

Timing Truth, Reconciliation, and Justice after War

JOHN BRAITHWAITE AND RAY NICKSON*

I. THE ARGUMENT IN BRIEF

Truth and Reconciliation Commissions (TRCs),¹ particularly since the influence of Desmond Tutu's South African Commission,² are increasingly used to discover and reveal past wrongdoings following armed conflicts.³ They are often established with a requirement to report within two or three years.⁴ A problem with such speedy reporting is that the most traumatized

* John Braithwaite is an Australian Research Council Federation Fellow, Australian National University. This article is a revised version of his Schwartz Lecture on Dispute Resolution, delivered at the Ohio State University Moritz College of Law on April 5, 2011. Ray Nickson is a Ph.D. candidate at the Australian National University.

¹ See the discussion of the many forms TRCs can take in ELIZABETH STANLEY, *TORTURE, TRUTH AND JUSTICE: THE CASE OF TIMOR-LESTE* (2009).

² The South African Truth and Reconciliation Commission was based upon the Promotion of National Reconciliation and Unity Act, No. 34 (1995) (S.Afr.). The TRC's mission, as explained more fully in the Act's long title, was "[t]o provide for the investigation and the establishment of as complete a picture as possible of the nature, causes and extent of gross violations of human rights committed during the period from 1 march 1960..." *Id.* Much has been written regarding the South African TRC. See generally Elizabeth Stanley, *Evaluating the Truth and Reconciliation Commission*, 39 J. MOD. AFR. STUD. 525 (2001); Paul van Zyl, *Dilemmas of Transitional Justice: The Case of South Africa's Truth and Reconciliation Commission*, 52 COLUM. J. INT'L AFF. 647 (1999); Martha Minnow, *Between Vengeance and Forgiveness: South Africa's Truth and Reconciliation Commission*, 14 NEGOTIATION J. 319 (1998); Jennifer J. Llewellyn & Robert Howse, *Institutions for Restorative Justice: The South African Truth and Reconciliation Commission*, 49 U. TORONTO L.J. 355 (1999); James L. Gibson, *Does Truth Lead to Reconciliation? Testing the Causal Assumptions of the South African Truth and Reconciliation Process*, 48 AM. J. POL. SCI. 201 (2004); Anurima Bhargava, *Defining Political Crimes: A Case Study of the South African Truth and Reconciliation Commission*, 102 COLUM. L. REV. 1304 (2002).

³ Truth commissions may be defined simply as "bodies set up to investigate a past history of violations of human rights in a particular country." Priscilla Hayner, *Fifteen Truth Commissions 1974-1994: A Comparative Study*, 16 HUM. RTS. Q. 597, 600 (1994). According to Hayner, there are four distinguishing features of Truth Commissions, that they: (1) focus on the past; (2) attempt to "paint the overall picture" rather than focus on specific events; (3) are usually temporary institutions whose work finishes upon submission of a final report; and (4) are vested with authority. *Id.* at 604.

⁴ The most recent commission, the Solomon Islands Truth and Reconciliation Commission was required to report in one year, extendable to two. See JOHN

victims often take longest to be ready to participate in transitional justice.⁵ The experience of the civil war in Bougainville, Papua New Guinea, also demonstrates that it often takes many years of traditional reconciliation work before perpetrators of the worst atrocities acquire the confidence that they can confess their crimes without fear of revenge.⁶ It will be explained in this lecture that collective confessions (by military units) often preceded individual confessions of war crimes. So how should we think about the sequencing of truth, justice, and reconciliation after war? The lecture makes a case for Truth and Reconciliation Commissions that are permanent institutions,⁷ keeