. It is in this sense of collectivity that the second aspect of Lévinas's critique of Hegel becomes a dire concern. That is, the 'We' that directs our encounters can be problematic if it is not open and inclusive. Indeed, Hegel's theory at the institutional level is problematic because he was attempting to reconcile the alienated peoples of nineteenth century western Europe, specifically the German-speaking peoples, with the changes that we now understand as comprising modernity. Here, Hegel's 'We' is clearly not including most of the people who did the work of bringing modern western Europe into being. Thus, institutional recognition, as the granting of rights and protections, is highly limited on Hegel's nation-state model in part because it remains both top-down and closed to those who are beyond the gaze of recognition.

Hegel's political reconciliation is top-down insofar as it emerges when one understands the rationality behind the social and political world, and thus finds one's place in its operations through a struggle with others as institutions, such as the family or the state.[92] In Hegel's modern society, persons learn to embrace the norms and roles which are made available to them by historical tradition, and it is therefore rational that the good of the state be the good of its peoples.[93] Ideally, there would be a reciprocal relation between state and peoples such that the state actually embodies the good of its

[92] Ibid. Hardimon.

[93] Hegel claims that collective Geist or spirit is the absolute and only "real being", all other "shapes of consciousness are abstract forms of [the absolute]" (Hegel 1977: 264, bracketed text not in original). He goes on to say that Geist "is the ethical life of a nation in so far as it is the immediate truth—the individual that is a world" (ibid. 265); hence, it is through others as the institutional state that one gains meaning, purpose, and freedom, and Geist or the collective institutional mind is the end toward which we reconcile ourselves.

peoples. But, for Hegel there is an underlying rational and end guiding social progress—the absolute Geist which is often interpreted as God or the force of history—and the norms of the time he was writing were seemingly fixed.[94] In other words Hegel's project is teleological and presented as a universal account of the definitive structures of history, and it is thus top-down insofar as history, as well as the roles of individuals within that history, is predetermined.

Hegel's normative political imposition is problematic because, like other top-down teleological political contracts, it leads to political instability and conflict as it is not prepared to integrate differences in opposing views of the world. That is, top-down political models are infallible and hermetic, and thus unstable. Similarly, a top-down teleological model seems to take some responsibility away from the social-world in the play of politics and places it in a more grand historical movement. If teleological, Hegel's political-historical model also seems to be in tension with his ethical model insofar as world-formation beyond the social world is not a co-authored project but is actually an already determined emergence. I do not think it necessary to defend Hegel here, because even if he was not explicitly defending fascism, as Marcuse suggests, the directedness of his historical perspective is shared by the nationalist and fascist alike, and is rooted in a conflict driven pre-determined world-forming relation.[95]

Along with Lévinas, Marx's "Contribution to the Critique of Hegel's Philosophy of Right" criticizes Hegel's theory, revealing the nationalist or closed mind as being rooted in a type of religious mind, which sees the world in terms of fixed, predetermined,

[94] For a religious interpretation of Hegel, see Taylor 1975. The view that Hegel understood the norms of his time as fixed is defended by Blasche in Pippin et al. 2004: 183-207.

[95] Marcuse 1941.

and reified absolutes.[96] The closed mind of the nationalist sees the nation-state as real and necessary, endorsing violence as the only real option to protect from the enemy. Questioning and challenging the reified and fetishized norms of the ideologically committed can be extremely dangerous, especially in a delicate post-conflict society. As long as persons maintain their rigid and closed understanding of the world, however, they also choose to maintain a world of conflict and alienation. Again, how we choose to see and thus engage in the world is the focus of ethics and politics. In this sense, Lévinas rightly notes the risk in Hegel's ethical-political theory of being closed and therefore not respectful of difference.

3.4. The Reconciliatory System: Institutional Recognition and the Left Hegelian Legacy

Marx and the critical-theory tradition were also concerned with the problem of alienation and the conflicts which accompanies this experience, but many post-Hegelian theorists part with his view of institutional reconciliation. They do, however, maintain certain key features of Hegel's project; namely, the overcoming of alienation and conflict (class conflict) through a collective struggle which transforms all involved and therefore the world. In other words, the systemic model I will more fully defend in chapters V and VI is an open ended or grassroots model that demands participation.

Contra Hegel, and through the influence of Ludwig Feuerbach, Marx argues that an unalienated life is possible.[97] He argues that the alienation Feuerbach attributes to

[96] Marx 1978: 53-65.

[97] In *The Essence of Christianity* (Feuerbach 1957) Feuerbach argues that persons create their own alienation by attempting to describe and understand their relation in the world through abstraction. Unlike Hegel, Feuerbach thinks we can escape our alienation if we simply overcome over our tendency to abstract meaning outside of ourselves. Feuerbach is specifically critical of religious abstraction or the fetishization of symbols which direct one's focus beyond the richness of lived experience into an object

religion is really the result of alienation in one's material labors, but Feuerbach was not able to realize this because his positive solution was to merely see the world with a higher perception through critical philosophical eyes, thus 'relapsing into idealism.'[98] The critique of Feuerbach is seen throughout Marx's theses on Feuerbach and emphasized in his famous eleventh thesis.[99] Seeing religious alienation as symptomatic of real material conditions which prevent persons from realizing themselves through their labors, Marx directs his focus at how human working conditions can be transformed such that persons are no longer alienated as such. The problem of religious alienation is dealt with by dealing with its root cause, alienated labor.

Marx's response to the problem of alienation, insofar as he offered a positive theory of what the world should look like, is for persons (workers) to transform their living and working conditions and thus themselves, which implies a revolution in the way

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or being that is not connected to the reality of lived experience. The value of things in themselves, of experience as it is experienced, becomes diminished because the value is placed outside of the experience. For example, Feuerbach enjoys the example of food and says that we should view the objects which sustain our existence—water, plants, meat, etc.—as being sacred because they allow humans to thrive, not because an abstract being deems said things as valuable. Marx also takes up the problem of Fetishization, specifically the fetishization of capital, with similar concern. Marx suggests that when labor is mediated by capital, persons become equivalent to the machines with which they are working; that is, persons become objectified and the value of their efforts is determined by an object (capital) that is independent of the labor itself. Further, the worker becomes alienated because she is laboring for the fetishized capital and not for her own self-development. The worker is not able to realize herself and others fail to recognize her as she is because she is presented as capital, not as a person who pursues her own projects and develop herself through her labor. Hence, Marx parts ways with Hegel through the influence of Feuerbach on the problem of alienation, but he also parts ways with Feuerbach insofar as he thinks Feuerbach does not complete his own project. Marx argues that Feuerbach does not offer us a real escape from alienation beyond “embryos capable of development” (“German ideology” Marx, Engels, and Tucker 1978: 169).

[98] Feuerbach, Marx says, “never manages to conceive the sensuous world as the total living sensuous activity of the individuals composing it; and therefore when, for example, he sees instead of healthy men a crowd of scrofulous, overworked and consumptive starvelings, he is compelled to take refuge in the 'higher perception' and in the ideal 'compensation in the species,' and thus to relapse into idealism” (ibid. 171.)

[99] “The philosophers have only interpreted the world, in various ways; the point, however, is to change it” (Marx 1978: 145).

that persons interact and the way the system relates to the newly forming social world. In other words, Marx advocates for a ground up or participatory political model.

For example, if we look at the (only) writings where Marx seems to glorify a certain way of life, we see a world where persons are interacting communally for the sake of each other. Specifically, in his address to the *General Council of the International Working Men's Association on The Civil War in France*, Marx discusses the dictatorship of the proletariat and describes it as the *Paris Commune*.[100] In Marx's description of the *Paris Commune* we see a society where all persons are participating, helping to shape themselves and thus the world:

> The working class did not expect miracles from the Commune...they know that in order to work out their own emancipation, and along with it that higher form to which present society is irresistibly tending by its own economical agencies, they will have to pass through long struggles, through a series of historic processes, transforming circumstances and men. They have no ideals to realise, but to set free the elements of the new society with which old collapsing bourgeois society itself is pregnant.[101]

Here, we see that Marx's ideal society is one where persons struggle together in the face of their problems for the sake of an undetermined world—undetermined because, in this cooperative struggle, all involved, and thus the world itself, are transformed. Unfortunately, Marx does not offer much in terms of tactical details as to how we arrive at a society where persons recognize each other as mutually valuable and worthwhile interlocutors who engage in the co-authoring activity that is reconciliation; that is, beyond a pseudo teleological theory of history that he also inherits from Hegel which maintains that said transformation is inevitable. Even more unfortunate, many have

[100] Ibid. Marx 1978.

[101] Ibid. 235-236.

interpreted Marx's claims about struggle through militant lenses, leading his work to be more commonly interpreted as a call to violence—it is easy to see why this direction is taken, given that Marx emphasizes class struggle and praises the outcome of violent struggle in *The Civil War in France*.[102] However, Marx's historical view and his view of institutions are important in that they diverge from Hegel's top down model, demanding a society that is formed and informed by the people from the ground up. In other words, Marx advocates for a radical form of democracy: A political contract that emerges through collective participation.

Within the critical theory tradition, a two-front critique emerges out of Marx's thought: One line of critique is concerned with overcoming the forces that reproduce alienation within the fragmented social world, and the other line is concerned with critiquing the means by which the top-down system maintains a situation wherein persons are continuously exploited to the benefit of a few.[103] In *History and Class Consciousness*, Georg Lukács argues that both problems are rooted in different ways of thinking across class groups.[104] The working class and the bourgeois each maintain a certain perspective on the social-political world, and these perspectives are not merely dismissive of the Others, but are outwardly hostile toward alternative world views. In other words, class consciousness has an ideological character that is similar to the mindset of a group that is

[102] Ibid. 618-652.

[103] The most important writing that captures this split is Walter Benjamin's "Critique of Violence" (Benjamin et al. 1996). This essay, which I address more fully in chapter VI, really sets the stage for the two sphere split with which critical theory continues to wrestle: on the one hand, violence as a problem of ordinary language or everyday interactions; on the other hand, violence as a military and state controlled force. The violence of both spheres cooperate and rely on each other to persist throughout social-political time. Reconciliation efforts must address both in order to be total. Here I focus on Lukács because of his emphasis on class-consciousness or the overcoming of the oppositional mentality in the social world that allows for systems of domination to be maintained.

[104] Lukács 1971.

at war with a sweepingly produced image of the Other as enemy. Each group maintains a reified view of Others and thus of history, reification being the solidification or objectification of a relation that transforms it from a point of interpretation and possibility, to a fixed and absolute fact. Hence, the system perpetuates itself because the social world is locked in a conflict that prevents a collective co-authoring of political terms.

Thus, a great deal of work has been done to undermine these reified and hostile social relations in the hopes of cooperative systemic transformation. Some, like Lukács, have attempted to reveal the various contradictions contained within reified world perspectives. Others have worked to show how incredibly complicated history is such that the ascription of meaning to said events is difficult, but also to reveal how historical emergences bind us in various ways beyond those judgments of which we are actively aware.[105] Habermas's discourse ethics are a theoretical attempt to address this tactical vacuum in the left-Hegelian tradition, and the activities of the transitional and restorative justice movements are a practical attempt.

Hence, it is not just within the critical theory tradition that this problem of collective identity through participatory narrative formation has been taken up as a central task for systemic political organization. Indeed, the problem of narrativity is one of the key points of overlap between much of contemporary political philosophy and other philosophical traditions (specifically hermeneutics and philosophy of mind/language).

Even within the analytic tradition, Rawls begins his political construction by

[105] Foucault, for example, is good on this point: see, e.g., Foucault 1972; 1979; 2010.

sidestepping the problems of historicity and interpretation.[106] The notion of reflective equilibrium helps Rawls escape the problem of radical (e.g. ideological) disagreement insofar as it starts persons with a capacity and a willingness—reason—to understand Others and cooperate. Thus, Rawls's theory begins with a social situation wherein meaning and value have already been sorted out in a mostly agreeable way, such that future agreement is more or less given. It is crucial that persons already agree to the terms of their society because when agreement is not present, then systemic action becomes impossible or illegitimate insofar as those actions do not align with the values and beliefs of the social world.

Habermas also formulates his discourse ethics as an ideal representation of how communication ought to occur; but, a key difference between Habermas and Rawls is that Habermas does not assume that persons are already present at the ethically discursive table. Hence, Habermas offers tactics for effective meaning coordination once persons have arrived at a place where said coordination is possible.[107] Neither Rawls nor Habermas, however, offer enough of a story about how persons arrive at the discursive table. A just-reconciliatory system must facilitate this movement toward a situation wherein persons can form a collective narrative account of their historical circumstances through a range of creative means that simultaneously alleviate the persistent experience of alienation. The most popular and successful systemic method of bringing persons to the discursive table and working to combat alienation by creating a participatory mechanism can be seen in truth commissions.

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[106] See, e.g., Rawls 1971, 1993. I expand on this critique in the following chapters.

[107] See, e.g., Habermas 1984; Habermas 1990.

Many post-conflict societies, and occasionally in the developed world, a central systemic apparatus in transitioning towards justice has been the use of truth commissions which bring persons together to participate in the formation of a new collective identity.[108] In other words, in cases where truth-commissions operate with the system, the concern is not just about coordinating narrative, but is also about actually bringing persons together in a situation where they can realize themselves collectively—that is, the system is working to combat alienation.

A truth-commission generally aims to establish the most accurate story possible about a range of crimes that are all too frequently committed by systemic actors—war crimes, genocide, human rights violations, torture, enforced disappearances, and extrajudicial executions. In some cases, such as the Greensboro Truth and Reconciliation Commission (TRC), truth-commissions have been used to address a specific event, while in other cases, like South-Africa's famous TRC, commissions have been used to address a long history of violence and wrongs committed.[109] Much like the politics of each space, the structure, goals, and influence of a truth-commission varies depending on the context of their deployment. There are, therefore, various attributes of truth-commissions which are more or less consistent, the most important of which is a need for participation and an explicit focus on addressing and reconciling the past, for the sake of a better future.

Truth-telling has the potential to be cathartic, radically democratic in terms of representation, and acts as an example of the type of local level problem-solving politics through which a group can establish trust and gain cohesion. In other words, by

[108] See, e.g., Hayner 2010.

[109] Magarrell and Wesley 2008.

attempting to get the story straight, by seeking truth collectively, those involved are changing themselves and thus their circumstances through peaceful dialogue. When this practice is taken up as a truth-commission, that is, as a formal institutional practice, the aim extends beyond mending relations between persons and also seeks to repair the system which failed said persons and in some ways caused or allowed for the atrocities which make conflicts generally so terrible. In other words, the truth-telling of truth-commissions has the added goal and motivation of changing the macro-political system so that it better accommodates and works for the demos of which it is supposed to be an extension, while at the same time helping that very demos to find a cohesive voice.

These events are crucial because they represent an opportunity for ordinary persons to be active in the formation of a social identity and in the formation of political activities. In other words, truth commissions act as a bridge between the social world and the system, and also act to help unite the social world. Truth commissions are too basic, however, to meet the demands of a truly just political system. In other words, there are other means of facilitating, integrating, and synchronizing social-political meaning beyond truth commissions, and explore these alternative technologies in chapter V. Similarly, truth commissions are not perfect. In some cases the realization of 'truth' may not be the ideal end of reconciliatory politics. Various factors are required for truth commissions to be successful. As I will more fully explore in the next chapter, a central factor influencing a system's ability to unite a demos through collective participatory action is the presence of a material-identity base; that is, a group of people who are willing to work together and reconcile themselves, as well as the system. In chapters V and VI I will more fully address the implications of a reconciliatory approach to legal-

political systems, specifically its intergenerational relation to human rights.

CHAPTER IV

THE WILL TO RECONCILE: MATERIALITY, TRUST, AND CO-EXPERIENCE AS MOTIVATION STRATEGIES IN CONFLICT TRANSFORMATION

"*Dr. King's policy was, if you are non-violent, if you suffer, your opponent will see your suffering and will be moved to change his heart. That's very good. He only made one fallacious assumption: In order for nonviolence to work, your opponent has to have a conscience*" — Stokely Carmichael.[110]

In this chapter, I explore the conditions of the possibility of reconciliation. In section 4.1 I discuss movements in contemporary moral psychology which focus on emotional reaction and motivation, rather than universally rational and applicable rules. I begin with motivation in order to critique popular models of reconciliation in section 4.2, which predicate said motives on a limited range of attitudes and beliefs. I focus on two alternative models of reconciliation: the confessional-forgiveness model, and then what I call the pathos model, which emphasizes sympathy or empathy in its different iterations.

[110] Olsson 2011.

Although these models may capture attributes of some reconciliation processes, they are simultaneously too demanding in their narrow focus on certain attitudes, at the dismissal of others, and yet they are not robust enough to describe what is needed for parties to begin the reconciliation process. Rather than praising empathy and forgiveness, I suggest we focus on the underlying assessment and motivation driving interpersonal encounters such that reconciliation does or does not occur. Through this discussion, I argue that the minimum requirements for reconciliation to be possible are that persons be willing to risk engaging with Others, face to face. I emphasize that the will to reconcile may sometimes appear as an empathetic or forgiving expression, but it may also emerge with anger, resentment, and a wide range of other moral emotions. The entire range of emotions must be respected by way of inclusion throughout conflict transformation processes if the ideal of a creative, trust forming reconciliation is our goal. In section 4.3, I therefore advocate for a model of reconciliation that emphasizes the development of trust and respect.

4.1. Achieving Meaning: Motivation, Assessment, and Emotion in Reconciliation Processes

Worried by prescriptive claims regarding what persons ought to do and thus in what ways persons can be responsible, G.E.M. Anscombe argued that we must step back and develop "an account at least of what a human action is at all, and how its description as "doing such-and-such" is affected by its motive and by the intention or intentions in it."[111] For the purposes of understanding reconciliation, Anscombe's focus on motivation and human action is important for at least two reasons: First, the primary concern of applied reconciliation efforts is to get conflicting parties to engage with one another in

[111] Anscombe 1958: 5.

creative and non-violent ways. Therefore, working toward reconciliation requires an understanding of the precarious asymmetrical dynamics which sometimes move persons toward transformation and sometimes move persons away from it. In other words, problems of reconciliation might ultimately be problems of motivation. Secondly, Anscombe's claim is important because it is a move away from an ethics that is imagined as a universally rational process, to an approach that does not presume and instead seeks to understand what it is that guides (re)actions.

In this sense, problems of motivation are rooted in emotive judgments that are not universally rational. Harry Frankfurt emphasizes this point in his writings on love: "Love is itself, for the lover, a source of reasons" Frankfurt says, "[it] creates the reasons by which his acts of loving concern and devotion are inspired."[112] For Frankfurt, the reasons of love, especially unconditional love, function beyond a universal rationality. It is not easy to explain why a child might continue to support an alcoholic or abusive parent, or vise versa, simply by appealing to reason. Frankfurt states:

> I can declare with unequivocal confidence that I do not love my children because I am aware of some value that inheres in them independent of my love for them. The fact is that I loved them even before they were born—before I had any especially relevant information about their personal characteristics or their particular merits and virtues. Furthermore, I do not believe that the valuable qualities they do happen to possess, strictly in their own rights, would really provide me with a very compelling basis for regarding them as having greater worth than many other possible objects of love that in fact I love much less. It is quite clear to me that I do not love them more than other children because I believe they are better.[113]

Love is not reasonable and yet love is a reason, which is why poets struggle to capture the feelings, even the madness, that permeate such relations. Indeed, there are not universal

[112] Frankfurt 2004: 37. See also, e.g., Frankfurt 1988, 1999.

[113] Ibid. 39.

rules of love and its reasons are internal to its operation such that they can only be known through experience.

Yet, enlightenment rationality informs the way we think about our relations and the meaning that is created between persons, such that a certain sort of universal truth is taken as granted in our daily encounters. Of course, this assumed commonality within human experience acts as the fabric of the social world. Following Annette Baier, J.M. Bernstein suggests that this unreflective base level of common experience is a trust relation that "provides the ethical substance of everyday living."[114] By recognizing persons as reciprocal interlocutors in ordinary encounters, rationality emerges as a total situation that requires a respecting relation that allows Others to speak and be heard. Under ideal circumstances, the non-propositional base level of rationality—the trust that the world of relations will operate in the just mentioned ways—allows for higher levels of meaning-making to occur. In this sense, the co-achievement of a rational exchange requires first that persons trust and respect the Other enough to engage in collaborative meaning-making, a giving and asking for reasons that would lead to a mutual understanding. But, assuming beforehand that the common respect and trust is operating under most circumstances turns out to be problematic, because in many cases, and especially in conflict situations, the basic levels of trust and respect that are required for cooperative meaning-making are simply not present.

In this sense, a shared understanding or rationality is not a priori; rather, understanding in all situations, and especially in conflict situations, is an achievement that demands a sensitive awareness, respect, and requires a great deal of interpersonal

[114] Bernstein, J.M. 2011.

work.[115] There are at least two general levels on which this achievement can fail: The first is when the basic level of trust is violated; the second is when the basic level of trust is present, but more complex meaning-making is hindered by its presence because the trusting rationality is taken as granted.

For an example of how the first level of trust may be violated, consider the following: If one attempts to operate in a language that is not one's native idiom, it becomes apparent that situations wherein the native interlocutor is noticeably unwilling to tolerate the imperfect speech of the non-native actor result in an increase in difficulties for the non-native speaker and a general failure to establish meaning. The non-native speaker is left feeling stupid, ashamed, and disrespected; the native speaker is allowed to maintain the belief that foreigners are stupid and not worthy of respect.[116] The failure in this example reproduces an experience of mistrust and is harmful to the social world. In more extreme cases the foreigner might be assaulted and kidnapped or arrested, potentially traumatizing the foreigner as actor and creating a long term sense of mistrust that fully undermines the most basic requirement for meaningful engagements. In some situations, however, one engages with a native speaker who is willing to listen, act friendly, and tolerate one's imperfect expressions. In this relation, the utterances of both parties emerge more coherently precisely because the meaning-making process is not merely a matter of properly utilizing a language, the terms of which cannot be completely fixed in advance, but is about persons working together to create meaning. Here, trust in Others and trust in oneself is affirmed through the social encounter. The willingness of

[115] For extensive discussions about how meaning-making is an embodied achievement in everyday encounters, see Habermas 1984, 1990; Brandom 1994; Goodwin 1981; Streeck 1993, 1994.

[116] See, e.g., Linell, 2009.

persons to work together can be seen as the affirmation or negation of the basic requirement for shared meaning.

More local examples reveal how higher level meaning-making can be impeded by assumption. Consider situations wherein persons are coming out of common experiential circumstances. Here, the symptoms of assuming a shared sense of meaning are well known: Persons talk past each other; make universal claims about experience that are really only based in personal experiences; fail to understand why certain behaviors might enrage, because it is assumed that the behavior is normal and fine. When meaning is assumed before hand, persons often feel they must scream or act violently, to break down the assumption, to be heard. Knowledge of Others operates along a spectrum such that what one is equipped to understand is connected to the concentric spheres of one's relations; but, even within close relations there can be a failure to establish meaning if the dynamics of the relation are not actively coordinated. Meaning-making can be impeded when one assumes that rational beliefs and shared meaning are already operating in social situations. Assuming that one's experience *is* the universal ends up being a problematic source of conflict insofar as it allows norms to be imposed on and thus fails to respect the unique experiences of Others. In fact, attempts to establish meaning are often the most difficult when persons are involved who assume to know one's character and motivations best (e.g. familial relations).

The previous examples also work to demonstrate that the creation of shared meaning is a dynamic process and largely depends on the context, as well as the motives and attitudes of those persons comprising the situation. One's inability to reconcile differences may be rooted in a distinct evaluation and emotional response. P.F. Strawson

describes these emotional responses as reactive attitudes.[117] He says,

> We should think of the many different kinds of relationship which we can have with other people – as sharers of a common interest; as members of the same family; as colleagues; as friends; as lovers; as chance parties to an enormous range of transactions and encounters. Then we should think, in each of these connections in turn, and in others, of the kind of importance we attach to the attitudes and intentions towards us of those who stand in these relationships to us, and of the kinds of reactive attitudes and feelings to which we ourselves are prone. In general, we demand some degree of goodwill or regard on the part of those who stand in these relationships to us, though the forms we require it to take vary widely in different connections.[118]

Contained within reactive attitudes are embodied moral judgments that are connected to our normative expectations; thus, reactive attitudes as assessments are rational within one's own context, but not universal nor obvious to Others. We evaluate, feel, and respond, often unreflectively and with righteous confidence, to the actions of another, depending on our expectations regarding the status of the Other—which might include judgments about age, class, race/ethnicity, gender, religion, education, linguistic capacity —and our beliefs about how the world should be. In other words, normative values are projected through reactive expressions and their projection is largely based on snap judgments and assumptions.[119] Often, reactions elicit further reactions that can lead to a shut down in communication, or a conflict that may escalate to violence. Resentment, for example, can cause persons to become avoidant or hostile and potentially block the meaning-making reconciliation process. These conflicts, though morally laden, are not merely a matter of discordant beliefs; they are felt with an intensity that, when expressed,

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[117] Strawson 1974.

[118] Ibid. 7.

[119] Recent research in moral psychology and neuroscience backs this claim that our reactions and feelings begin with an often unreflective assessment. See, for example, the work of Antonio Damasio (1999).

can seem irrational (and lead to seemingly irrational actions).[120]

It is important to understand the influence emotions and motivating attitudes have in our interpersonal encounters because various theorists have responded to the problems of social-political conflict by advocating for a limited range of motivating attitudes and emotional states as necessary starting points for reconciliation: Forgiveness, sympathy, and empathy. In long standing political conflicts, for example, sympathy and empathy are advocated because both sides have participated in violence against the Other and they remain embattled because the Other is imagined as subhuman, as a being with which one cannot relate.[121] It is believed that by learning how it is that persons develop a sense of empathy, and encouraging behavior that would bring about empathetic experiences, persons can be trained to overcome negative reactive attitudes, or a lack of reaction as is sometimes the case when discussing strangers who ought to be of moral concern. Further, it is believed that empathy will bring about forgiveness. More radically, it is believed that reconciliation requires forgiveness and that forgiveness is itself a motivating attitude.[122] Desmond Tutu's aptly titled *No Future Without Forgiveness* captures the spirit of this position: We cannot coexist, we cannot move forward as a society, and we will not stop

[120] Returning to the positive reactive attitudes, consider again Frankfurt's writings on love: "it is a necessary feature of love that it is not under our direct and immediate voluntary control...a person may discover that he cannot affect whether or how much he cares about them merely by his own decision. The issue is not up to him at all...What people cannot help caring about, on the other hand, is not mandated by logic. It is not primarily a constraint upon belief. It is a volitional necessity, which consists essentially in a limitation of the will" (ibid. 44-46).

[121] See, e.g., Eisikovits 2010; Rifkin 2009; Waal 2009; Baron-Cohen 2012; indeed, there is an extensive literature on sympathy/empathy and their multiple positive uses in conflict transformation. Here, I problematize the pathos model but I do not fully reject the significance of pathos.

[122] This position is most commonly witnessed in religious defenses of forgiveness and reconciliation, which place reconciliation as the result of the confessional-forgiveness process.

killing each other, if we do not forgive.[123]

Of course, empathy and forgiveness may be important to reconciliation processes. Beyond reconciliation, a better understanding of empathy and the demand for forgiveness may be useful for understanding human development, as well as psychological disorders (e.g. anti-social personality disorder). But, it is quite a leap to claim that sympathy, empathy, and forgiveness act as the groundwork and motivation for reconciliation. Perhaps more importantly, in rigorously defending pathos and forgiveness as necessary to reconciliation, other important moral attitudes, like resentment, have been largely dismissed as hindering reconciliation processes because it is assumed that such attitudes are motivated by anti-social desires. I am skeptical of these models at least in part because they dismiss a wide range of moral emotions while defending forgiveness, sympathy, and empathy as the ground and primary motivation in reconciliatory meaning-making processes. I agree, however, that with a better understanding of interpersonal dynamics, and the motives underlying those dynamics, persons might be more inclined to cooperate and agree; but, this understanding cannot exclude the less optimistic among us.

4.2. Insufficient Grounds for Reconciliation: Forgiveness, Sympathy, and Empathy

In this section I argue that the forgiveness and pathos models are not fully suited to explain the basic requirements of reconciliation because they start with an overly demanding assumption of what motivates the movement toward reconciliation and thus exclude other possible attitudes like resentment or anger. I show that the pathos model is particularly problematic insofar as it relies on a preconception that reduces the experiences of Others to a common rationality and motivation, a common truth of

[123] Tutu 1999.

experience.[124] I will begin by discussing forgiveness because it is the most popular model of reconciliation. I will then discuss sympathy and empathy—which represent two versions of the pathos model—primarily because each is seen as coming before and therefore functioning as the motivation behind reconciliation, even on the forgiveness model. I then offer a plea for resentment as I transition into a defense of the respect-trust model of reconciliation.

4.2.1. The Confession-Forgiveness Model

Reconciliation is commonly understood as being connected with truth-telling, or confession, and forgiveness. The truth-forgiveness model is popular because of its religious/spiritual roots. Reconciliation has a long history in various religious traditions and what seems to be a short history in academic traditions, specifically the liberal tradition.[125] For example, South Africa's Truth and Reconciliation Commission (TRC) was, in many ways, an institutionalized confessional. Desmond Tutu, who led South Africa's TRC, added to this movement a call for forgiveness.[126] Despite being rooted in Christian practice, however, even South Africa's reconciliation movement shifted toward secularism. After all, the TRC was not an attempt to create right relations with God; rather, the TRC attempted to form stable relations between persons within the social world, and it also attempted to stabilize and synchronize relations between the social world and the legal-political-institutional system, by offering a seven volume historical

[124] Indeed, the push for reconciliation in the 20th century was largely inspired by Gandhi's writings on Truth (Satyagraha). See Gandhi and Shriman Narayan 1968.

[125] I say the academic history seems short because despite rigorous attempts to table comprehensive doctrines, these discursive spheres overlap such that the new is indebted to the old, in various ways, and defenders of the new are often working to dislodge reconciliation from religious tradition for secular purposes.

[126] Ibid. Tutu 1999.

account of what happened, what went wrong, and how the system could be changed in order to prevent repetition and to improve on the current situation.[127] Central to the TRC was a belief in the cathartic effects of collective truth-telling and forgiveness. Unfortunately, many have taken South Africa to be a universal model of reconciliation, thus further anchoring the concept in forgiveness and truth-telling.[128]

South Africa's TRC gained a global popularity that overshadows other reconciliation movements around the world. The global buzz about South Africa was not just due to the size of its TRC, which was massive. South Africa, whose politics are similar to those in the United States and other developed liberal societies, appealed to an alternative way of responding to mass atrocity, civil war, dictatorship, and oppression, and the appeal overlapped with many religious traditions. In this sense, the South African case shares a basic commonality with all reconciliation processes: a divergence from cyclical patterns of conflict and violence. While many post-colonial struggles of the 20th century remain stuck in intractable standoffs, South Africa went in a different direction, away from the language of winning and losing, and toward the language of peace across generations. South Africa's TRC stands in stark contrast to the retributive models of politics and punishment that are considered the normal response to violations of the social contract in most societies. Rather than replicate the Nuremberg Trials, which took place around the same time that white nationalism and Apartheid gained formal systemic power in South Africa, Mandela, Tutu, and many others realized that a legitimate peace would require the emergence of an inclusive social-political situation, wherein historical

[127] For an extensive historical and philosophical analysis of truth commissions, see Hayner 2010.

[128] For various defenses of the forgiveness-reconciliation model in South-Africa, see, e.g., Rotberg and Thompson 2000.

wounds were not allowed to remain open and festering.

Germany did a great deal of soul searching and reconciliatory work in the post war period; but, the violent response of the Nuremberg trials and the subsequent transformations of the state were unprecedented and viewed as a *victor's justice*.[129] The Nuremberg trials and the Marshall Plan exemplify arguments suggesting that the state is formed through suspensions of norms, exceptions, and they ultimately reproduced warlike tactics through other means (i.e. police force and repression).

Hence, South Africa's reconciliation is important because it is a break with conflict and violence. However, although South Africa's alternative to the post World War II victors' response is sensible, it would be a mistake to think that all reconciliations will be guided by the same ideals of confession and forgiveness.[130] Forgiveness and truth-telling of the South African variety may not always be useful or even necessary to reconcile post-conflict situations. Differently diverse societies may not understand forgiveness or confession and may appeal to other activities and attitudes as they reconcile. In the United States, for example, reconciliatory demands have been driven by a call for formal legal equality.[131] Besides lacking universal import, however, the confessional-forgiveness model that was popularized by South Africa is also problematic for conceptual reasons.

There are many competing accounts of forgiveness such that it is unclear which

[129] Arendt expressed a similar concern about victor's justice during the trial of Adolf Eichmann: "In sum, the failure of the Jerusalem court consisted in its not coming to grips with three fundamental issues, all of which have been sufficiently well known and widely discussed since the establishment of the Nuremberg Tribunal: the problem of impaired justice in the court of the victors; a valid definition of the "crime against humanity"; and a clear recognition of the new criminal who commits this crime" (Arendt 1994: 251).

[130] Braithwaite et al. 2010.

[131] See, e.g., Catsam 2009.

version would best act as a motivation for or end point to reconciliation. First, forgiveness could be understood as a speech-act, a formal declaration that the problems of the past will not cause further conflict. The view of forgiveness that stands alone, without empathy as motivation, becomes important because it is supposed to absolve the harm done through a contracted utterance and not an appeal to empathy. If someone bumps into me on the bus, causing me to fall over, and they apologize, I accept their apology, and in this forgiving acceptance I demonstrate that (a) I understand it was an accident and (b) I will not retaliate. Persons stand witness to the scene, all of us aware of the potential consequences of not forgiving and reacting with hostility. In some cases, the law may be forced to intervene, but, I think, many reasonable people would forgive and continue with their day. Forgiveness as a speech-act captures a certain social dynamic wherein offenses are let go. Ordinary people are perfectly willing to forgive ordinary errors, perhaps sometimes too willing, but this is not the forgiveness we are talking about in most conflict cases. This sort of speech-act forgiveness might be called excusing or pardoning if it is legal-political.[132]

Secondly, in the case of South Africa's TRC, confession and forgiveness were advocated as a cathartic means of overcoming resentment, the assumption being that resentment was itself a moral wrong that would lead to further conflict: The truth will heal all wounds. As Thomas Brudholm illuminates, commissioners often praised those who revealed forgiving characteristics while more or less disregarding those who were resistant to the ideal.[133] Brudholm offers much evidence showing that the cathartic effects

[132] For a philosophical discussion of the various distinctions between terms like excuse and forgiveness, see Austin, Urmson, and Warnock 1979, “A Plea For Excuses”: 175-204.

[133] Brudholm 2008.

of truth-telling and forgiveness are suspect. "For example," he says, "according to the Trauma Center for Victims of Violence and Torture in Cape Town, some 60 percent of those who testified in the TRC felt worse after testifying."[134] The TRC unintentionally intensified negative feelings by pushing for an experience that cannot be forcefully nor instrumentally brought about in the name of another end—reconciliation.

A third notion posits forgiveness as a personality trait rather than an interaction.[135] Here, one can be forgiving or endorse forgiveness as a centrally organizing virtue in relation to oneself. "We do forgiving alone inside our hearts and minds" Lewis Smedes says, "what happens to the people we forgive depends on them."[136] The personal model is able to account for many of the shortcomings that other models of forgiveness cannot—for example, it explains how one can forgive the dead—but it also happens to be the furthest from reconciliation insofar as the reconciliation I am discussing is always a relational process.

I am not suggesting that forgiveness and truth-telling are not crucial aspects of reconciliation processes; but, I am arguing that forgiveness and the catharsis that is wrongly assumed to accompany the confessional are not equivalent to or predicative of reconciliation. Forgiveness may occur within reconciliation processes. In some cases persons might be motivated to reconcile because of a belief in forgiveness. Perhaps a forgiving person will respond to atrocity with a reactive attitude of forgiveness. But it is also likely that persons will not want to forgive in reconciliation processes. I will return

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[134] Ibid. 22.

[135] Michael McCullough advocates for the personality theory of forgiveness. See, e.g., McCullough, Worthington, and Everett L 1999; McCullough 2001. Also, see Berry et al. 2005.

[136] Smedes 1996: 177.

to these claims against forgiveness in a moment.

4.2.2. The Pathos Model

Others argue that reconciliation is motivated by an experience of sympathy or empathy.[137] On this model, it is believed that one will be moved to reconcile by imagining what it would be like if one were to take on the role of the Other. I will first say a bit about the distinctions between sympathy and empathy—that is, I will discuss the difficulty in distinguishing the two—because there is a lot of disagreement about what the terms designate. I will then present reasons as to why the pathos model is not a sufficient explanation for the motivation underlying the reconciliatory movement.

Sympathy and empathy share a common Hellenic root: *pathos* or the suffering that accompanies experience. As gathered from a rough sketch of Aristotle, pathos is most frequently described in composition and rhetoric courses, alongside ethos and logos, as a means of persuading one's audience by appealing to a common emotional experience.[138] That common experience can have a range of emotive qualities, but the point of this appeal is to get persons to relate with and agree to a certain feeling within various situations. The common metaphor that captures the experience of pathos demands that you, the audience, put yourself in my shoes. Thus, the appeal of pathos is that it directs persons' attention to themselves and asks them to imagine how they would feel.

Beyond being oriented by one's own self imagining, pathos demands that a different perspective be taken which includes the feeling of the experience itself. To stand in the shoes of another is to attempt to know the feeling, in a precise moment, which is

[137] See, e.g., Eisikovits 2010; Rifkin 2009; Waal 2009; Baron-Cohen 2012

[138] See Aristotle's “Rhetoric” in Aristotle and Barnes 1984.

supposed to reveal something about the Other, as well as why events played out as they did. Thus, pathos is also supposed to illuminate a common truth that informs experience such that one can relate to and understand the experiences of Others by imagining the specifics of their circumstances.

The English derivative of pathos, sympathy, is found throughout the writings of David Hume and Adam Smith.[139] Here, sympathy is concerned with all of the above mentioned factors. Over time, however, certain defenders of the term have focused on the illumination of the truth, as information about the Other's experience. For example, Nir Eisikovits defends sympathy as the basis for political reconciliation and as the means for establishing a cessation of conflict.[140] He tells us that sympathy "does not concern the psychological capacity we have to feel what other people feel...Sympathy requires specific, detailed knowledge about the lives of others. To project myself into the circumstances in which somebody else operates, I need to know as much as possible about those circumstances."[141] In this quote Eisikovits is specifically concerned with distinguishing his view from Hume's and the psychological perspective that includes feelings, which is closer to what many now describe as empathy.[142]

The derivative term empathy has been predominantly discussed within the phenomenological tradition, although recently literature on empathy has emerged from

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[139] See, e.g., Hume and Aiken 1948; Smith 1976.

[140] Eisikovits 2010. In later chapters Eisikovits claims that generosity also motivates reconciliation, but he does not elaborate on the distinction between sympathy and generosity, nor does he suggest a broader range of attitudes as possibly contributing to reconciliation processes.

[141] Ibid. 11.

[142] Smith and Hume used the term sympathy in part because the term empathy had not emerged within the English language when they were writing. For an etymological analysis of the emergence of empathy in the English language, see Jahoda 2005.

various academic and non-academic spheres. Subsequently, there is ambiguity and disagreement as to what is meant when we discuss empathy. Here, I will focus on the phenomenological concept, beginning with Husserl.

Husserl's theory of intersubjectivity attempts to describe how there is a relation between persons insofar as persons are self-contained, ego monads; that is, Husserl is responding to the problem of solipsism that haunts the skeptical reduction.[143] That is, Husserl, like Descartes, maintains that experience of the objective world is mediated by our understanding, such that persons do not perceive the world directly; rather, it is experience that is perceived and known (cogitationes). In this sense, the world is reduced to or contained within the ego. Within the world, however, Other egos present themselves as both intentional and object-like beings. For Husserl, the experience of Others as more than mere objects is rooted in the ability to perceive and attribute intentionality to their activities. This ability, which Husserl and his followers label empathy [Einfühlung], involves a particular sort of co-presence or "appresentation" that is unique to subjective beings.[144] Unlike an object, which, when perceived, can be examined from various sides and known in its various ways, the perspective of the Other ego cannot be known except by imagining what it would be like to be in their position. Husserl says:

> since the other body there enters into a pairing association with my body here and, being given perceptually, becomes the core of an appresentation, the core of my experience of a coexisting ego, that ego, according to the whole sense-giving course of the association, must be appresented *as an ego now coexisting in the mode There*, "such as I should be if I were there". My own ego however, the ego given in constant self-perception, is actual now with the content belonging to his

[143] Husserl 1999.

[144] Ibid. 109.

Here. Therefore an ego is *appresented*, as *other* than mine.[145]

Here, Husserl is describing the empathetic experience as an expectation that Others, who seem sufficiently similar to the perceiving ego, will also perceive and experience the world from an egocentric perspective 'such as I should be if I were there.' Hence, Husserl's notion of empathy is primarily concerned with perspective taking and the epistemological question, How do we know Others? But, the starting point of this perspective taking is the self and not the Other. In the empathetic imagining, the ego projects itself onto the Other, such that the Other can only be known through the self. Husserl's students expanded on the intersubjective theory of empathy. For example, Scheler famously explains:

> For we certainly believe ourselves to be directly acquainted with another person's joy in his laughter, with his sorrow and pain in his tears, with his shame in his blushing, with his entreaty in his outstretched hands, with his love in his look of affection, with his rage in the gnashing of his teeth, with his threats in the clenching of his fist, and with the tenor of his thoughts in the sound of his words.[146]

In this quote, Scheler illuminates empathy as being more than a mere perspectival imagining, wherein the ego repositions according to the spatial situation of the Other. Indeed, empathy is about a shared feeling and involves knowing Others by knowing certain experiences—joy, sorrow, anger, and the range of other bodily experiences that accompany a full life.

Amy Coplan's work expands on and clarifies claims made within the

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[145] Ibid. 119

[146] Scheler, Stark, and Heath 1954: 260. See also Gallagher and Zahavi 2012: 183. Here, Shaun Gallagher and Dan Zahavi offer a phenomenological description: "Empathy is defined as a form of intentionality in which one is directed towards the other's lived experiences...in empathy, we experience the other directly as a person, as an intentional being whose bodily gestures and actions are expressive of his or her experiences or states of mind" (ibid.).

phenomenological tradition by distinguishing at least three essential features of empathy: "affective matching, other-oriented perspective taking, and clear self–other differentiation."[147] Affective matching is closest to what is described by Scheler, insofar as Coplan describes this aspect of empathy as involving the *catching* of emotions. "To catch the emotion of another," she says, "we must be able to directly perceive the other and the other's emotion either through visual or aural observation."[148] Affective empathy appeals to research on mirror neurons and mimesis in young children, suggesting that at least certain forms of empathy require no imaginative or perspectival-taking exercises and are, for the most part, almost reflexive and thus non-reflective.[149] Similarly, witnessing the joy or sorrow of another seems to immediately and directly elicit an emotional response in the audience.

According to Shamay-Tsoory et al., cognitive empathy or perspective taking is a unique cognitive process system, independent from lower-level affective processes.[150] Perspective taking is similar to what Husserl describes. The third feature of empathy that Coplan describes is a variation of the cognitive perspective-taking form that works to overcome the problem of projecting oneself onto the Other, by suggesting that sometimes we are able to imagine experience as the Other. In other-oriented perspective taking, Coplan says, "I imagine that I am you in your situation, which is to say, I attempt to simulate your experiences from your point of view."[151] But, she adds that this is an

[147] Coplan 2011: 44.

[148] Ibid. 46.

[149] Regarding mirror neurons and mimesis see, e.g., Gallese 2007, 2001; Hurley and Chater 2005; Van Slyke 2010; Astell 2004.

[150] Shamay-Tsoory and Aharon-Peretz 2009.

[151] Ibid. Coplan 55.

incredibly difficult act that requires a clear self-other differentiation: “The effort and regulation involved in other-oriented perspective taking suggests that empathy is a motivated and controlled process, which is neither automatic nor involuntary and demands that the observer attend to relevant differences between self and other.”[152]

The higher-level processes involved in both forms of cognitive empathy are closer to what Husserl and John Rawls discuss. For example, Susan Okin's reading of Rawls's original position suggests that to think as another in the original position “requires, at the very least, both strong empathy and preparedness to listen carefully,” because one must “think from the point of view of everybody, or every “concrete other” whom one might turn out to be.”[153] In cognitive empathy, others are taken to be persons with complex values and aspirations who experience and suffer 'like us,' such that we can imagine either how we would feel in their position or, on Coplan's view, how the Other feels in their position, when we imagine ourselves as the Other.

Cognitive empathy is connected with compassion because in recognizing that another experiences the world much like oneself, it is then assumed that one will be more understanding and forgiving of others, as well as oneself. Hence, sympathy and empathy are both supposed to work upon, but also make available, the truth of the experiences of Others, such that, when that truth is accessible, persons can understand and potentially relate to Others in more ethical ways. Eisikovits's sympathy specifically emphasizes having information about the Other, such that one's imagination has something to work on in making judgments about the Other.

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[152] Ibid. 58-59

[153] Okin 1989: 245-248.

Eisikovits says that "most Israelis are supportive of the wall their government has built in the West Bank in spite of never having seen it."[154] He then explains how support for this wall is largely based in an oversimplified imagining of what the wall will do, namely, protect Israelis by preventing suicide bombers from entering Israel. "The realities are rather more complex," Eisikovits explains—the wall is unsightly, separates neighbors via roadblock checkpoints, and involves the "extra-judicial expropriation of Palestinian land"; he argues that without actually knowing these circumstances it is impossible to imagine what it is like to be directly influenced by them.[155] On this view, the truth of experience is a matter of fact that comes prior to the empathetic imagining and change of heart needed for reconciliation to occur. I imagine that defenders of empathy would not disagree with Eisikovits, given that the previously described perspectives discuss empathy in epistemic terms. The idea of affective empathy adds, however, that knowing the facts is not necessarily enough to change persons' hearts and minds about the Other and that witnessing the Other is equally important. Thus, co-presence acts as a condition for the psychological version of empathy, but in many conflict situations this co-presence is not given in everyday encounters.

More importantly, if co-presence is achieved in (post)conflict situations, it is not necessarily accompanied by sympathy or empathy. One could have quite a bit of information about the Other and not feel any differently toward them. It is not hard to imagine that one could refine a sensitivity to the experiences of Others while, simultaneously, remaining resentful toward those who have harmed or are imagined to

[154] Ibid. 2010: 12.

[155] Ibid.

have caused harm. Victims, persons who have been clearly harmed by another, are often of this latter type: able to empathize with most people and especially other victims, *while carrying an intense and potentially justifiable rage toward the person who caused their harm*. In other words, it is not merely the case that there is a lot of ambiguity within the pathos model and what its various forms are supposed to achieve, but that even if empathy or sympathy are sometimes good, it is not clear how they bring about reconciliation. Hence, by itself the pathos model does not fully account for reconciliation, although it may emerge and be central to reconciliation processes, depending on what is meant by sympathy or empathy.

4.2.3. A Plea for Resentment

The common belief undergirding the aforementioned conceptions of reconciliation is that persons will change their relations and overcome their negative attitudes by learning about the Other and sympathizing, empathizing, and perhaps even forgiving. Hence, both the truth-forgiveness model and the pathos model are motivated by the very things they attempt to realize and there is no clear explanation as to how conflicting persons arrive at the moment wherein the idealized reconciliation will commence. In other words, on both models the truth of the experiences of Others is supposed to drive reconciliation, but it remains unclear why the conflicting parties would be receptive to the truth of the Other in the first place.

Furthermore, in cases where the relation between conflicting parties is asymmetrical, such as victim-offender relations, it is unfair to ask those who have been clearly harmed to empathize with and eventually forgive their perpetrators. Empathy and forgiveness cannot be forced, and in some cases they should not be recommended. When

a victim is struggling to deal with moral and physical injury, it is unclear how empathy will address the wrongs that have been committed. In his discussion of forgiveness transactions, Paul Ricoeur illuminates the asymmetry of victim-offender relations as an obstacle for reconciliation:

> The problematical character of the presumed transaction results from the asymmetry, which can be termed vertical, tending to mask the reciprocity of the exchange: in truth, forgiveness spans an interval between the high and the low, between the great height of the spirit of forgiveness and the abyss of guilt.[156]

The victim is found staring into this abyss, haunted by the empty space left behind by the offender. The reactive attitude of the victim is based in the intense feeling she carries with her. Her expectations, security, and the basic trust that makes sociality possible were shattered by another. How can she forgive? Should we ask her to sympathize or empathize with the source of her harm? Perhaps it makes sense to demand that offenders understand the experience of the victim, but this too leaves us with the insurmountable abyss of harm that separates the victim from the violator.

It is not merely the case that empathy does not address the abyss separating persons. Appealing to empathy as the foundation for reconciliation risks overwriting the differences between persons and the uniqueness of personal experience. As Emmanuel Lévinas suggests, by taking the perspective of the Other without actually knowing the perspective of the Other we are only able to project our own normative experience of the world onto the Other, thus consuming the world of the Other and replacing it with our own perspective.[157] Jan Slaby adds to this critique by pointing out that persons operate

[156] Ricoeur 2004: 483.

[157] Levinas 1979.

with a range of background traits that are not always obvious to themselves or others, for example, being nervous, low energy, shy, friendly. And, secondly, even if we could know these background experiences, empathy does not tell us how the Other would interpret those experiences.[158] This second point is crucial because, as Slaby adds, "we have a say about what it is that we think, feel, or want."[159] That is, by overwriting the Other via empathetic assumptions, one ultimately is undermining the Other's agency. Indeed, for Lévinas, this sort of disregarding of difference acts as the social foundation for totalitarianism.

Many critiques of Rawls's ideal political starting point are based in this same concern: The outcome of the original position, which is based in an empathy that relies on a self-interested view of human nature, disregards the reality of difference and projects liberal masculine values onto the world, thus effectively denying others the opportunity to speak for themselves.[160] Reflective equilibrium and empathy may be useful concepts and political ideals, but reconciliation requires that all involved parties participate in addressing the complexity of our non-ideal circumstances and the various differences that lead to our asynchronous relations.

It is possible that forgiveness and pathos may sometimes bring persons together in

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[158] Slaby, forthcoming.

[159] Ibid. 13.

[160] See, e.g., Susan Okin's "John Rawls: Justice As Fairness—For Whom?" in Pateman and Shanley 1991; also, Pateman and Mills 2007 describe this overwriting as the Domination Contract, which relies on imagined representations of Others that silences and permits domination. On this point, Mills states: "as various theorists of race and imperialism have pointed out, once one examines the representations ("savages," "barbarians") and the experiences of people of color in the modern period--expropriated and exterminated Native Americans and Australians, enslaved and later Jim-Crowed blacks, colonized non-Europeans--it becomes clear that both in theory and in practice, only white men were equal. Not merely as a matter of fact, but as a matter of proclaimed moral and legal norms, nonwhites had an inferior to non-existent schedule of rights--and were thus non-citizens or at best second-class citizens" (ibid. 98).

the reconciliation process. I do not want to rule out forgiveness and empathy as sometimes being motivating factors in getting persons to the reconciliation table. More often, empathy and forgiveness are specific outcomes of reconciliation. As definitive standards of reconciliation, however, they are too demanding and do not tell us what is needed for parties to begin the reconciliation process. In other words, basing a theory of reconciliation in forgiveness or empathy limits the spheres of reconciliation too drastically. *The conditions of the possibility of reconciliation are much less drastic and merely require that persons be willing to engage in the reconciliation process*.

Again, I am not denying the possible importance of empathy, sympathy, and forgiveness in reconciliation processes. I am arguing that it is problematic to claim these attitudes form the foundation for reconciliation or will be involved in all reconciliation processes. Further, I am claiming that the dismissal of other attitudes is deeply problematic. Let's consider, in this regard, the reactive attitude of resentment, as described by Jean Améry, which too often gets discussed as opposed to reconciliation.

Jean Améry tells us that his "resentments are there in order that the crime become a moral reality for the criminal, in order that he be swept into the truth of his atrocity."[161] Brudholm rightly notes that Améry "evokes the authority of the eyewitness to an unprecedented catastrophe," when discussing his experiences of being tortured and taken to the mind's limit in the German death camps.[162] However, Améry is not just responding to those who dismiss resentment as a strange form of spite (for example, Nietzsche). He is also responding to the advocates of empathy (specifically Max Scheler) by bluntly

[161] Améry 1980: 70.

[162] Ibid, Brudholm: 91.

stating that others do not somehow naturally know his experience and therefore should not simply dismiss his anger. Améry's appeal to his experience is not unusual. Many victims of atrocity feel that only others who have experienced similar trauma can really know what it is that they are describing when they relive their experiences and make claims about those experiences. On this view, empathy cannot reveal to us what Améry experienced and it would be insulting to claim that we can know his pain. Only through Améry's resentment can the world begin to know what he experienced and, more importantly, what that resentment demands.

Unfortunately, there is a strong movement against negativity, such that expressions of anger or other similar reactions are often silenced or dismissed in various ways. On this point, Slaby is worth quoting at length:

> Instead of letting affectivity be a field of resonance for a wide range of human experiences, including those that reflect potentially problematic, pathological aspects of today's conditions of living, a strict policy is imposed towards a thin range of mind-numbing positive emotions and ways of 'positive thinking'. It is a mixture of optimism, cheerfulness, sympathetic politeness and composed self-possession which restricts and controls the range of affects on display in everyday life. Thereby, the potential for critique and resistance is drowned effectively already on the level of sentiment, interpersonal style and emotional conduct...Our emotions shape what seems natural to us. Because of this, it will be increasingly hard for individuals to even see and appreciate the potential value of alternatives to the dominant affective regime.[163]

Theorists and activists should be highly skeptical of purely positive theories because they overwrite and thus make incomprehensible a wide range of other meaningful emotive experiences that might illuminate critical flaws in our social-political world, as well as creative possibilities that would otherwise be lost to politeness or over-reaching optimism.

[163] Ibid. Slaby (forthcoming): 26.

Hence, what is also interesting about Améry's writing is that his resentment motivated him to respond to post war norms (e.g. the Marshall Plan). Even though Améry was critical of public intellectuals like Martin Buber, who advocated reconciliation in the post war period, perhaps we should consider that Améry was contributing to a reconciliation process by bringing his resentment to a public forum. Améry's reconciliation process, however, is not one that persons are often excited about, because it requires that we listen to the angry voices alongside those who wish to forgive and love the enemy Other.[164] Therefore, Améry's work remains important, not only as a testament to the evils of World War Germany, but because it reveals that the will to engage the enemy Other can be initiated by a wider range of motivating attitudes than open-hearted forgiveness.

4.3. Rethinking Motivation: A Defense of the Respect-Trust Model

In most cases, persons are willing to reconcile because they are tired of fighting; but, the material identity base of those persons who are willing to reconcile can also be motivated by love or fear, or a demand to have one's loved ones protected. Persons who are ambiguously caught between conflicting parties can also be understood as having a natural potential to be motivated to reconcile—here we might think of mixed-race persons in the United States, persons of Catholic and Protestant families in Northern Ireland, and so on. And, something like resentment might have its place in the range of relevant motivations. In other words, we should not shy away from anger if, beneath that

[164] And, in fact, Améry even makes demands as to what would be required for reconciliation between the Germans and their victims. He says "How this shall come about in actual practice, every German may picture for himself. This writer is not a German and it is not for him to give advice to this people. At best, he is able to imagine vaguely a national community that would reject everything, but absolutely everything, that it accomplished in the days of its own deepest degradation, and what here and there may appear to be as harmless as the Autobahns" (ibid. 78).

anger, is a recognition and thus an expectation of others as mutual interlocutors. Thus, the minimal requirement for reconciliation is this willingness to recognize and engage with Others in the formation of our historically laden reality: A mutual recognition.

This motivating recognition rests beneath the reconciliatory resentment, as well as empathy and forgiveness, and includes within it a range of expectations, the most basic of which is that all persons deserve a basic level of respect. As Axel Honneth points out, most conflicts share a narrative account of an enemy Other that defines the relation according to a history of disrespect.[165] ""Feelings of having been disrespected," Honneth says,

> form the core of moral experiences that are part of the structure of social interaction because human subjects encounter one another with expectations for recognition, expectations on which their psychological integrity turns. Feelings of having been unjustly treated can lead to collective actions to the extent to which they come to be experienced by an entire circle of subjects as typical for their social situation.[166]

When conflicting parties enter into dialogue, each has a story about how the other has caused harm. 'What about' becomes the common call and response when trying to understand histories of conflict. For those who do not recognize the Other as a being who understands the importance of respect and dignity, reconciliation is not possible. Améry was angry precisely because the German people knew the importance of human dignity and had the capacity for respect, but murdered and enslaved anyway.

The notion of recognition I am working with derives and diverges from Hegel's concept. For Hegel, the way we understand ourselves, specifically through the recognition (or misrecognition) of others, largely determines the way we engage with and

[165] Honneth 1995.

[166] Ibid. 165.

thus (co)author the world, because the world is this activity of co-created meaning-making. At the heart of conflict is misrecognition, which is an active denying of the role of others in world formation. In social conflict, misrecognition is, in its most basic form, a disrespect. For Hegel, the master-slave relation epitomizes the problem of misrecognition because the slave is subject to the reality of the master and mediated by the world view of the master. The slave is denied the respect that should be basic to all beings.[167]

Mutual recognition, on the other hand, which is often only discussed in terms of institutional representation, is, as Robert R. Williams says, "the threshold of the ethical."[168] It is a relation wherein persons recognize that Others are also important to maintaining the ongoing social-political world wherein we reside. In accepting that the Other matters—not just as an object to be known or dominated in relation to the foundational cogito, but as a being that in fact matters more than the cogito, precisely because one's self is formed through one's relations with Others, making Others, not the self, the foundation of truth—our questions and problems become fully permeated by social, political, and ethical concerns. This is precisely why mutual recognition comes along with a certain ethical sensitivity, because it includes within it the trusting expectation that the respectful world relation be reciprocated by other self-aware beings; thus, it is not surprising then, that when recognition is not reciprocated and our most basic trust is violated, the ethical subject becomes, like Améry, resentful and angry.

[167] "recognizing the other, both in her (partial) agentive autonomy and in her exposedness as a vulnerable, needy being (Butler 2001). With this, we come to let her be in what ultimately remains an inevitable alterity. This might actually be what Descartes, of all people, had in mind when he spoke of générosité —the generous stance of transcending one's own partial, enclosed perspective in order to open oneself up and let oneself be 'conditioned' by the other (see Ricoeur 1966 [1950], p. 62)." (Slaby p. 18).

[168] Ibid. Williams: 7.

A model of reconciliation that is rooted in mutual or reciprocal recognition is preferable to the others I have discussed because it captures the conditions for the possibility of reconciliation at both the social and the systemic levels. What makes reconciliation possible, however, is still not itself reconciliation and only represents the very minimal requirements for reconciliation to occur. The problem of transitioning from possibility to actuality is central to most enlightenment thought. Hegel both describes this problem, understanding how the transition from possible to actual occurs, and attempts to resolve it through his Logic. "With the transition from being to nothingness and from nothingness to being," Alain Manville tells us, "the understanding can no longer function. It is confronted with an unknown universe that offers no fixed point where it can ground its judgment. Now, everything is in transition."[169] The problem Hegel lays out is that being is ambiguous, the possibility that is not yet actual, and the idea that being, as we attempt to categorize and define it through our understanding, is unfixed, is beyond our understanding precisely because our understanding is based in the fixation of judgments, but the world is always in transformation.[170]

Instead of following Hegel's Logic and offering an ontology of transition in order to describe how it is that reconciliation is realized, I want to offer a social-ethical and political account. The inability to fully grasp the ambiguity that defines our transformative world represents a limit to human knowledge. This shortcoming cannot be supplemented by a new logical system, as Hegel suggests; rather, it is precisely because

[169] Manville 1979: 114.

[170] This problem of ambiguity in being is also addressed by Kant, which is why he was concerned not with our grasp on concepts (which are judgments), but with the grasp that concepts have on us. Simone de Beauvoir also addressed it, but from a different perspective that attempted to include rather than speak on behalf of the voices of Others.

our understanding is limited that we must embrace trust and faithfully leap toward the unknown possible. In other words, the transition from reconciliation as a possibility to its actualization involves a great risk because we do not know whether we can actually trust the other or what will happen within the encounter.[171]

So, returning to the problem of reconciliation, I am suggesting that recognition is the starting point of reconciliation, but the transition from a cessation of conflict to a reconciliation process involves a distinct risk, a vulnerable opening to the Other that is a trusting engagement. The leap of faith may fail and it may intensify the oppositional relation. Most importantly, the risk of reconciliation is not committed in abstraction. For example, when telling the story of his *Long Walk to Freedom*, Mandela does not offer reasons for why he was willing to engage with his enemy, P.W. Botha, or why Botha was willing to engage with Mandela. But, when they did meet in person, in July of 1989, Mandela describes the event as the threshold at which the peace process began: "While the meeting was not a breakthrough in terms of negotiations, it was one in another sense. Mr. Botha had long talked about the need to cross the Rubicon, but he never did it himself until that morning...Now, I felt, there was no turning back"[172]

Here, it is useful to consider John Paul Lederach's description of reconciliation. Lederach tells us that reconciliation is "a place, the point of encounter where concerns about both the past and the future can meet."[173] The place that Lederach describes is similar to Hegel's ethical threshold, the place of common ethical concern and experience that is respect; but, it is also literally a place, a space where persons engage and work

[171] See, e.g., Christodoulidis 2000.

[172] Mandela 1994: 480.

[173] Lederach 1997: 27.

together. In other words, reconciliation requires co-presence because, contra Hegel and some advocates of empathy, we cannot simply imagine the Other and project our imagining onto them—such projecting or Othering is no different than the movement which sparks conflict in the first place. Reconciliation requires actual engagement so that the Other does not get overwritten and lost in abstraction, so that involved parties can learn from one another, listen to each other, and develop an understanding that is based in experience and that validates the initial risk-based trusting leap of faith. If trust is not validated and cultivated, reconciliation processes will collapse.

Hence, the reconciliation experience is a creative process because, often without knowing it, by engaging the enemy Other in a peaceful and dialogical encounter, involved parties are transforming themselves, as well as their social-political conditions, simply by defying the norms of conflict which tell us that we must only defeat our enemies. "In a dialogue," David Bohm says, "each person does not attempt to make common certain ideas or items of information that are already known to him. Rather, it may be said that the two people are making something in common, i.e., creating something new together."[174]

Legal-political systems can contribute to this process and make it possible beyond local or interpersonal cases by providing and mediating the reconciliation place. The system that facilitates reconciliation must first claim a space where concerned parties can meet. The space ought to be neutral and the system must guarantee the safety of those involved. Hence, systems can facilitate the mutual encounter by establishing a base level of trust, a place where trust can be cooperatively built; but, the system requires that

[174] Bohm and Nichol 2004: 3.

involved parties be willing to take the risk, the leap of faith that is reconciliation, and meet, face to face, to begin the process.[175]

[175] Of the many common features shared by presently existing theories of reconciliation is an underlying demand for the development of trust. The need for trust is made evident in the explicit demands of these theories. Consider the following statements: reconciliation requires "faith in the possibility of community" that "enables a collective reckoning with the past" (Schaap 2005: 8.); reconciliation requires "mutual respect" (Verdeja 2009: 24, 28-65.); reconciliation requires the "rebuilding" of "damaged political relationships" (Murphy 2010.); reconciliation requires the development of "right relationships within or between political communities" (Philpott 2012: 16.). Beneath these claims, is the necessary goal of repairing sociality which, I am arguing, requires the development of a basic trust between former enemies or conflicting parties, so that they will not relapse into further conflict and so that future engagements will be stable, as well as productive. Trudy Govier stresses that building trust is necessary if a society seeks "sufficient sustainable cooperation" (2006: 144.). The time after conflicting persons agree to at least minimally imagine the other as mattering and engaging with the Other, is a crucial period where, if trust does not begin to develop, conflict is likely to return and reconciliation will have died in its infancy. At all levels, trust is the foundation of a healthy and ethical relationship.

CHAPTER V

NO FUTURE WITHOUT TRANSITION: A CRITIQUE OF LIBERAL PEACE AND THE US PRISON SYSTEM

In discussing developing societies, it is commonly held that their transitional activities should be directed toward a liberal-democratic order—fair and free elections, rule of law governance, and constitutionally defined rights enjoyed by all citizens.[176] Contained within this belief is the assumption that once a society is sufficiently liberal and democratic, it will also be sufficiently peaceful and just, insofar as shared political

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The claim that developing societies should move toward liberalism and democracy occurs within two general spheres of discourse: at the level of political discourse and at the level of academic discourse. Regarding political discourse, Michael W. Doyle captures the spirit in reference to public utterances: "We have often been told that promoting freedom produces peace. At the US Republican Convention in 2004, President George W. Bush told 'young men and women' in the Middle East and '…reformers and political prisoners and exiles 'everywhere'…that their dream of freedom cannot be denied forever…as freedom advances, heart by heart, and nation by nation, America will be more secure and the world more peaceful.' He was not the first Republican to make these grandiloquent claims. In a speech before the British parliament in June of 1982, President Reagan proclaimed that governments founded on a respect for individual liberty exercise 'restraint' and 'peaceful intentions' in their foreign policy. He then (perhaps ironically) announced a 'crusade for freedom' and a 'capping for democratic development.' And not just Republicans. President Clinton made 'Democratic Enlargement' the doctrinal centerpiece of his administration's foreign policy in the 1990s. And, of course, these ideas were the hallmark of Woodrow Wilson's foreign policy and of the foreign policies of many other liberals" (Doyle 2011: 1). At the level of academic discourse, the claim that liberalism and democracy are the ends toward which all societies should be directed can be found throughout the political writings of Enlightenment thinkers and it has been inherited by much of contemporary political theory. The most famous example of this is Immanuel Kant's “Perpetual Peace” (Kant 1970: 93-130).

ideals take on a fixed character through the rule of law.[177] Thus, with a few exceptions, discussions of reconciliation and transitional justice are reserved for the developing world.[178] Yet, liberal-democratic societies are often marked by violence and intense disagreement as to what counts as justice, suggesting that societies require something more than a liberal-democratic order to maintain their stability and a sense of justice. As a liberal-democracy, the United States is uniquely volatile and lacking in a shared sense of justice, and although most societies attempt to maintain stability through policing and disciplinary force, the United States sets the standard when it comes to penal domination.[179] Unfortunately, this militant relation to the social-world, which masquerades as justice, perpetuates social conflict and ultimately prevents a shared experience of justice. Here, I argue that the legitimacy and stability of liberal-democracies requires a movement away from police action and toward reconciliation. That is, the developed world needs reconciliation as much as, if not more than,

[177] For example, without a critical defense of the claim, Doyle simply notes: "Liberal states are different. They are indeed peaceful—among themselves" (Doyle 2011: 2). It may be that liberal states do not often go to war with other liberal states, but peace is not merely the absence of war. More importantly, the US is far from peaceful within its own national boundaries. The critical theorists largely disagree with the assumptions of liberal peace. See, for example, Benjamin's "Critique of Violence (Benjamin et al. 1996 v1: 236-252) or Agamben's *State of Exception* (Agamben 2005) for arguments regarding the ongoing and cyclical nature of conflict within the liberal state.

[178] The exception I have in mind is the restorative justice movement. The restorative justice movement explicitly calls for reconciliation in the developed world. There is a lack of unity in the reconciliation discourse, however, and this is a result of it being a relatively new topic. For an interesting discussion of the disconnectedness of reconciliation literature and work, see the introduction to Bashir and Kymlicka's *The Politics of Reconciliation in Multicultural Societies* (Kymlicka and Bashir 2008: 1-24).

[179] According to the International Center for Prison Studies, the US has the highest rate of incarceration in the world with 716 of every 100,000 people being locked up ("International Centre for Prison Studies" 2013). At roughly 2.4 million persons in prison as of 2008 (Sabol, West, and Cooper 2009), the US houses at least a quarter of the world's prison population (Talvi 2007; Liptak 2008). Here, I appeal to the record as of 2008 because after 2008, the bureau of justice statistics changed its method of calculation and subsequent reports do not reflect "all inmates held in state or federal public prison facilities, local jails, US territories, military facilities, US Immigration and Customs Enforcement (ICE) owned and contracted facilities, jails in Indian country, and juvenile facilities" (Sabol, West, and Cooper 2009: 8). Interestingly, around the time of this shift in data analysis and presentation, the bureau of justice statistics began reporting decreasing numbers of persons incarcerated in the US.

transitional societies, if we hope to realize a shared sense of justice.

In the first section, I discuss the liberal peace model as it emerges through Kant's writings, and I suggest that without reconciliation the liberal-democratic system—as the sum of the complex legal-political and institutional parts—is at constant risk of what Jürgen Habermas calls a *Legitimation Crisis*. Expanding on Habermas's work, I argue that the legal-political response to social conflict in the United States maintains a certain state of crisis that causes a shared sense of justice to be lost in social conflict. The current state of social conflict in the United States is in part a result of systemic attempts to forcefully control the social-world, which prevents a stable and reciprocal-democratic base from emerging. Hence, in the second section I discuss the ramifications of the police-control state through an analysis of the US prison system.[180] Here, I illuminate what liberal-democracy looks like without reconciliation. By responding to instability with force, the US penal system increases social conflict by fragmenting communities and maintaining an individualistic order that is combative, rather than cooperative. I focus on the prison because it functions as the center of social control and is in many ways the starting point of US politics. In the final section, I discuss alternative responses to instability that are practiced in the margins of the developed world under the banner of restorative justice. Here, I describe the practices that are attempting to bring about reconciliation in the developed world, while also emphasizing that there is still much work to be done. By juxtaposing the current state of politics with the emerging counter-politics of reconciliation, I argue that liberal-democracies need reconciliation as it is being practiced through the restorative and transitional justice movements because

[180] Habermas 1975.

reconciliation affords a demos that agrees upon, and thus co-creates, its social-political conditions. Thus, reconciliation works to prevent instability by improving the relation between system and social-world, which affords legitimacy and makes a shared sense of justice possible.

5.1. Beyond Liberal Peace: Crisis, Conflict, and Coordination

In "Perpetual Peace: A Philosophical Sketch," Kant suggests that humanity will either establish peace or obliterate itself in the course of war.[181] Given that the latter form of peace is self-evident, though not preferable, Kant's essay is a defense of liberal republican-democracy as the ideal form of political relation and thus the conditions of the possibility of global perpetual peace. Kant specifies two sets of articles which represent standards that must be met in the realization of a perpetual peace between liberal states: The preliminary articles for peace among nations and the definitive articles. According to Kant's definitive articles, the constitution of a state which makes peace possible is republican, its rights are based on a federation of free states, and its cosmopolitan rights, or how the non-citizen is treated, is limited to hospitality. The interactions of Kant's republican states are outlined in his preliminary articles, which are supposed to be reinforced by his federation of free states or what we now call the United Nations. The first preliminary article deals with peace treaties and the fidelity of such agreements. It stresses that states must go beyond a mere suspension of hostilities in order to establish peace. The second preliminary article, fueled by the categorical imperative, argues that people should be treated as ends and not means. The third article claims that "standing

[181] Ibid. 1970.

armies shall be gradually abolished."[182] Maintaining an active military suggests that future conflict is possible, thus making peace treaties seem strategic and nominal. The fourth preliminary article claims national debt cannot be connected to the foreign affairs of the nation. The fifth article says that nations will not forcibly meddle with the constitutions and governments of other nations. The sixth article deals with the use of tactics—assassination, poison, breach of surrender, spying—that hinder trust in a future state of peace. These laws afford peace on an international level, but only when every state is abiding by the same standards. If a state is not republican, and does not abide by these laws, then war is likely. Therefore, it would seem that any state which is not republican is a threat to peace and must be assimilated into the liberal system through war. In other words, Kant argues that peace is only possible in and between republican states that adhere to the aforementioned standards.

Beyond its colonial tendencies, Kant's model of peace is problematic because it does not adequately address how or even why peace would be maintained within the republican state. Part of this shortcoming is Kant's purely rational and atomistic approach to morality and politics, most fully illuminated in his essay "What is Enlightenment?"[183] Here, Kant also fails to recognize the transitional nature of human coexistence that makes any fixed system problematic insofar as it lacks the capacity to accommodate new and unforeseen problems, needs, and demands. In other words, Kant's Perpetual Peace describes most western foreign relations, but it fails to describe why a liberal republican democracy would remain internally stable over time. Following Kant's rational method,

[182] Ibid. 94.

[183] Ibid. 54-60.

John Rawls attempts to account for these shortcomings with *A Theory of Justice*, but Rawls's model falls short for similar reasons as Kant's, which leaves both theories in need of amendment.[184]

For example, Rawls famously argues that justice is the first virtue of social institutions and thus, "laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust."[185] Diverging from Rawls's arrangement-focused theory, Amartya Sen appeals to a realization-focused understanding of justice that concentrates "on actual realizations in the societies involved, rather than only on institutions and rule."[186] Sen is not alone in the concern that, regardless of the ideal arrangement of a society, the way we relate to justice and thus what is required for peaceful social coexistence, as well as legitimate political order, is a contested issue because the idea of justice is unfixed or transitional, especially as new problems emerge. The realization of the ideal of justice, therefore, requires coordination between both the social and systemic levels of society.[187]

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[184] Rawls 1971.

[185] Rawls 1971: 3.

[186] Sen 2011: 9.

[187] Sen 2011: 9-10. Here Sen makes a distinction between the Rawlsian approach to justice as being arrangement-focused or seeking the ideal institutional circumstances wherein justice is realized, versus a more pragmatic realization-focused approach that is largely a response to the question: "Should we not also have to examine what emerges in the society, including the kind of lives that people can actually lead, given the institutions and rules, but also other influences, including actual behaviour, that would inescapably affect human lives?" (ibid. 10). Following a similar line, one of Habermas's responses to Rawls was largely concerned with the problem of intergeneration justice; that is, even if we grant the outcomes of the original position, we cannot possibly maintain that those outcomes will be just for the second or third generations subsequent to those who contracted the ideal society (Habermas and Lawrence 1995). In *The Public and Its Problems* (Dewey 2008), John Dewey takes the problem of the instability of justice to an extreme and advocates a purely emergent concept, wherein justice is always a result of those activities within a given community and therefore lacks a normative end (e.g., peace). Dewey's model lacks a normative end because he maintains that social-political ideals are supposed to emerge solely through communal activities, meaning the ideals could form at the exclusion of Others, reproducing already present and problematic norms of conflict; thus, Dewey's model risks

The fact that we lack a shared sense of justice is obvious given the ongoing debates over how we should respond to injustice.[188] The United States contains many views of justice and most of these views are not represented by the political system, meaning that justice is not being realized or even fairly represented. Indeed, for those living in the United States, the political system seems to operate independently and well beyond the influence of ordinary people, which leaves persons feeling alienated, powerless, and vulnerable. The Occupy Movement, for example, attempted to articulate this problem of the social-world feeling powerless in relation to the system, insofar as legal-political and economic activities seem to empower only the wealthiest minority of the population.[189] The ongoing debate over gun rights is another example of a common experience of powerlessness and alienation manifesting as social unrest in relation to a top-down system which, in not functioning for the people, seems a disassociated threat to everyday existence.[190] In terms of crime and punishment, this abstract relation between the system and the social-world manifests as a state-offender binary, such that justice is about punishing individual offenders as transgressing against the state, rather than

being highly conservative and maintains the status quo.

[188] For an interesting theoretical account of this disagreement see *After Virtue* (MacIntyre 1984). For contemporary political accounts, one might simply consider the titles of the following texts: *Red And Blue Nation?: Characteristics And Causes of America's Polarized Politics* (Nivola, Brady, and Hoover Institution on War 2006); or the problematic text, *The Clash of Civilizations and the Remaking of World Order* (Huntington 2011). Here, it is not being suggested that the normative claims in these texts are correct, nor that the descriptive accounts are entirely accurate; rather, what is common to these texts, and many more, is a consensus that the United States is polarized and intensely opposed on many issues.

[189] See, for example, Graeber 2012; Gitlin 2012.

[190] For a recent history of this debate, see Winkler 2013. A common complaint of those supporting the right to bear arms is that the constitution was written so that the people can protect themselves from tyranny. People cling to this argument in large part because they understand the state as being tyrannical, which means that the system is not working in an agreeable way. On the other side, people often have guns for the purposes of self defense, meaning that persons do not feel they can trust the system for defense nor can they trust other people (who are also armed).

supporting those who were harmed and repairing the social-world so as to prevent future instability.[191]

These examples illuminate a common feeling of alienation that is rooted in an experience of the system disregarding or, in some cases, actively working against the social-world. Hence, the system is not legitimate throughout the social-world; however, the reasons offered for its illegitimacy do vary. Adding to this complex situation is a lack of cohesion within the social-world, which is exacerbated by the system insofar as it does not assist in the formation of a common democratic voice. More insidiously, the system discourages social solidarity by encouraging individualistic competition, wherein, as the title and content of Jeffrey Reiman's book puts it, *The Rich Get Richer and the Poor Get Prison*.[192] Thus, the US is marked by a dual conflict: within the social-world, but also between the social-world and the system.

From both a Senian perspective-focus, that looks to the social-world, and a Rawlsian arrangement-focus that is concerned with institutions, justice is not being realized. On the one hand, the system is failing in the minimal sense of identifying and realizing its first virtue, justice, in a legitimate way. The social-world, on the other hand, is unable to make a coherent claim to justice insofar as it is fragmented and volatile. Hence, the system which is supposed to work for the people, and claims to do so, fails to support and empower its people by maintaining a mostly mono-directional power relation, often seeming responsive only to the will of the egregiously wealthy. Lacking a cohesive social body, the system operates without democratic oversight and, at least

[191] The state bringing charges against offenders in criminal cases is a regular practice throughout the world. But, the point I am arguing is that abstracting away from the concrete social-world while pretending to act on its behalf, whether realized through a legal norm or rhetoric, is illegitimate and causes instability.

[192] Reiman and Leighton 2013.

rhetorically, on behalf of an imaginary people with imagined needs: the imagined demos, the disembodied We, is instrumentally represented for ends that include going to war and protecting the wealthy. In this failure, problems of the social-world take on a repetitive character and the response pattern of the system functions in an equally repetitive way. Thus, problems tend to be treated as isolated incidents and not events that are themselves afforded by a history of compounding unreconciled events. The activity of repetitive and compounding problem avoidance has been thoroughly analyzed under the general category of *crisis*.[193] Habermas's discussion of crisis is particularly interesting.

As Hugh Baxter points out, Habermas's *Legitimation Crisis* moves away from traditional Marxist critiques of economic crisis based in the labor theory of value and instead takes a broader critical focus "toward 'legitimation crisis' (the inability of an expertocratic and planned state to secure the conditions of its own legitimacy)."[194] Habermas focuses on the complexities through which crises afflict social-systemic relations. He argues that unresolved problems, when allowed to fester, ultimately undermine the legitimacy of the system. Habermas develops his claim by first noting that subjects are characterized through goal-directedness, which is mostly consistent over the course of a life, and limited in those ways typical to organic beings.[195] The social-world,

[193] See, for example, Harvey 2010; Althusser 2014.

[194] Baxter 2011: 3. Ibid. Habermas 1975.

[195] Habermas uses the language of *Sollwerte*, not goal directedness, which Thomas McCarthy translates as goal values (see translators note, endnote nine, page 147 of Legitimation Crisis 1975). I prefer goal directedness because of the shift Habermas makes in his later works, specifically *The Theory of Communicative Action* (Habermas 1984), wherein speech-act theory is introduced to distinguish the ethics of communicative encounters and directedness more fully accounts for these distinctions. Specifically, the directedness of one's goals—whether strategic or communicative—does not necessarily correlate to one's values and, frequently, is more directly related to not knowing how to realize one's values outside of a combative system. Hence, one could have values that are not necessarily reflected in one's strategic actions, but the purpose of those strategic actions is to attain a certain end. The system conforms to a similar logic and, as I show throughout this chapter, the values of the system do not

as the intertwined identity frameworks of everyday persons, is therefore characterized by shifts in both systemic elements, as well as goal values and the means by which those values are realized. There exists a looping effect, as Ian Hacking notes, between the various levels of society, such that the system informs the social-world, and, under ideal circumstances, the social-world influences the system.[196] Habermas works, throughout all of his writing, to illuminate and strengthen the connection between the system and the social-world.[197] However, the illumination of the relation between system and social-world requires more than just a discursive analysis. That is, the relation reveals itself when the system democratically cooperates with the social-world, making Habermas's goals and methods not merely theoretical analyses, but also ethical-political ends.

Hence, there is an implicit tension between the social-world and the system insofar as systemic changes risk being experienced as illegitimate and even oppressive if the social-world is not acclimated to said changes. Systemic boundaries are more flexible insofar as they are constructed, while persons are immanently bound—we are limited as physical beings in a partially determinate relation with others—but both systems and persons operate in relation to ideal goals. When a system asserts itself by changing both its bounds and goal values, its identity becomes unclear. This is not unique to systems, as subject identities also become ambiguous in times of transformation and Habermas is describing a characteristic of change. These changes become crises, Habermas argues, "only when members of a society experience structural alterations as critical for

coincide with its activities.

[196] Hacking, in Sperber, Premack, and Premack 1995: 351-394.

[197] Habermas 1975: 4.

continued existence and feel their social identity threatened."[198] Insofar as systems are supposed to support persons and social-worlds in their limitations, when systems become unsynchronized with the goals of life-worlds they become counter-operational, further limiting or constraining social-life rather than supporting its functioning by stabilizing social relations and enabling individuals to realize their various potentials. In this movement away from the needs and desires of the social-world, the system runs the risk of becoming illegitimate insofar as it does not sufficiently represent and thus empower the world for which it is supposed to work. Of course, political institutions must sometimes shift and take on a paternalistic character precisely because the character of the social-world is problematic and the source of conflict.[199] But, it is when paternalism lacks a mechanism of care, when the system transforms and does not work with the social-world through this transformation, that a crisis emerges.

The stability and function of a social-political system is deeply tied to the identities of those operating within its bounds, and crisis, as well as conflict, can both be understood through Habermas's work as emerging from dissonance between the system and the life-world or social-world. He notes, however, that crises do not occur merely because members of a society identify the situation as such; rather, crises are generally experienced by a constituent body through the second order or symptomatic results of a larger unresolved systematic steering problem which hinders social integration.[200] The

[198] Ibid. 3.

[199] There is an extensive philosophical literature on the role of paternalism in society. Valuable contributions to the debate include: Feinberg 1986; Mill and Collini 1995; Sartorius 1983; Dworkin 1972 and 2005. The desegregation of public schools in the US throughout the 1950s and 1960s is a clear example of how systems can transform and act paternalistically on behalf of the social-world, but with much resistance from the social-world.

[200] Habermas states: "Crisis occurrences owe their objectivity to the fact that they issue from unresolved steering problems. Identity crises are connected with steering problems. Although the subjects are not

second order effects of unresolved crisis in the United States, which ultimately prevent social integration, can be seen in the failure of forceful control tactics, specifically the prison system, to stabilize social-systemic relations. Indeed, crisis societies tend to have lingering problems rooted in a history of unreconciled transitional events, which people may not see as being obviously connected to systemic failures.[201] The historical response to the problems of the social-world has been an attempt to control, rather than reconcile, and so the social-world has not been acclimated with the system.[202] The tendency toward control is problematic because the system, which requires legitimacy in order to be stable and just, does not work with the social-world during transitions, such that the transformation is negatively experienced and the legitimation crisis is never transcended.

Under these conditions, the second order effects of the unreconciled US social world manifest in two broad ways. The first characteristic is an everyday cyclical violence that is often wrongly framed as arbitrary or a problem of human nature. Everyday violence in the United States consistently leaves various spaces damaged. The

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generally conscious of them, these steering problems create secondary problems that do affect consciousness in a specific way—*precisely in such a way as to endanger social integration*" (ibid. 4, italics not in original text).

[201] Marxists's discuss these unreconciled histories in terms of contradictions that are inherent to the capitalism. Here, I am discussing these specters in a broader sense that includes historical conflicts which are not solely reducible to capitalism. Some historical conflicts are deeper than capitalism and are the source from which the capitalist system emerged, making the turn to capitalism itself, in most cases, an unreconciled and unstable transformation. Of course, how pre-capitalist conflicts are described depends on how capitalism is understood, but, the history of east-west relations that gave rise to the capitalist era is the general pre-capitalist conflict that I have in mind. Indeed, the drive to reclaim eastern territories—specifically the Holy Lands—re-open the far east to trade, and thus bring an end to the medieval crisis can be understood as a primary historical force that afforded the emergence of capitalism as a means of power. Enrique Dussel's *The Invention of the Americas* details this conflict as it spread to the Americas (Dussel 1995); Ella Shohat's writing details a turning point of this conflict in the Middle-East (Shohat 1992). From the perspective of war, capitalism is just one more tactic in a long history of tactics of domination.

[202] Though Zehr shows there is a long standing tradition of community justice that the current reconciliation movements have taken up as a historical basis for its practices (Zehr 2007: 97-157).

people who reside in or around those spaces are fearful, suspicious in various ways, armed, and afflicted with a sense that they must defend themselves because the system will not. The second characteristic of conflict in the US social-world is a general blockage, a deadlock, which is frequently based in this same fear that exists because persons within the United States see their nearby neighbors as hostile threats and enemies; that is, we are not willing to communicate in part because we do not know how to engage one another. Hence, the US lacks the minimal sense of cohesion that is needed for democratic action, and the system, caught in a crisis of legitimacy, does not facilitate democratic action although it simultaneously operates as if there is a democratic base being appropriately represented.

In the United States a chasm exists between the system and the social-world. Rather than address and work to bridge this gap, the system functions as if the division does not exist or, on the occasion that it is noted, it is treated as a natural state that cannot be changed and can only be controlled through force.[203] Politicians, bureaucrats, law-makers, and various other political actors subsequently maintain a business-as-usual attitude, claiming to work for the people while simultaneously disregarding the actual needs of the struggling and combative social-world. Under these fragmented circumstances, social problems are insufficiently addressed, precisely because they are being overlooked even though the system claims to be including them, leaving the real issues of alienation and fear-based animosity unchecked. An agreed upon sense of justice remains lost in this ever-present and compounding social conflict, and the systemic response to this problem has historically been an increase in forceful control, which

[203] Defenders of capitalism like claiming that humans are naturally selfish/greedy—as a talking point it is nearly ideological.

escalates tensions and further delegitimizes the system.

5.2. The State-Offender Dilemma: Penality in the US and Retributive Failings

The instability which marks the United States is perpetuated by various forces: a reality of violence, a media apparatus that profits on exploiting fears by emphasizing this violence, a lack of legitimate opportunities to participate in community formation, politics, and self-development, and a controlling disciplinary system that focuses on punishing the demonized individual criminal as one who has offended against the abstract state, rather than a community of real people, leaving the community and the victims that have actually been harmed to struggle on their own.[204] As many critics have demonstrated, there is a cyclical relation between those damaged communities where crimes happen and repair is consistently lacking, and the penal system that punishes persons from those same communities.[205] These cyclical and unstable conditions ultimately pit the general population against itself and a horizontal conflict is maintained in the social-world insofar as peoples fear for their well-being, cannot trust others, and feel that violent force is the only way to solve problems. In other words, the control society, with its fearful heart in the prison, works to separate persons according to various differences, encouraging a society where cooperation is rejected in favor of competition, and spiteful punishment is the response to human error. Again, if our concern is with justice as the first virtue of our social-political institutions, then the system ultimately disables itself from identifying its first virtue by discouraging social collectivity and

[204] It is not just the media that profits and many refer to the system as a prison-industrial complex (PIC). Usage of the term emerged in the late 1990s with the work of Angela Davis and the critical resistance movement ("Critical Resistance" 2013), as well as Eric Schlosser's famous article "The Prison Industrial Complex" in the Atlantic (Schlosser 1998).

[205] See Reiman and Leighton 2013; Wacquant 2001A, 2001B; Alexander 2012.

encouraging violence as the response to problems. The legal-political system that appeals to force as the primary response to social-political instability allows for that instability to linger and reproduce itself, and, in the case of the United States, the system exploits these ongoing conflicts.

Michel Foucault elucidates how disciplinary power in general, as a mechanized attempt to control, permeates the social-world through various institutions and ultimately influences all persons, not just the condemned prisoner.[206] For most, the control system is first experienced in the school. Schools are spaces where our *tabula rasa* selves are formed through reward and punishment, observation, and testing. The school works to transform us into predictable, classifiable, and controllable characters.[207] And through the formative power of institutions like the school, persons become a series of documents that determine what parts of the world should be made available to them. Some persons are prepared for a life of middle-class stability. Some persons are prepared for a life in prison.[208] The system subsequently works against its self-proclaimed ends—liberty and democracy—by creating populations that are at odds with others and actively seek to be at odds for their own self-interested pursuits. There is an inherent contradiction here, in that the system simultaneously encourages combative individualism, while also speaking on behalf of a collective that does not exist, and in the name of a freedom that requires others be condemned.

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[206] Foucault 1979.

[207] Ibid. 135-194.

[208] This is not to suggest that Foucault ignored the role of the subject. Foucault, following Kant, spent his career illuminating the bounds of possibility, showing what can be done, given that certain strategic care is taken. Foucault's ethics, for example, discusses counter disciplinary activity rooted in self care (Foucault 1998).

In this sense, the incubator wherein violent tendencies are able to be reproduced and normalized is the school system. Of course, schools ought to help our young people to develop themselves in meaningful ways so that they can create a better life for themselves and others. Our schools ought to teach peaceful means of communication and cooperation. But, the school system is merely a technology that can be used to normalize a range of behavioral relations, and in the United States the norm is violent and narcissistic.

As Foucault suggests, in the school all behavior that does not conform to the norm is punishable. Normality is therefore dependent on a reflective abnormality through which individuals relate themselves. The penal mechanism in the school creates a hierarchy of normality and a foundation of abnormality upon which individuals can be judged. The school teaches that any disagreeable activity should be condemned to some punishment. The initial punishment for the younger students may be an only slightly sadistic repetition—for example, repeatedly writing meaningless sentences. Along with this comes the public shaming of the condemned, the cut that teaches the student of his or her empty place in the social order away from the other students. Other students reject the offender and often encourage outbursts to take attention away from themselves, but also to enjoy the impeding and spectacular punishment. The teachers and administrators document student behavior, warning of the problem cases. Only one mistake can result in a condemned school life. As the student grows and social-systemic relations are solidified, punishments become more severe and greater distance is put between the student, other students, and the system itself. The student-criminal feels the pangs of condemnation by not being seen as a possibility, but as an already known problem. The

underlying problems that might have caused the student to misbehave in the first place are covered by the now greater problem of the system itself. All students are told that if they do poorly at the K-12 level, they will never be successful. The offending student, however, is described as a risk to be watched. Under constant observation, even the slightest mistake results in punishment and there is no real chance for success. The non-criminalized student is also transformed in this process into a complacent and vengeful character. The rules are clear and the path is prepared for the docile student to act as a leader, an example whom the hierarchically lesser beings are supposed to admire and submit to. With a honed obedience, the other end of the spectrum is a soldier—perhaps initially a star athlete. Both the criminal and the soldier are pitted against one another as two ends of the same normalizing spectrum, but their behavior is not so different. Instruments to the system's ongoing effort to control, the characters learn the norms of the system: control, force, shame, individualism, and the drive for power at the expense of Others. The school system encourages our students to respond to problems, not through cooperative problem solving or by looking to root causes, but through the violent force that removes those who have been blamed for the problems and glorifies those who obey. The system is not meeting its own self proclaimed ends and it is reproducing conflict.

Foucault's account is interesting because it places the prison at the center of social-systemic control, treating it as the original position of our relational social-political activities. The prison and punishment are an ever present and strange possibility in the minds of those who operate under the watchful gaze of the control state, normalized through the school system to relate with Others via domination rather than cooperation. Of course, the fear of state punishment is justified because to be condemned to prison,

especially for a federal offense, is to be condemned to a stigmatized and almost insurmountable role. Unfortunately, Foucault only gives us a general perspective on the role of social control. Angela Davis takes us a step further, while also a bit closer in terms of subject matter, and asks who is being controlled, such that some people are moved in certain directions, while others end up in prison.[209] That is, Davis addresses the problems of nationalism, classism, racism, and sexism that direct the US system.

Davis analyzes the emergence of US prisons through the lens of an ongoing conflict based in a history of slavery, revealing that the system has perpetuated the conditions of slavery under different names, laws, and control tactics. Davis focuses on the systemic response to abolition. Since the abolition of slavery, prisoners have been leased to companies as cheap, controlled, and reproducible labor; thus, as Davis and others argue, the prisoner lease system is an evolved form of slavery that objectifies individuals.[210] Prior to abolition, prisoners were not used for labor—slaves did the work—and prisons were predominantly occupied by Anglo men who were able to be imprisoned because they had rights to be taken. Before granting rights to slaves and women, "imprisonment could not be understood as punishment" because there was nothing to take away.[211] Prior to the granting of rights, slaves functioned under slave codes or "laws that deprived enslaved human beings of virtually all rights."[212] These codes were surprisingly similar to regulations which existed in prisons, and once rights were administered to former slaves, the prisons began to fill with newly established rights

[209] Davis 2003.

[210] Davis 2003; Alexander 2012.

[211] Davis 2003: 44.

[212] Ibid. 27.

bearers. Indeed, the 13th amendment specifies that slavery is illegal "except as a punishment for crime."[213] After abolition, the slave shifted into a prisoner and prisons filled with former slaves. A significant amount of capital is still produced by prisoners working for state and private corporations, and the prison industry profits from maintaining a surplus of prisoner-labor.

The system operates as if it has overcome the problems of social inequality and slavery, but because the roots of inequality were never reconciled, the system has continued to mistreat the social-world, thus reinforcing discord and stigmas about those most rigorously targeted by its force. Rather than address this ongoing social conflict and bring coherence to the system/social-world relation, a misguided and racist narrative has been passed down and transformed throughout history that attempts to justify the ongoing activities of the prison-control state. Davis critiques the narrative that justifies forceful control tactics—to maintain safety, reduce crime, and realize justice—and reveals the system as misdirecting and exploiting the disparate public. The various agencies that work together and collectively form the penal system utilize the fear and anger of the unrepresented social-world to remove persons from our communities and exploit those bodies as a means of cheap labor. This dual exploitation in turn is destructive to society as a whole, because it creates instability in all communities by fragmenting families and leaving all victims—victims of crime and victims of the system—without support.

For example, most Americans are unaware that "corporations producing all kinds of goods—from buildings to electronic devices and hygiene products—and providing all kinds of services—from meals to therapy and healthcare—are now directly involved in

[213] "US Constitution - Amendment 13 - The US Constitution Online - USConstitution.net" 2013.

the punishment business."[214] We should be dismayed that the prison system is an industry and that companies invest in prison expansion; but, the industry relies on our disconnectedness and our ignorance about prisons. Hence, politicians and the media defend prisons for bringing security and economic growth. Those with stock in prisons offer regular donations to politicians during elections, thus guaranteeing the rhetoric normalizing their investment. The rapid prison expansions that occurred after the 1980's —between 1984 and 1989 the number of prisons in California alone was doubled—were made possible by corporate investment and political support that preyed on our misdirected beliefs about the prison.[215] Many politicians in the 1980's defended the hastened prison expansion with a "tough on crime" approach.[216] But, as prisons spawned and filled, the crime rate went unaffected.[217] There is a thorny relation between the prison system, capital, and discourse that pretends the prison rebalances society. Adding to the myth of stabilization is the economic impact of prisons on local economies.

Prisons are often built, and police often focus their efforts, in areas that are economically struggling. Prisons tend to be built in poor rural spaces, which stimulates local economies by creating new jobs. Police force is also concentrated on poor areas, but within the inner city, such that police presence is disproportionately directed at people of color. Hence, poor areas exist symbiotically with the prison because many of the bodies occupying such facilities—workers and inmate-workers—come from economically

[214] Davis 2003: 88.

[215] Ibid. 13.

[216] Ibid. 12.

[217] Ibid.

deprived places.[218] The exploited poor make contact in the prison, which reproduces horizontal tensions between poor and often racist prison guards who are supposed to control the condemned populations of color. The system relies on this underlying horizontal conflict, which ultimately prevents a vertical democratic power from directing the system.

Davis rightly points out that investing in prisons and increased policing in areas that lack resources and opportunities, rather than investing in institutions that elevate the overall quality of life and create opportunities for all members to positively contribute to their community's development, "turns the men, women, and children who live in these damaged communities into perfect candidates for prison."[219] The poor rural community provides the prison guards, while the poor urban community provides the prisoners. The urban communities from which prisoners are being imported may notice a decrease in crime, which seems to improve the quality of life. The community where the prison is built also seems to benefit, even though the opportunities are made at the expense of mass imprisonment and the isolation of persons who are criminalized because they lack the resources to prevent the realization of this ascribed identity. In reality, by failing to invest in ways that encourage stability through reciprocity and participation, the system continues to isolate individuals and communities, while completely avoiding the underlying problems which led individuals to act against the law in the first place. The problems of the system are rooted in a history of underlying unreconciled problems that have only been addressed through force, which compounds the illegitimacy of its

[218] Wacquant 2001; Reiman 2001.

[219] Davis 2003: 16.

activities. Loic Wacquant explains that this ongoing movement toward control has thoroughly blurred the distinction between the prison and the communities from which the prison acquires most of its occupants.[220] The prison and the poor communities upon which the system preys are becoming increasingly alike, such that there is not much of a transition when moving between a life in prison and a life in society.[221] Communities are becoming more like prisons and the expansion of disciplinary military tactics into everyday life is exceeding anything Foucault had previously suggested.[222]

The impact of this forced social control can be seen throughout US history, at each moment when the system tightens its grip on the social-world. Hence, what Davis's critique shows is that the problems of slavery persist to this day because, rather than repair and reconcile, the system controls and exploits. The laws have shifted in an attempt to contain and control the lingering problems of the unreconciled past—and there are many more unreconciled events besides slavery—in the name of a population that does not exist, at the expense of actual people, and largely for the sake of protecting a profitable economic situation. For example, Davis says,

> in the aftermath of emancipation, large numbers of black people were forced by their new social situation to steal in order to survive. It was the transformation of petty thievery into a felony that relegated substantial numbers of black people to the 'involuntary servitude' legalized by the thirteenth amendment.[223]

The law has shifted in order to maintain control over former slaves as the means of production. We can see the rapid expansion of the prisons in the 1970s, 80s, and 90s as

[220] Ibid. Wacquant.

[221] Ibid.

[222] For an updated account of the emerging police state see Parenti 2003; Balko 2013.

[223] Ibid. 33.

also being connected to a shift in the laws as a response to the triumphs of the civil rights movement. Abolition and the civil rights movement are only two examples of a general pattern: when an event occurs and the system shifts, the consistent response has been to increase police presence, change the laws, and remove more people from the social-world, rather than supporting the social-world by working to reconcile systemic changes.[224]

In other words, the system has consistently failed to work with the social-world to acclimate to systemic changes. When slavery was abolished, there was no serious effort made to educate and integrate the new rights bearing members of society or to educate those who already had rights about the rights of freed slaves. In the absence of efforts to reconcile the systemic shift, tensions were left to degenerate at the social level. The same pattern is repeated in response to secondary effects of the illegitimate system, when local crimes occur and neither the offenders, victims, nor communities are helped with recovery. Instead, the social-world remains conflicted and the system exploits these problems. Those harmed by social conflict are largely expected to care for themselves, leaving the portions of the community not behind bars in a fragile state.

The people most heavily targeted by the system are also the most vulnerable and powerless: predominantly working-class poor, immigrants, and people of color. This latter point is important because the system stigmatizes certain characteristics as criminal and persons with those characteristics as potential criminals.[225] This stigma is reinforced

[224] Foucault discusses this practice, of transforming the systemic or discursive norms in order to maintain a certain consistency of power, throughout his writings.

[225] See, for example, Glover 2009. Glover traces the intertwined relationship between racial profiling and slave codes, and in this it is clear that contemporary profiling and policing are a continuation of the same old forms of race based control and white supremacy. At the same time, if one merely watches one of the various popular television police dramas then it will become obvious how the media portrays

by the media, politicians, various agencies, and everyday people who present criminals as irrational animals that must be contained. Criminal profiling is deeply problematic because it preemptively assumes certain people are going to violate the law, thus subjecting suspicious characters to an intense observation that works to find legal violations. Profiling and targeting relies on false stigmas within the social-world. The profile sometimes affixes itself to persons who have never offended and obviously marks those who have crossed the law. Once stigmatized it is difficult to move beyond the categorization, especially if one is convicted of a federal offense and is required to reveal oneself as a felon when, for example, applying for a job. Often offenders return to prison, either for a parole violation or for another crime, because they lack the support needed to stay out of prison.[226]

The terms of parole vary by state, crime, and judgment, but when offenders return after an extended period behind bars, they often lack support to reintegrate. The population of persons on probation, parole, or in prison makes the number of people who are under the control or watchful gaze of the penal system over seven million people.[227] Over seven million people who are defined by a mistake and condemned by a society that embraces the sword—or the gun, the chair, and the needle. Seven million people who are children, parents, siblings, friends, and neighbors, and at least an additional seven million overlooked victims, plus their families and friends. The social-world needs a different

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certain peoples (people of color) as committing certain crimes, while other (mostly white) peoples are represented as victims or righteous defenders of the good.

[226] Reports have suggested that seven of every ten persons released from prison end up being rearrested within three years, making the recidivism rate roughly seventy percent. Langan and Levin 2002.

[227] For probation/parole data, see Maruschak and Parks 2012. For incarceration, see Sabol, West, and Cooper 2009.

approach to the problems that are putting people in prison, leaving victims to fend for themselves, and allowing historical wounds to continuously block social-political transformation.

Beyond criminal cases, social conflict is sometimes dealt with through alternative processes. Sometimes matters are settled in civil court wherein persons are pitted against one another with a focus on settling the dispute, but not necessarily transforming the problem. In these cases, the process reinforces the norms of conflict, thus continuing to fragment social relations. In some cases, however, conflicts are settled outside of court through informal agreements or extra legal negotiations. The restorative justice movement is particularly interesting because it appeals to collaborative problem solving and reconciliation in response to social conflict.

5.3. Restorative Justice and the Tactics of Reconciliation in the United States

Following Thomas Kuhn, Howard Zehr suggests that we need a paradigm shift to overcome the systemic failure which has normalized the use of force as a response to social conflict.[228] A paradigm shift is a change in the basic beliefs and activities that order the world. A paradigm shift entails a transformation of institutional performance and social relations, which is guided by different goals and values. Regarding the way we think of control and punishment, a paradigm shift would require changing many aspects of social life. Given that the system is not sufficiently addressing social conflict, restorative justice has emerged as an extrajudicial and predominantly grassroots attempt to initiate said shift in paradigm. Zehr, and many others within the restorative justice movement, believe that actors in the social-world can ultimately transform the bounds

[228] Zehr 2007; Kuhn and Hacking 2012.

and the goal values of the system by creating alternative possibilities to correct for the system's failure. In order to successfully bring about the necessary change, the system would have to take up these alternative approaches to instability and conflict; hence, the restorative movement is most able to address those symptomatic cases of social conflict and through these efforts slowly change the way people think about conflict in general. The movement practices the change in perspective that is needed to transform the broader system, by moving away from forceful control and towards a relationship where those involved—in the case of criminal law, victims, offenders, and community members—are empowered and made responsible for their circumstances.

Currently, the US system embraces a retributive model of punishment and justice. Retributivism is rooted in a Kantian ethic, which demands that individuals be held responsible for taking something from society that must be repaid through punishment.[229] In practice, retributivism abstracts justice such that crimes are offenses against the state, not persons or communities.[230] Once abstracted, retributivism treats the offender and the event as isolated, rather than treating both as emergent from an already problematic social situation. Often offenders have also been harmed and not offered opportunities for self development. But, the retributive system does not necessarily see life circumstances as relevant; thus, criminality tends to repeat itself within vulnerable communities. Meanwhile, the system hovers above the social-world, irreproachable, unwilling to account for victims and communities. Victimized subjects are therefore largely ignored by the system and focus centers on the state. In other words, retributivism is problematic

[229] See Tonry 2011; Simmons 1995.

[230] Ibid. Also, Zehr 2007.

because it shifts the discourse surrounding social conflicts to a state-offender relation, while ignoring the various ways in which the justice system fails to meet its own theoretical commitments: restoring balance to society and ensuring a common experience of justice.

Restorative justice, on the other hand, appeals to a participatory model that seeks mutual and transformative engagement between those caught in conflict. The participatory approach is critical in undermining the system's false narratives regarding the imagined peoples of the United States. The goal of this effort is to create a lasting stability wherein animosity, fear, anger, guilt, alienation, and the various other responses one has to social conflict that leave persons feeling powerless and traumatized, are transformed into feelings of strength, empathy, forgiveness, and many other experiences that leave persons feeling as if justice has been realized. When persons are harmed in social conflict and find themselves in opposition, both participants, Zehr argues, "victim and offender need to be healed...and this healing requires opportunities for forgiveness, confession, repentance, and reconciliation."[231] In other words, in opposition to the standard response to conflict that is the use of force for the sake of control, advocates of restorative justice respond to discord by attempting to reconcile divisions such that new self regulating social relations emerge. Daniel W. Van Ness expands on the healing described by Zehr, and says the restorative response to criminal cases involves four general activities: encounter, amends, reintegration, and inclusion.[232]

One approach to restorative healing involves bringing victims, offenders, and

[231] Ibid. 51.

[232] See Van Ness, in Weitekamp and Kerner 2002: 1-20.

community members into dialogue. Victim-offender encounters, which require all parties' consensual involvement, have a range of outcomes insofar as the goals and experiences are determined within the context. Encounters do not have to be a part of the restorative process, but they are crucial. According to Van Ness, encounters contain three broad elements. First, concerned parties meet in-person or through a third party. Second, concerned parties communicate in order to establish a better understanding of the event, as well as those involved, and they suggest ways to address residual harm. In communication, persons share their narrative accounts of the event and how it influenced their lives. Here, emotions are treated as central to the process. The third element of an encounter is for those involved to form a pragmatic agreement regarding the event and what can be done to move forward.[233] Of course, in many cases victims do not want to engage with offenders. But, victim-offender dialogues are only one approach to reconciliation. Another way that the restorative approach attempts to reconcile and re-stabilize is by giving the malefactor an opportunity to make amends by apologizing, making a recognizable and significant behavioral change, or offering restitution through payment, return of property, or various services.[234]

Another important aspect of restorative justice is reintegrating victims and offenders back into their communities. Successful reintegration can be difficult, depending on the severity of the crime and the hostility of the damaged community. Reintegration requires that all parties be respected, not stigmatized, and offered material,

[233] Ibid. 3

[234] Van Ness notes, "these outcomes have been features of rehabilitative and retributive programmes as well. However, these become components of amends in a restorative programme or system when they are the result of the parties' agreement about what the offender will do to make things right. In other words, the obligation is voluntarily undertaken by the offender rather than being imposed by a court" (ibid. 4).

moral, and spiritual assistance.[235] Victims and offenders who lack support are unlikely to move beyond the event, thus reducing their chances of realizing a full life where they transition from victims to survivors. Indeed, the final element, inclusion, is not possible if one is unsupported. Inclusion involves an invitation to participate in the justice process and in social-political activities. Inclusion also involves allowing victims and offenders to express their interests, and pursue those interests as part of the justice process. Subsequently, alternative approaches to litigation may be necessary given the needs and interests of those directly involved, thus the state is not put first.[236] Van Ness holds inclusion to be the most important element of restorative justice. He says:

> Inclusion is the way that we make sure that whatever legitimate interests the State may have in the crime, and it does have some, these do not become the only focus of the processes established. It reminds us that, in spite of our motivations in creating processes, those processes may serve to exclude even when that was not our intention.[237]

In emphasizing the ideal of inclusion we see a fundamental characteristic that differentiates the restorative approach. By focusing on the concrete experience of being harmed in conflict, the restorative approach makes the interests and needs of those harmed the central priority. Inclusion is, in a sense, a demand for the process to be about the lives of real people and not imaginary, abstract fabrications.

In terms of crime, the restorative approach is victim centric and works to empower those who are harmed. As Zehr points out, victims lack support for coping with whatever trauma may have been experienced: information about the status of cases is often withheld such that victims are left in the dark; in cases of criminal trials the process

[235] Ibid. 4-5.

[236] Ibid.

[237] Ibid. 6

alienates victims insofar as the focus is directed toward the offender and the realization of right rules, rather than mended relationships; and on the part of the state there is no apparatus in place to bring victim and offender together in an attempt to reconcile the harms done.[238]

Part of the problem with the present system is that it cannot account for the ambiguity inherent to social-conflict. That is, the system fails to address the complexity and nuance of the characters who are participants in a criminal event, which often impacts a much broader range of persons, and may be the emergent result of an already volatile social-historical context. Hence, another attribute of the restorative focus is that it treats the wounds of the offender as also being important in the reconciliation process. This is not to suggest that there are not direct victims who have been harmed by individuals. Rather, it is to suggest that harm and trauma permeate well beyond the direct victim and the event, and this fact is largely ignored by other approaches to justice. Lingering harm as trauma can be passed on for generations. In this sense, a whole community can be understood as being victimized by harmful actions. Offenders should also be understood as possible victims who at one point lacked support in the form of resources, protection, or mental and physical care.

Hence, restorative justice and the activities of reconciliation attempt to free persons from the cycle of violence, trauma, and opposition that destabilize the social-world by focusing the efforts of justice on direct participation. By creating situations for people to engage, discuss their needs, and learn about the other as something more than just an imaginary being, the restorative justice movement creates an opportunity for a real

[238] The state often warns the offender upon release that any attempts to contact the victim(s) will be a parole violation and an immediate return to the prison (Zehr 2007: 211-214).

democratic we to emerge under circumstances that normally create divisions. There is no guarantee that such relations will be established and, as previously discussed, getting persons to engage in such a mutual interaction is a central obstacle for *Justice As Reconciliation*. Similarly, the efforts of the restorative movement are, at this point, only able to address those second order manifestations of the much larger systemic crisis, which is why a call for a paradigm shift is so important—it is ultimately a call for the system to respond to its deeper, unreconciled problems. The deeper reconciliation requires that laws be rewritten and historical narrative be amended through apparatuses like truth-commissions. The activities of the restorative movement are an important ethical response to a problematic situation that alternative approaches have failed to even properly address. The presence of conflict in the US is not limited to the so called justice system and the prison. Penality is worth discussing at length in part because it does not receive enough critical attention, and because of its sheer size. Beyond the prison, however, there remains a deep divide that many theorists have attempted to problematize as the result of our varying comprehensive views of the world. These deep divisions manifest in various ways, but are maintained in part because there is no readily available mechanism to help persons know each other as anything more than imagined enemies.

Here, the failure of the forceful response to social conflict has been thoroughly critiqued. Control through force only creates further conflict and instability. Perhaps one might argue that control through force is a necessary evil, given the innate maliciousness of humanity, and thus force is the only real response to instability.[239] This pessimistic

[239] For classic examples of the pessimistic position, see Hobbes's *Leviathan* (1994); also, Machiavelli 1995; also, Machiavelli 2009. In chapter 8 of *The Prince*, Machiavelli famously suggests that it is better to be feared than loved because fear affords the sort of control needed to maintain stability, while love is affiliated with weakness for the pessimist. Similarly, in Machiavelli's *Discourses on Livy*, he says: "it is necessary to whoever disposes a Republic and orders laws in it to presuppose that all men are bad, and

position is problematic in practical terms because it avoids having to respond to the problem of social conflict by claiming that it is not a problem at all and the state is perfectly justified in using violence in order to maintain power. Ethically, the pessimist position is problematic because it presumes that people and social relations are intrinsically combative, brutish, and driven by a lust for power. By assuming the nature of humanity to be nasty, the pessimist contributes to the reality of the belief thus making the belief itself an ethical choice. That is, when one maintains that the world is a particularly nasty way one ultimately legitimates that reality by resigning to its being so. Beyond the so called political realists, a contemporary liberal, like Rawls, would, I think, be largely in agreement with the efforts of reconciliation: On the one hand, the goal of reconciliation is to transition society such that, within the social world, persons appeal to an informed reflective equilibrium and can therefore work toward a common account of justice. Similarly, on the other hand, the system maintains a reciprocal relation between political institutions and persons such that the agreed upon notion of justice is being fully realized.[240]

As it stands, however, liberal democratic societies lack the means to establish an overlapping consensus such that justice can be meaningfully discussed and this is rooted in the system's ongoing nonreciprocal relation to the social-world that manifests through force. In the United States we do not have to engage one another in any sort of participatory political settings and even if we could, most people would not know how to

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that they always have to use the malignity of their spirit whenever they have a free opportunity for it" (ibid. 15).

[240] Ibid. Rawls 1971; also, 2001: 3; and 2000: 329-372. Rawls agrees with reconciliation insofar as it is an institutional realization that affords a liberal peace; but, he inadequately address the problem of social control and the role of justice in the social-world that makes certain unpredictable demands of the system.

engage in a dialogue, because we have been conditioned by the rules and norms of competition and conflict, not cooperation. The mistake many make, however, is to believe that persons are naturally violent, spiteful, cruel, and thus incapable of being otherwise. Believing in the imaginary people who are falsely recognized by systemic actors only reinforces the power of those false narratives. Overcoming those narratives and the fear which keeps us apart requires a different approach to our problems: reconciliation. Reconciliation, as a process, works to create a situation wherein persons directly and collectively participate in the formation of their social-political circumstances, which ultimately affords a shared stability and a common sense of justice. The role of justice and reconciliation is such that they cannot be distinguished and, as I continue to argue through this dissertation, justice can only be understood as, and through, reconciliation.

CHAPTER VI

RECONCILIATION POLITICS AND THE POST-DOMINATION SOCIETY: LEGITIMACY AND TRUST THROUGH EXPLICIT CONSENT

In this chapter, I focus on a central difficulty of reconciliation politics, which is establishing a legitimate relation between the social and systemic domains. Part of this difficulty rests in the fact that political systems are massive overarching bureaucracies that lack a direct relationship with the social world, a problem which is amplified by social fragmentation that often allows the system to be exploited for ends not endorsed by most members of the social world. Subsequently, political systems are abstract, tend to alienate, and are tolerated with suspicion by the legitimating social body. The general description of this captive tolerance is tacit consent; but, tacit consent—the equivalent of no political consent insofar as democracies require the active participation of those governed—is not sufficient for peace. *A legitimate, stable, and peaceful politics requires explicit consent, and this overlapping consensus can be facilitated through tactics and technologies that are definitive of reconciliation politics*.

In section 6.1, I address liberal contract theory to describe why a politics of reconciliation is necessary for establishing consent. Following various critics of contract theory, I suggest that most political systems emerge not through consent, but through violent force and domination; thus, the claim that the legitimacy of political authority is granted via tacit consent includes within it an often overlooked reality of violent force that makes other forms of consent seem impossible, or illegal and thus revolutionary. Of course, real consent is complicated by other competing goods and needs.[241] In section 6.2, I address the difficulty of competing public goods through a discussion of legitimacy and representation. Here, I claim that reconciliation politics prioritizes a certain form of legitimacy that emerges through explicit consent. Further, I suggest that this higher order legitimacy facilitates the peaceful realization of other public goods, specifically group identity and economic redistribution.

In section 6.3, I explore one approach to alterity that has the potential to avoid the trappings of domination and strives to realize the legitimate consent described in sections 1 and 2: Truth and reconciliation commissions (TRCs). TRCs represent an approach to politics that, when expanded beyond solely focusing on historical repair, makes explicit consent and a real legitimacy possible. One of the greatest shortcomings of TRCs, however, has been their inability to realize long term goals of reconciliation. South Africa, for example, saw great national unity while its TRC was active, but the society

[241] The variety of human experience, i.e. difference, means that overlapping consensus will be more or less present depending on the history of the society. Difference is not merely a matter of personal experience, however, and various political categorizations (e.g. native versus settler) coupled with temporal categorizations (e.g. modern versus not modern), make disagreement a matter of collective needs. Each group has its own issues to address that may be more or less related to broader political issues. The politically fragmented complexity of experience creates seemingly natural conflicts with possible Others and time itself. To add to these complexities, there are persons who have benefited from this general lack of solidarity and see no good reason to reconcile, or even seek to create conflicts for maintaining an asymmetrically beneficial situation. For an insightful analysis of the war tactics of categorization, specifically into a native/settler binary, see Mamdani 2012.

remains fragmented and hostile in various ways that the TRC was unable to address.[242] As I argued in chapter V, part of this shortcoming is systemic insofar as the liberal peace is not a real peace. In the case of TRCs, recommendations made by commissioners are often not taken up by the system because TRCs lack the power to enforce said recommendations, and because systemic actors wish to pursue other ideal ends and are afforded the opportunity to do so by the presence of unreconciled disunity. But, the failure to reconcile is also one of design insofar as TRCs lack a robust present- and future-oriented component, and are predominantly formed with the end of completion in view.[243] The drive for completion—*Closing the Books*—is an understandable ideal, given that a closed narrative is fixed and able to be examined as an object that is no longer pertinent, that we can forget; but, experience is not a closed book and there is no narrator guiding history, describing the meaning of things at pivotal moments so that the plot, the progression of our story, can move toward that predetermined sealed end.[244] Ultimately,

[242] "The commission took testimony from over 21,000 victims and witnesses, 2,000 of whom also appeared in public hearings. Media coverage of the commission was intense: most newspapers ran a number of stories on the commission every day, and radio and television news often led with a story on the most recent revelations from the commission's hearings. Four hours of hearings were broadcast live over national radio each day, and the Truth Commission Special Report television show on Sunday evenings quickly became the most-watched news show in the country" (Hayner 2010: 28). Hayner goes on to describe the various problems associated with South Africa's TRC, concluding that "What remained clear to all, however, was that coming to terms with decades of abuses would take much longer than a few years, and much more than speaking the truth" (ibid. 31-32).

[243] As I argued in previous chapters, the goal of completion is rooted in the notions of reconciliation being advocated within the society of concern. The confessional-forgiveness model, for example, much like its religious root, does not address the future—at least not the living future—and in its ideal cases, where persons find fulfillment in the confessional-forgiveness sacrament, it leaves persons content with their spiritual transformation, but also facing the remainder of time unprepared for how to move forward. The above quote by Hayner illuminates through the case of South Africa this same point: reconciliation is not just truth-telling and is an ongoing process. A politics of reconciliation must remain open in order to respond to the ongoing demands of the repairing world.

[244] Elster 2004. Elster focuses on transitional justice and thus takes the point of closure to be the realization of a democratic society. As I argue in chapter V, Kant and most advocates of liberal peace maintain the same end. On the tension inherent to the politics of memory and forgetting, see Frankowski 2013.

the hermeneutic dilemma—opening the horizon and realizing shared meaning—is outside of the book(s) in our to-be-determined present and future.

Based on the foregoing analysis of the advantages and disadvantages of truth-commissions, in the closing section I offer suggestions for a future reconciliation politics. I advocate an ongoing and participatory politics that works to maintain a reciprocal relation within the social world, as well as between the social and the system. A future-oriented politics of reconciliation is an opportunity to rectify the failures of domination politics. But, similar to an ethics of reconciliation, a politics of reconciliation begins with a great risk. Much like Walter Benjamin's angel of history, political reconciliation is rooted in the vulnerability most viscerally experienced when walking in the dark.[245] Rather than being fearful and believing that humanity will always come back to war, in a morose eternal return, it is important to face the risk of the future with hope, which is gained through the solidarity of working backwards toward the future with others and willing a new possibility through creative cooperative efforts.[246] This hope is strengthened with each successful collaborative activity, with each rule and law that persons agree upon. Over time, as these hopes are validated in experience, they transform into trusting relations.

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[245] "This is how one pictures the angel of history. His face is turned toward the past. Where we perceive a chain of events, he sees one single catastrophe which keeps piling wreckage upon wreckage and hurls it in front of his feet. The angel would like to stay, awaken the dead, and make whole what has been smashed. But a storm is blowing from Paradise; it has got caught in his wings with such violence that the angel can no longer close them. This storm irresistibly propels him into the future to which his back is turned, while the pile of debris before him grows skyward. This storm is what we call progress" Benjamin, Arendt, and Zohn 1968: 257-258.

[246] Consider Jonathan Lear's analysis of the Crow: "In order to survive—and perhaps to flourish again—the Crow had to be willing to give up almost everything they understand about the good life. This was not a choice that could be reasoned about in the preexisting terms of the good life. One needed some conception of—or commitment to—a goodness that transcended one's current understanding of the good" (Lear 2006: 92).

6.1. Waiting for the Truly Exceptional: A Critique of the Political Contract

John Rawls defines a political conception, which concerns the basic structure of a closed society (e.g. a nation state), as a freestanding view upon which reasonable persons can agree regardless of whether they endorse other competing comprehensive doctrines. For an idea or action to be properly political and thus publicly reasonable, it must be formulated in a way that appeals to Others for reasons that are not rooted in their comprehensive doctrines. A political conception is the center point of the overlapping consensus that defines the political community, or the demos, and it guides political, social, and economic institutions.[247] Using an elaborate thought experiment, Rawls suggests two institutional principles that all persons would agree upon—the difference principle and the principle of equal opportunity—and argues that these principles, as they guide political discourse, would establish a sense of fairness that is agreeable and just. Thus, Rawls claims,

> justice as fairness starts from within a certain political tradition and takes as its fundamental idea that of society as a fair system of cooperation over time, from one generation to the next. This central organizing idea is developed together with two companion fundamental ideas: one is the idea of citizens (those engaged in cooperation) as free and equal persons; the other is the idea of a well-ordered society as a society effectively regulated by a political conception of justice.[248]

Hence, Rawls implicitly suggests that justice requires agreement, but he avoids the difficult reality of disagreement and conflict by appealing to the tactics of contract theory which establish consent or agreement beforehand. By beginning with an already stable and reasonable society, all legal-political shifts that occur after the basic structure of

[247] Rawls 1993: 11.

[248] Ibid. 14.

society have been formally institutionalized operate through already accepted means of *governmentality*—judges, courts, voting practices, and a free market. Insofar as Rawls's theory does not address any real conflicted and historically-laden societies, his theory merely reproduces the status quo by claiming that inequality is a problem of arbitrary birth, not historical injustice, that can be fixed by correcting and conserving the system which created said inequalities in the first place. By reproducing the status quo, the peoples are once again left powerless, though potentially lulled into a placated state because a certain type of redistribution has been suggested that previous liberals would have found appalling for its blatant violation of free market principles.[249] In other words, Rawls's pre-agreed-upon social-political starting point makes the rest of his theory possible and ideal, while simultaneously excusing the history of liberalism's emergence as an actually practiced political ideology.

On the one hand, the idealism of contract theory is problematic because it ignores the reality of historical conflict, which prevents a real collective agreement because the terms used have different experiential meanings rooted in different histories. And, on the other hand, ideal theory is problematic because it does not open the possibility of new future politics and often demands a return to the same liberal ideas—republican and thus representative governments, a constitution and clearly defined rights, and regular elections. This is not to suggest that liberalism ought to be abandoned, but, as I noted in chapter V, I am claiming that politics needs something more. Although, the outcome of the transformations that accompany these supplemental traits might so radically alter

[249] On governmentality, or the rational ends which guide the above mentioned means, see Foucault et al. 2009; also, ibid. Mamdani 2012. On Rawls, many still find even the economic suggestions of social liberalism appalling. See, e.g., Nozick 1974; or, for a more robust libertarian defense, see Kekes 1997.

political experience that the liberal movement becomes an anachronistic relic. A just society requires real consensual agreement, not hypothetical-ideal agreement, and this agreement becomes possible through an ethics and a politics of reconciliation.

Regarding Rawls's return to liberalism, consider "Of The Original Contract," wherein David Hume claims that political parties require a "system of principles" the purpose of which is "to protect and cover that scheme of actions, which it pursues."[250] These principles of rules and regulations—what Foucault and Edward Said call discourse and what Georg Lukács calls ideology—inform how persons can successfully speak and thus act within the spheres over which those discourses have influence.[251] In other words, party principles determine whether or not utterances succeed or fail within the total situation that is permeated by the discursive norms. Liberal contract theory is one example of the system of principles to which persons appeal in protecting and covering certain actions and pursuits. The broader point of Hume's polemic is that there are certain principles to which persons involuntarily or tacitly submit: the laws of the political state, which form an overarching discourse that informs all other discursive formations because they are backed by police force.

The protection and covering that attempts to justify this overarching system of rules and regulations was described by Robert Filmer in terms of a divine right.[252] Locke and Rawls claim that the social contract emerges by way of consensus in the form of consent in a pre-historical event.[253] Hume is critical of these approaches in part because

[250] Hume and Haakonssen 1994, "Of The Original Contract": 186.

[251] See, e.g., Foucault and Sheridan, 1972; Said 1978; Lukács 1971.

[252] Filmer and Sommerville 1991.

[253] Locke and Laslett 1988; Ibid. Rawls 1993, 1971. Locke also defends tacit consent as sufficiently

they are not empirically grounded. He says,

> The conditions upon which they were willing to submit, were either expressed, or were so clear and obvious, that it might well be esteemed superfluous to express them. If this, then, be meant by the original contract, it cannot be denied, that all government is, at first, founded on a contract, and that the most ancient rude combinations of mankind were formed chiefly by that principle. In vain are we asked in what records this charter of our liberties is registered... It preceded the use of writing, and all the other civilized arts of life. But we trace it plainly in the nature of man, and in the equality, or something approaching equality, which we find in all the individuals of that species. The force, which now prevails, and which is founded on fleets and armies, is plainly political, and derived from authority, the effect of established government.[254]

Here, Hume is distinguishing between the sort of non-propositional social contract that is based in a trusting and communal relation, from the current state of politics that was contracted by another means. In other words, critical of Filmer and Locke, Hume offers a descriptive historical-empirical account of the political state and argues that the political contract is predominantly the result of domination by war, not consent.[255]

The problem of sovereign power that is maintained by force has received much attention. For example, in his "Critique of Violence," Walter Benjamin argues that the law emerges through and relies on the very violence it is supposed to deter, thus making the law a continuation of war by other means.[256] The law, which is supposed to be written

legitimating and not merely pre-historical. For Locke, if a political society is intolerable and not legitimate then the people should overturn the institutional order through bloody revolution. Though I am sympathetic to Locke's defense of tacit consent, I think he highly underestimated the extent to which political systems would become entrenched and invasive, thus making a successful revolution more or less impossible. More importantly, the use of violence to overturn a failed system ends up reproducing violence to maintain the replacement system, which is also not legitimate beyond a tacit toleration.

[254] Ibid. Hume and Haakonssen 1994: 187.

[255] Hume adds: "My intention here is not to exclude the consent of the people from being one just foundation of government where it has place. It is surely the best and most sacred of any. I only pretend, that it has very seldom had place in any degree, and never almost in its full extent; and that, therefore, some other foundation of government must also be admitted" (ibid. Hume and Haakonssen, 1994: 192).

[256] Benjamin et al. 1996; also see Benjamin's 8th thesis on history (ibid. 1968: 257).

and decided through democratic means, according to a constitution, can be suspended in emergency, meaning that an exception can always be made for the sake of maintaining sovereign power over peoples and places. Following Benjamin, Agamben argues that the law emerges through the exception as the suspension of the law and is therefore dependent on the exception. In other words, the exception or the suspension of law for the sake of maintaining power, is the norm upon which the law has always been founded.[257] Benjamin's critique applies beyond legal-political discourse, however, and also includes within it a critique of the ethos of exception. The ethos of exception can be seen as the ground-level social norms and micro-discursive relations which allow or prevent the exceptional from gaining power in the transformative emergency event. The rewriting and maintenance of the political contract through the suspension of systemic rules depends on the state of sociality, even if that dependence is not consensual or even aware. Hence, most political contracts depend on a war-like and fractured ethos, and traditionally this ethos is maintained by political violence that the state-system uses to protect and expand its juridical territories. Every day violence and domination normalizes the emergency suspension, making the forced rewriting of constitutional norms a seamless movement in the already subjugated minds comprising the social world. Subsequently, the social world is weakened via divide-and-conquer tactics, and held captive by top-down non-consensual political systems.

The historical and political significance of these claims regarding the relation between politics and war is most strikingly illuminated by the work of Charles Mills and

[257] Agamben 2005.

Carole Pateman.[258] Through Mills and Pateman, it becomes clear that the initial non-propositional social contract of the North-Western European world contained within it notions of respect insofar as certain persons agreed to cooperate and form as members of a social world; but, it also included a sense of who was not to be trusted, who was the appropriate object of disrespect, exclusion, and domination. The ethos of the European social contract shaped contemporary class-, gender-, and race-based political imbalances insofar as it drove expansionist colonialist wars, imposed political contracts upon persons who were not allowed to consent, and fragmented other socially contracted peoples thus stifling their capacity to form a political contract according to alternative norms and beliefs. To borrow Thomas Pogge's metaphor, which is also Du Bois's metaphor, the political playing field was tilted in favor of some at the expense of Others.[259] Following Carole Pateman, Mills calls this expansionist and palimpsestual tendency the "Domination Contract."[260] Mills says:

> as various theorists of race and imperialism have pointed out, once one examines the representations ("savages," "barbarians") and the experiences of people of color in the modern period--expropriated and exterminated Native Americans and Australians, enslaved and later Jim-Crowed blacks, colonized non-Europeans--it becomes clear that both in theory and in practice, only white men were equal. Not merely as a matter of fact, but as a matter of proclaimed moral and legal norms, nonwhites had an inferior to non-existent schedule of rights--and were thus non-citizens or at best second-class citizens.[261]

Thus, through Hume, Benjamin, Pateman and Mills, it becomes clear that historically, the terms of consent were anything but consensual and that only certain members have been

[258] Pateman and Mills 2007.

[259] Pogge 2002.

[260] Ibid. 2007: 81

[261] Ibid. 98.

allowed to participate in social-political world formation.

These critiques of the violent political contract are not coupled with a romantic plea for a revolutionary return to a pre-contracted state, in part because the violent return would just be a return to the same and the domination contract, the political master-slave relation, would be reproduced. We can see the latent reproduction of the domination contract even in Rawls's thought experiment: His imagining, though supposedly inclusive of difference, reformulates liberal norms and thus once again justifies their imposition by deciding, for Others in abstraction and without historical memory, that they are the principles upon which all reasonable liberal persons would agree.[262] Mills criticizes one aspect of this reproduction, stating, "the founding and ongoing contract is better seen as a racial one, a "white coalition" which establishes white supremacy as the actual basic structure, and unfair white advantage as the norm."[263] In the case of race-based imbalances, Rawls begins with inequality as a given but he does not address the history of that inequality—which is rooted in the very tradition he is trying to reformulate—nor does he address the result, which is and continues to be, as Mills argues, the normalization of white male advantage.

The tradition of dissent against contract theory agrees that violence, domination, and the suspension of norms *are* the norms according to which political contracts have been formed for generations. The violent revolutionary is not much different than the violent sovereign and if successful, merely takes control of the illegitimate and violent

[262] Liberal expansion was the US military's objective during Rawls' time (e.g. Vietnam, the many conflicts of the cold war).

[263] Ibid. 117.

system.[264] Rather than reproduce violent domination that normalizes inequality, unfair advantage, and thus instability, a politics of reconciliation requires a reconsideration of how the social-political world can be transformed and ideally improved from our already entrenched and complex present. A genuinely exceptional response to systemic violence is needed. The truly exceptional and ethical response involves repair in the social world and a transformation of political relations. Habermas's discourse ethics, coupled with the practical tactics of Marshal Rosenberg's or Judith Lasater's Non-Violent Communication, can be understood as a tool set for realizing this peaceful and authentic exception in ordinary encounters, within the social world.[265] The truth-commission, as a space where the social world can emerge and solidify, can also be understood as a tool for achieving the same communicative ends in relation to political systems.

Habermas's theory of communicative action is concerned with coordinating meaning because in the absence of said coordination sociality risks collapsing into nonsense or conflict. Rather than being a comprehensive doctrine that seeks to instill a particular mono-logical moral-political vision, Habermas is primarily concerned with the

[264] This is not to suggest that anti-colonial or de-colonial movements are not crucial for moving toward a stable and legitimate social-political situation, despite their sometimes being violent; rather, I am suggesting that even after the war is over, the post-colonial society remains plagued by the hegemony of the colonial powers such that there is a great risk and a tendency to reproduce the norms of master-slave or domination relations. Again, Mamdani describes this tendency in *Define and Rule* (2012), in terms of the erasure and rewriting of customary law by colonial paternalism according to the norms of individualism and a sense of responsibility as resting in external agencies, rather than in our own relations. The reproduction of domination as the norm in the social-political sphere is at least part of the reason that many former colonies are unstable and at risk of civil war; but, as I suggest shortly, another reason is that said spaces were not offered reparative support by their former colonizers and thus lack the means necessary to reconcile their historical conflicts. Hence, Mills rightly warns, "the group interests of the privileged, and their resulting desire to maintain their privilege, will become both an ideational obstacle to achieving social transparency and a material obstacle to progressive change, which will need to be taken into account in theorizing the dynamics of social cognition and the possibilities for social transformation" (ibid. p. 99). Through human rights law and the *Geneva Conventions*, colonialist powers now use indirect governing tactics, like 'right to protect,' to maintain control in the former colonies (ibid. Mamdani 2012).

[265] Habermas 1990; Lasater and Lasater 2009; Rosenberg 2012; see also Tannen 2001.

terms through which persons engage given that they maintain different understandings of experience but must coexist. Habermas states:

> If we keep in mind the action-coordinating function that normative validity claims play in the communicative practice of everyday life, we see why the problems to be resolved in moral argumentation cannot be handled monologically but require a cooperative effort. By entering into a process of moral argumentation, the participants continue their communicative action in a reflexive attitude with the aim of restoring a consensus that has been disrupted. Moral argumentation thus serves to settle conflicts of action by consensual means. Conflicts in the domain of norm-guided interactions can be traced directly to some disruption of a normative consensus. Repairing a disrupted consensus can mean one of two things: restoring intersubjective recognition of a validity claim after it has become controversial or assuring intersubjective recognition for a new validity claim that is a substitute for the old one. Agreement of this kind expresses a common will. If moral argumentation is to produce this kind of agreement, however, it is not enough for the individual to reflect on whether he can assent to a norm. It is not even enough for each individual to reflect in this way and then to register his vote. What is needed is a "real" process of argumentation in which the individuals concerned cooperate. Only an intersubjective process of reaching understanding can produce an agreement that is reflexive in nature; only it can give the participants the knowledge that they have collectively become convinced of something.[266]

Developing from Habermas's ethics, I am suggesting that the political is not possible in a legitimate sense if the social world cannot ethically engage and cooperatively influence systemic operations. The ideal discourse situation can therefore be understood as a more demanding political apparatus than Rawls's original position, because it is not a single imaginary or pre-historical event wherein a society is contracted and then left to the devices of ruling elites. Rather, Habermas's discourse situation is an ongoing negotiation of the terms of sociality such that a broader political system can emerge and operate according to the agreed upon norms which emerge from these negotiations.[267] In other

[266] Ibid. 1990: 66-67.

[267] Indeed, Habermas clarifies in an endnote that the role of a discourse ethics in an emancipatory politics would be to "interpret situations, as for example when it is used to differentiate between particular and universalizable interests" (ibid. 114, endnote 81). Here, discourse ethics mediates social enaction and

words, Habermas demands that politics be accountable and that the system be fallible, tested and tried according to the needs and demands of the people. Here, the truth-commission represents a unique political emergence, as well as a useful addition to Habermas's theory, because it acts as a mediated space for said sociality to emerge and in some cases it influences the political system insofar as it can offer suggestions for how laws ought to be reformulated, where repair is needed, and who should be held responsible for failing the system in various ways.

6.2. Securing Public Goods: Trust Based Legitimacy As the Starting Point of a Future Politics of Reconciliation

In "Deliberative Rationality and Models of Democratic Legitimacy," Seyla Benhabib rightly notes that an ideally functioning society works to maintain an equilibrium between three public goods: Legitimacy, economic welfare, and a viable sense of collective identity.[268] "These goods stand in a complex relation to one another" Benhabib says, "excessive realization of one such good may be in conflict with and may jeopardize the others."[269] For example, an overemphasis on collective identity in the exclusive ethno-nationalist movements of the 19th and 20th centuries made genocide a central organizing activity of many emerging states.[270] Following Habermas, Benhabib argues, "legitimacy in complex modern democratic societies must be thought to result from the free and unconstrained public deliberation of all about matters of common

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makes explicit points of mutual consensus.

[268] Benhabib 1994.

[269] Ibid. 26.

[270] See, e.g., Mann 2005.

concern."[271] The ideal ethical legal-political system is directly informed through communicative relations, making its operations legitimate, insofar as they are consensual, as well as formative and representative of collective identity. Under these ideal circumstances, redistribution does not escalate conflict because it is justified and agreed upon beforehand; that is, it is considered legitimate. Thus, legitimacy is a centrally organizing ideal in a politics of reconciliation.

Max Weber adds a descriptive and grounded understanding to a concept of legitimacy. He claims that there are "Three Pure Types of Legitimate Authority", the validity of which are judged on rational, traditional, and charismatic grounds.[272] The rational grounds for critiquing authority are ultimately legal. The activities of the political system are, on this view, legitimate insofar as they operate according to the law and the constitution. Obviously this ground for critical judgment is problematic because the law and the constitution are, as noted above, often based in an exception to their own operation; hence, the legitimacy of authority does not depend on nor answer to the law because it determines the law by way of its suspension. Traditional grounds for gauging the validity of legitimate authority are rooted in "an established belief in the sanctity of immemorial traditions and the legitimacy of the status of those exercising authority under them."[273] On the traditional view, authority can be legitimate because it has always been present and is inherited, giving it a historical justification (e.g. a king or the pope). This second form of legitimacy is problematic because it does not account for the fact that a position of authority does not necessitate consensual legitimacy, although it may seem

[271] Ibid. Benhabib: 26.

[272] Weber, Henderson, and Parsons 1964: 328.

[273] Ibid.

legitimate according to the rules and regulations of the discourse over and through which the authority figure has power. Charismatic grounds of legitimate authority are validated if persons are moved by the heroic leader and follow because of who the individual is qua individual. Contrasted with traditional and rational authority, charismatic authority can be legitimate according to a consenting group but delegitimated because of a lacking rational or traditional foundation.

Weber goes on to say that no authority exists in a pure form and that authority usually operates according to a combination of these three grounds. Thinking about legitimacy according to Weber's distinctions reveals important tendencies in contemporary politics that I have already begun to challenge. For instance, it is assumed that legitimate authority is granted by one or a combination of circumstantial factors, all of which are supposed to be agreed upon by those over whom authority is exercised; that is, it is assumed we have already consented to the rational law, to the history of tradition, and to the character of the leader. Thus, we might think that there is a sufficient feedback mechanism through which authority can be judged, delegitimated, and empowered or disempowered. The representative is placed before us as the ideal form of authority, which is supposed to act for a constituent body, gaining legitimacy from a consent that was granted by election. Of course, not just any person can be a representative and those who do have the privilege to act as the voice of a people are often only acting for a very select group—those who donated to the representatives election campaign, for example. Beyond being a corrupt actor, the representative always disempowers communities and individuals insofar as representatives are described as necessary because ordinary persons cannot be trusted to represent themselves. Perhaps politics cannot escape a representative

model, because an absolutely direct democracy is not practical, but the intrinsic weakness of the representative system requires a simultaneously operating reparative politic that re-empowers the social world: A participatory feedback mechanism.[274]

In reality, many political systems lack the necessary feedback mechanisms to guarantee a reciprocal relation between the dialogically functioning social base and systemic operations.[275] In the absence of critical feedback, systemic authority cannot be sufficiently legitimated—sufficient being a minimal condition wherein persons no longer feel alienated and disempowered by the system. When a functioning feedback mechanism exists, the goods of legitimacy and the defining traits of a collective identity are addressed through the same means of political reconciliation. Voice is given to the people and that voice determines what is and is not authoritative. Further, it is only through a political reconciliation that works to give voice to all, and thus give a collective presence to the otherwise disparate population, that Benhabib's third social good, economic redistribution, becomes a possibility that does not risk escalating unresolved conflicts.[276]

In other words, under ideal circumstances the legal-political institutionalized system coordinates and reciprocally operates with the social world. A political system

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[274] Indeed, Baudrillard argues that the people cannot be represented because they no longer participate (Baudrillard et al. 2007). In other words, participation is needed in all democratic societies.

[275] Historically, the means of participation were conscription through military service. Mandatory military service is not a sufficient form of participation because it does not empower in any meaningful sense and it is ethically problematic because it reproduces the norms of war. More creative forms of non-violent conscription are in desperate need of broader public consideration.

[276] Though, as Nancy Fraser suggests in her debate with Axel Honneth (Fraser and Honneth 2003), sometimes redistribution is necessary as a form of recognition, and in some cases redistribution must come before or even in the absence of recognition. In these cases where the solution to social-political conflicts is immediate economic redistribution, the activity still must be facilitated by a reconciliatory politic during and after the actual economic shift; that is, the system must justify its redistribution and educate the social world as to why a particular change was important and necessary for maintaining a peaceful equilibrium. In other words, the system must constantly strive for explicit consent to legitimate its activities.

that strives for reciprocity with its members ultimately seeks a legitimacy based in real and collective consent, rather than force or domination. Domination politics fail to realize a stable legitimacy because its functions are maintained by force and submission, rather than cooperation and consent. Like the master-slave relation, domination politics is only able to maintain a temporary cessation of conflict by sublimating that conflict into the law and law-enforcement; but, in the social world, the desire to revolt for a better political situation lingers in various ways, and festers as persons become increasingly alienated by the system that does not reflect their needs and demands, which is a system that few can trust.

An integrated and synchronized system, on the other hand, permeates the social world, such that its discursive functions (e.g. laws, historical narrative, and goal values) and its means of implementing those organizing norms (e.g. beuracratic operations, policing and protection, public works, market regulation) are directed and endorsed by the social world. As Pierre Rosanvallon points out, a properly functioning democracy does not just maintain a minimalist form of legitimacy, which he sees as a "strictly procedural fact" and thus an "incontestable product of voting"; rather, ideal democracies also work to establish the more important reciprocal relation of trust.[277] Rosanvallon says that the more complex trust-system has at least three functions:

> First, it represents an expansion of legitimacy, in that it adds to a mere procedural attribute both a moral dimension (integrity in the broadest sense) and a substantive dimension (concern for the common good). Trust also plays a temporal role: it implies that the expansion of legitimacy continues into the future...Finally, trust is an institutional economizer, in that it eliminates the need for various procedures of verification and

[277] Rosanvallon 2008: 3.

proof.[278]

Rosanvallon's distinction between legitimacy and trust is based in a political view which claims that the social world's tacit consent, which is marked by a distinct lack of social uprising and consistent voting practices, is all that legitimacy requires. Legitimacy through tacit consent, that is verified through voting and non-revolution, however, is the equivalent of non-consent and is not really legitimate: In the domination state, votes are cast because persons have no other option besides violent revolt, but revolt is a risk to one's life and thus a cost that is not so obviously worth the unexperienced benefits of real legitimacy. Thus, so long as persons are kept minimally satisfied, they will remain complacent with their alienated relation to the political system for the sake of survival. The captive nature of tacit legitimacy does not undermine Rosanvallon's distinction and instead reveals political trust as a higher form of legitimacy as explicit, not captive, consent. In other words, an ideal political system is fully democratic, finding its legitimacy through free and explicit consent.

Of course, current political formations are far from ideal and we are not going to have the opportunity to peacefully reboot the system from an original position; but, this does not mean that stable social-systemic transformation and equilibrium through reciprocal trust is impossible. Consider that in several post-conflict societies, truth-commissions have been introduced to fulfill the minimal demands of participation in an attempt to transform the social-systemic relation for the sake of a lasting stability. In this case, participation is not merely a means to inclusion, rather participants are also empowered to co-author the emerging social and political contracts. Though imperfect,

[278] Ibid. 3-4.

truth commissions represent an important beginning for a more rigorously involved democratic society that emerges through non-ideal conditions by making consent a real possibility. In terms of their imperfections, truth commissions should be taken as an inspiration for future political technologies. I discuss and defend truth commissions because they generally meet requirements for explicit political legitimacy through two participatory functions: first, a feedback mechanism that affords a direct critical relation within the social world, as well as between the social and the political (participatory feedback or reciprocity); second, a preventative means for displeased members to participate and thus inform the terms of the social and political contracts such that said members are not stuck in the position of an oppressed minority that is driven to either submit or reproduce the tactics of domination because no other means to power is made available (real inclusion).[279] I will discuss truth commissions in more detail before addressing future political technologies and the evolution of *reconciliation commissions*.

6.3. The General Features of Truth and Reconciliation Commissions

Priscilla Hayner tells us that truth commissions include five general characteristics: discovering, clarifying, and formally acknowledging past abuses; focusing on and supporting victims; holding individuals accountable; clarifying institutional responsibility and recommending reforms; and promoting reconciliation.[280] Here, I will discuss and problematize each of these traits.

1. A main goal of all truth commissions is "sanctioned fact finding" or an effort

[279] Enrique Dussel has many useful things to say about the needs for a responsive apparatus that deals with the victimization that is intrinsic to a democratic political system in his recently translated Ethics of Liberation (Dussel et al. 2013).

[280] Hayner 2010: 20.

"to establish an accurate record of a country's past, clarify uncertain events, and lift the lid of silence and denial from a contentious and painful period of history."[281] Although, as John Braithwaite points out, a factual or truth based record is not always necessary for the purposes of reconciliation, in cases where truth commissions operate, the goal of getting the facts straight serves an important function in working toward a collective social-political understanding.[282] Further, even in reconciliation cases where non-truth takes precedent over facts, narrative coordination and consensus over the meaning of collective experience as it permeates the present and guides the future remains central to reconciliation processes. Thus, it would not be unreasonable for some spaces to employ a narrative and reconciliation commission, especially if said society is aware of the metaphysical trappings of a concept like truth.

Narrativity is crucial to both social and political reconciliation processes, because the stories persons tell about themselves and Others work to organize and make intelligible personal, social, and political relations. Within this integrative and organizing process, one assumes that Others also exhibit a similar activity; that is, one's narrative includes within it an expectation about Others that is situated along a normative spectrum of trust. Indeed, trust depends on a certain continuity within relational experience. Sometimes one's trusting expectations are disrupted or fully violated. Experiences wherein trust is violated, which are often also traumatic experiences, can destabilize fundamental beliefs which transforms the way one relates to oneself and Others. Trauma changes the way we narrate and in some cases persons cannot narrate beyond their

[281] Ibid.

[282] Braithwaite et al. 2010.

traumas.[283] Susan Dwyer elucidates this point and reveals why narrativity would be central to political reconciliation efforts:

> A woman might think she "really knew" her lover; part of her self-understanding was tied up with being his partner. But his recent treachery throws into doubt the meaning of their past relationship, thus threatening her sense of self. The diagnosis of an illness or disability can rob a person of a particular projected future. Where the anticipation of such a future has guided and shaped his past and present actions, a person may have to engage in a wholesale reevaluation of his life and priorities. Victims of crime are suddenly and sometimes violently forced to reconsider their previous assumptions about physical security and the predictability of others. We can never undo such disruptions; they are, literally, facts of life. But, especially when they are severe, our continued well-being—perhaps our very existence—depends upon our being able to incorporate them into our personal narratives. For persons, at least, self-understanding, understanding others, being understood by others, and achieving a degree of coherence and stability in our lives matter. The desires for intrapersonal and interpersonal understanding that underpin the construction of a coherent and stable life narrative are quite fundamental...Given this assumption, we can understand not only why we are motivated to pursue reconciliation, but why reconciliation is of deep moral significance.[284]

Here, Dwyer suggests that a central component of reconciliation efforts involves the integration of events into a story that helps persons to understand and situate themselves, as well as their relations, according to the stories told. The stories we tell ourselves represent the agreed-upon meaning that we attribute to our experiences. In the absence of an integrative approach to historical narrative, persons can become further fragmented insofar as they understand themselves according to radically different events. A divided social world affords different communicative tools that often do not cooperate with communicative styles on the other side of the divide because they have different

[283] Certain successful forms of trauma therapy (see, e.g., Herman 1997; Sack and Sachsse 2010) involve learning how to integrate traumatic experiences into a broader story such that one is not stuck and thus determined by the trauma. To a certain extent, truth commissions do similar work on a broader scale but with the same goal of not allowing the past to determine who We are now and into the future.

[284] Dwyer 1999: 86-87.

experiential meanings and thus uses rooted in different histories.[285]

Dwyer goes on to add that this integration does not exclusively involve traumatic events. It is quite common for persons to tell a story that includes a great deal of positivity. In describing one's self, one includes proud achievements as central identity traits and those traits inform how one interprets and experiences the world. Hence, in cases of political reconciliation, having a continuous story about who 'We the people' are, involves integrating the good with the bad. In other words, political reconciliation must be radically inclusive and make room for many different stories about what it means to be a member of a given social-political world. Further, nothing about this narrative is given, and collective meaning making is always an achievement that comes out of collective struggle as an alternative to conflict.

2. Regarding the inclusive nature of political reconciliation, a second key attribute of truth commissions is the "separate and distinct aim of hearing, respecting, and responding to the needs of victims and survivors."[286] Unlike judicial inquiries that seek to prosecute offenders and treat the victim as instrumental to the prosecution, truth commissions focus on the stories of victims to get the facts straight, but also to help create a broader awareness of the suffering that occurred. Ideally, raising public awareness helps to transform the rooted perspectives of those who would otherwise not care about the experiences of Others, or, in cases where persons were tacitly complicit in

[285] Consider the language of social death. When someone is traumatized, they may say 'I died' as a result of a traumatic event(s). To the non-traumatized speaker, this statement does not make sense given the living uttering presence who made the statement. What we see in cases like this is a hermeneutic wall that one cannot fully surpass without knowing similar experiences or listening to and trusting the testimony of the traumatized speaker. Of course, it may turn out that many of us have died socially and can understand what it means to die while living.

[286] Ibid. Hayner, 2010: 22.

the oppression of large groups, public awareness creates a sense of guilt that can motivate positive social-political action.[287] In some cases, commissions can help victims by "by designing a reparations program and providing the necessary information to the government to allow rapid implementation."[288] Thus, public awareness and educational efforts also prevent those not receiving reparative support from claiming that they are being victimized by said redistributions because the reasons for the repair efforts are publicly known and agreed upon beforehand. Other pragmatic ends of the victim-centric fact finding process include determining the legal status of disappeared persons, which impacts various "civil matters—such as processing a will or accessing money in the disappeared person's bank account—[that] cannot be settled without a death certificate."[289] Beyond practical matters, however, victim-oriented activities are supposed to shift the systemic perspective from a revenge and war-like focus, to a politics of care and reparation. Rather than giving the offender the center stage, thus heroizing those who caused a great deal of harm and situating justice as the act of harming those who harmed, a victim centric approach challenges these misconceived notions of justice by illuminating the suffering as needing something that cannot be given by violence.[290] But,

[287] "As the South African commission hearings progressed, for example, therapists who worked with torture survivors saw a marked increase in the public's understanding and appreciation of victims' needs" (Hayner 2010: 22).

[288] Ibid.

[289] Ibid.

[290] Indeed, many historical figures (e.g. Christopher Columbus) are of the lionized sociopath type and are the face of domination politics. More recent and local examples of a similar vein, persons who disregarded the interpersonal norms of the social world for their own selfish intentions, can be seen in the problematic young white males who have a tendency to shoot large groups of people and then commit suicide. Such vile figures go down in history, despite the damage they caused, because they embodied the selfishness that the war-system uses to maintain itself, while also representing the logical outcome of that selfishness as a realization of the historical imaginary of the all-against-all state of nature. The heads of Goldman Sachs, Christopher Columbus, and Adam Lanza all exist on a continuum of anti-sociality, but it is that anti-social tendency, more frequently call rugged individualism, which

truth commissions are not solely focused on victims.

3. A third defining characteristic of truth commissions is that they clarify who ought to be held accountable for violating the rights and dignity of Others and make recommendations to judicial actors to pursue said offenders. In some cases, truth commissions not only hear the testimony of offenders, but, as was the case in South Africa, offenders can sometimes petition for amnesty on the condition of their full cooperation with the commission's pursuits.[291] Regardless of whether it is just, some situations are such that offenders must be tried and punished in order to move forward with the reconciliation process.[292] In cases where violent punishment can be avoided, the courts seek repair. For example, thieves can be demanded to repay their victims. In

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advocates of domination politics trumpet as virtue.

[291] "In South Africa, many survivors were able to hear these stories through the public hearings of those seeking amnesty for their crimes. One condition for receiving a grant of amnesty was full disclosure of all details of the crimes, including answering questions directly from victims or surviving family members" (ibid. Hayner 2010: 22). Also, Hayner says: "The greatest innovation of the commission, and the most controversial of its powers, was its ability to grant individual amnesty for politically motivated crimes committed between 1960 and April 1994. The commission received 7,115 applications for amnesty. For gross violations of human rights (in contrast to politically motivated crimes against property, or gun running, for example), the applicant was required to appear in a public hearing to answer questions from the commission, from legal counsel representing victims or their families, and directly from victims themselves. Just under 25 percent of the applications pertained to such gross violations, requiring a hearing. Ultimately, the Amnesty Committee denied 4,500 applications for amnesty after administrative review" (ibid. 29).

[292] On this point, Hayner notes that there is a tendency with truth-commissions that are not coupled with trials and amnesty to have a negative impact on the realization of democratic norms and the guarantee of human rights, but she also notes that the success of a truth-commission is not an exact science and that their role must be taken on a case by case basis (ibid. 26).

I think that a politics of reconciliation should reject violent punishment, especially penalties of death or torture, and in general I am suspicious of the spite that is involved in violently punishing offenders for acts committed in the past because such activities do not repair the present. There are reparative forms of punishment that allow offenders to genuinely pay for their crimes. Like forgiveness, however, violent punishment deserves its own conceptual space and terminology, one that is divorced from the language of justice and labeled more honestly as spite, revenge, and state-sponsored violence. Perhaps a society can maintain itself while violently retaliating in some cases; but, as is clear in the United States, often the spite of violent punishment is abused and used to maintain the domination contract, frequently against innocents, while overlooking the more important needs of the people(s) thus allowing the social world to collapse over time.

considering the international extension of this reparative approach, demands have been made for colonial powers to repair former colonies— especially those that continue to experience political conditions that lead to the mass abuse of human rights—through various means.[293]

4. A fourth aspect of all truth commissions that is crucial to its status as a participatory democratic mechanism is the capacity to "evaluate the institutional responsibility for abuses, and to outline the reforms needed to prevent further abuses."[294] Recommendations made by a truth commission are a crucial form of empowerment that gives ordinary people a real voice in informing how a political system ought to be adjusted in order to prevent further conflict and reconcile relations for the sake of stability, thus opening the possibility of a common sense of justice across generations. In truth commissions that have already concluded their inquiries, the recommendations tend to focus on obvious problematic aspects of the system: "the police, military, and judicial system."[295] Despite the ideal efforts to realize legitimate grassroots democratic transformations, "implementation of truth commission recommendations, however, continues to be weak."[296] Indeed, the weakness of what ought to be a truth commission's strongest feature is directly connected with what Hayner claims is a fifth aspect of truth commissions, the promotion of reconciliation, which also tends to fall short. The failure to make good on the findings of a TRC is ultimately a failure to guarantee social-political

[293] Though, in some cases, colonial powers claim that their colonies are the ones that are indebted insofar as colonialism introduced infrastructure and a market economy. Again, returning to Mills's point, one of the greatest obstacles in many reconciliation efforts is, and will continue to be, transforming the way that privileged persons understand and maintain their privilege.

[294] Ibid. Hayner, 2010: 23.

[295] Ibid. 23.

[296] Ibid.

trust, making the TRC itself seem like a wasted effort while returning to a tacit legitimacy or legitimacy by domination and submission—that is, a false legitimacy.

The inability to realize these more politically engaged goals—transforming the system according to the demands of the people, and maintaining a political unity through the promotion of reconciliation, which feeds into the realization of social demands by continuously making coherent said pleas—is the result of two shortcomings. First, truth commissions have thus far acted as a temporary and backwards looking attempt to repair, rather than a permanent apparatus that works for the people to also transform future relations by consistently reporting for the people and thus pressuring the system to transform in many ways well beyond the most obvious transformations of the police, military, and judiciary. The second shortcoming is an ambiguous sense of how reconciliation ought to occur, coupled with an overly strong sense of what reconciliation *is* (e.g., forgiveness) which subsequently prevents a more inclusive and empowering reconciliation from emerging through participatory processes.

On this second point, Andrew Schaap suggests, "the aspiration to reconcile is an enabling condition of politics, [but] politics must be invoked to resist the moment of closure that reconciliation might otherwise tend towards."[297] Schaap adds that political reconciliation must be oriented such that the possible demos is the "contingent outcome of politics."[298] As I argued in chapter IV, this orientation begins with a leap of faith or the belief that 'We' can be a reality and a will to move toward that possibility. Thus, political reconciliation is a systematic attempt to facilitate new cooperative social-political

[297] Schaap 2005: 8.

[298] Ibid.

relations where they are mostly lacking, with the goals of that cooperative emergence determined from within the reconciliatory processes rather than imposed from without. In this sense, efforts must be made to prevent hero-leaders from making claim to what reconciliation ought to afford (e.g. forgiveness) and silencing or ignoring dissent for the sake of said ideal end. In other words, the goal of a ground up participatory model of political reconciliation is to ultimately avoid the trappings of domination politics wherever and however they occur, by establishing a legitimacy based on trust.

The emergence of a stable social world and a legitimate political system requires not solely a backwards reckoning, however; it must also introduce tactics and technologies that help the emerging 'We' to face and work toward the future as the open possibility it ought to be. Realizing an explicitly legitimate and just political contract—a set of rules and regulations that are reciprocally informed and guaranteed by trust—requires the introduction of a flexible, reparative, and adaptive apparatus that works to integrate and thus reconcile relations within the social world, as well as between the social and the systemic spheres. In the absence of a continuously operating and legitimate participatory feedback mechanism, a reconciliation commission, even the most harmonious society will risk falling back into the trappings of a top-down illegitimate and thus unjust politics.

6.4. The Neo-Agora and the Future Politics of Reconciliation

One of the most important traits of truth commissions is their creation of a space where people can meet and work through political issues together. The creation of a neo-agora is crucial and necessary for an explicitly legitimate political system because it affords a situation for participation that does not require that persons imagine how Others

feel and think (empathy/sympathy), nor does it rely on external agencies to describe the thought-feelings of Others (propaganda). Direct encounters within the neo-agora make possible real social-political understanding. The difficulty of bringing an already fragmented social-world together is that most persons are not prepared to communicate in non-strategic or non-war like ways. Hence, the peaceful mediation of this space, coupled with educational efforts and the interpretation of the testimonies produced within are equally crucial systemic processes for a politics of reconciliation and must be carefully guarded from appropriation.

One way that truth commissions have been guarded is by reducing the incentive to appropriate by limiting their influence over direct governing bodies and the law. Unfortunately, the ideal of expanding or developing a more robust political reconciliation is also stifled by this check. This problem can be circumvented by giving reconciliation commissions a greater influence in other spheres. For example, the collective activities of various community run reconciliation commissions could be broadcast through public media outlets. Obviously these outlets are equally at risk of being appropriated, but the fact that the media, and the news media in particular, is already controlled by wealthy elites makes this alternative, at the least, the lesser of two evils. More importantly, by having the public presentation of participatory activities coupled with a direct participatory space, the public representation could be held accountable by those who are participating. Indeed, the contemporary public relations or propaganda apparatus is able to operate unchecked and with great influence over the fragmented public, precisely because the public does not engage as a collective and remains a dormant possibility.

The Occupy protest movement, which was inspired by various protests throughout

the Middle-East/Southern Europe, received popular media coverage in September of 2011 when protesters occupied Zuccotti Park in New York City's Wall Street district.[299] In general the protests were organized in response to the capitalist exploitation which affords social and economic inequality—specifically the troubling statistic that 1% of the population controls a majority of US wealth, while the remaining 99% are barely able to survive. The only clearly stated goal of the various Occupy protests that emerged after September of 2011 was to transform hierarchical power relations within the occupied space to be more evenly distributed and thus properly democratic. In other words, the Occupy movement attempted to correct the failures of current liberal politics by claiming a space where a demos could emerge and enact a shared meaning, work on common problems, and transform the social-political relational sphere. Occupy's success could have been exponentially greater were it able to bring in persons who were sympathetic to the movement but could not physically occupy, and if it had shut down popular propaganda which trivialized the Occupiers by dismissing the movement with uncritical and easily reproduced phrases such as 'What do they want?'

Coupled with the news media, the police intervened and reclaimed Occupy's spaces through force, thus returning the system to the same non-democracy with a slightly different set of captions making the headlines. In other words, the social motivation for political reconciliation, as the collective engagement and navigation of difference that is needed to realize the revisable terms of our political contracts, is present; but, the media and the police worked to stifle the possibility of a legitimate politics and the collective meaning that began to surface through the Occupy movement

[299] For a more in-depth history of the US Occupy movement, see e.g., Gitlin 2012; Graeber 2012.

remains only partially realized.

The rhetoric opposing radical democratic participation is not new and can be traced through liberal ideology. Kant, for example, argues that direct democracy ought to be prevented and is generally undesirable because it is despotic and inevitably constrains the freedom of the individual. In "Perpetual Peace" Kant states:

> democracy, in the truest sense of the word, is necessarily a despotism, because it establishes an executive power through which all the citizens may make decisions about (and indeed against) the single individual without his consent, so that decisions are made by all the people and yet not by all the people; and this means that the general will is in contradiction with itself, and thus also with freedom.[300]

Here, we see the fearful expectations of humanity's war-like nature, which ultimately justifies a (at best) soft domination-by-representation as the ideal alternative to a state of nature, as a repetitive and tautological premise. Kant might be read along-side the apologists for colonialism as claiming that persons could never be trusted with a directly democratic system because they are too immature, stupid, and war like, and cannot make decisions that would be fair, equal, and respecting of freedom. Hence, the system must be run by representatives, Kant tells us, because representatives will prevent a majority dictatorship from harming the imaginary individual without consent. In reality, of course, the representative system harms many non-consenting individuals and, more importantly, in many western representative democracies, active measures are taken to prevent a demos from emerging to challenge those individuals who run the system with neither consent nor transparency, as is evidenced in the global systemic response to the Occupy protests.

On the one hand, in cases where the system is so thoroughly corrupt that peaceful

[300] Kant and Reiss 1970: 101.

reconciliatory transformation is assaulted—wherein a demos is prevented from emerging because the individual, who is ultimately the wealthy elite, must be protected—alternative tactics must be carefully embraced. As I mentioned earlier, alternative tactics of resistance to the anti-democratic system are distinguished from the system's own tactics of domination by a very thin line. In other words, grassroots tactics are preferable under all circumstances because they empower persons within the social world and thus combat alienation. [Besides, from the developed world, a plea for outside assistance is not going to help because other developed societies are just as deadlocked by corrupt political systems.]

On the other hand, the concern that a radical politics where all persons are empowered and expected to participate in collective decision making somehow puts the individual at risk assumes a political situation where persons are somehow fully independent (e.g. atomistic). The at-risk individual concern also assumes that it is impossible to introduce a mechanism that balances the demands of the majority with minority demands. Finally, it assumes that a coherent majority will naturally and inevitably form against a minority group. The first of these assumptions has been addressed in chapter III, wherein I suggest that individuals are neither atomistic nor fully social, but must be understood as both.[301] The third assumption is a problem in a society where persons understand their relations with Others in purely strategic terms. Insofar as persons do often relate to Others strategically, a primary effort of reconciliation ethics and politics is to transform these relations through local community efforts that build trust and new social mores to replace the failed abstract laws which only maintain

[301] Beyond my own take on the primordial tension, the atomism/holism debate has been worked out in various other texts. See, e.g., Sandel 1982; Forst's critique of Sandel (Forst 2002); Dussel 1988.

conflict through violent suppression.

One way that a politics of reconciliation can transform social relations is through education. Especially amongst the youth, who have yet to become overly rigid (adult), the right type of educational efforts open the possibility for the emergence of communicative relations that are based in reciprocity and not war like competition.[302] The techniques of non-violent communication must accompany all tactics of resistance, because the political and the social are permeable spheres such that the reconciliation of one requires the reconciliation of the other. I have already begun to respond to the second assumption and the problem of the individual or the victimizing attributes of reconciliatory mechanisms are not addressed within truth-commissions because said commissions do not work to balance the future demands of various members of a society. This balance is difficult to strike in part because many post-conflict societies lack the necessary technology and resources; but also, because of the ideology of war (philopolemia), it is assumed that balance is an impossible task. In a sense, it is easier to address and find consensus about the past than it is to realize consensus in a future oriented way.

However, with the advent of rapidly transforming technologies and the emergence of social media that, when used in ideal contexts, works to bring people together, the problem of resources is having a less significant impact on democratic movements.[303] Further, recently founded programs in data sciences promise new ways to analyze and understand the seemingly infinite and complex information that is being collected about us and that we are unknowingly volunteering every time we use the internet or swipe a

[302] See, e.g., Freire 2000.

[303] See, e.g., Nunns, Idle, and Soueif 2011.

credit card. Indeed, the not fully voluntary nature of recent data collection is only part of the reason that it is frightening and problematic. What is truly frightening about our already despotic political system collecting data about our private activities and thus fully eliminating the realm of privacy is not the elimination of privacy as such, but the interpretation of this data *as if it were testimony, as if it speaks about who we are*. Likely appealing to some warped form of empathy as knowing imaginary Others, groups like the National Security Agency (NSA) are using data mining and analysis to spy on people around the world and find behavioral patterns in order to tell stories about the type of people We are, assuming to understand our habits without giving us the opportunity to speak for ourselves, and potentially arresting and torturing those of us it assumes to be problematic for the system.[304] As it stands, the abuses of data are problematic; yet, the potential for democratic political action, reconciliation, and the emergence of a truly just system are also possible within these emerging technologies.

Further, the response to recent political protests and the NSA scandals reveals that political mis-trust goes in both directions. Most everyday people are disappointed and dominated by current political systems, in the developed and the developing world, and thus not trusting of said systems. At the same time, the system itself operates according to surreptitious and mistrusting norms, thus creating a nightmarish social-political feedback loop that is, as Benjamin and Agamben rightly point out, a war by other means. The master-slave relation, as manifest in war-like norms and the constant push to maintain a political system by domination, rather than explicit reciprocal consent, is not a natural, necessary, nor even a useful means of organizing the social world under common rules

[304] For an in-depth history and analysis of the NSA spying program, see Greenwald 2014.

and regulations. Indeed, it is only a select and highly narcissistic few who benefit from domination politics, exploiting and profiting on suffering. The deeply problematic reality of this lopsided, unstable, and destructive approach to experience becomes more transparent each day. The way we respond to the war infection is crucial, as it has already caused a great deal of potentially irreparable damage.

Hence, my goal here has been to present an alternative understanding of our social-political circumstances that is based in reconciliation, guided by the ideals of peace, reciprocity, and trust, and necessary conditions for the possibility of realizing justice. The chicken-hawks of the world and those who benefit from the suffering of others, would dismiss all of this as idealistic wishful thinking. Perhaps those who worship war are correct: this is idealistic. But, given our circumstances and the alternative approach—which is the reproduction of the same sociality and politics by domination that ultimately fails to bring about a sustainable, stable, and non-alienating society—my hope is that I will have at least prepared my readers to be suspicious of those who uncritically dismiss peace and push for a return to the tautological ideology of war. Real change is possible. At the very least, we can reconcile our interpersonal conflicts by changing the way we relate. With collective efforts, we can do much more. Those who point the guns of the war machine know and fear the power of a collective and reciprocally operating demos, which is why great efforts are made to crush solidarity wherever it begins to emerge. But, reciprocity, solidarity, and trust can emerge everywhere and anywhere. The neo-agora, made visible by the Occupy movement, is also ubiquitous. Where previous attempts at a politics of reconciliation have been stopped, future efforts must begin. What was said over one hundred and sixty years ago is even

more true and meaningful today: We have nothing to lose but our chains.

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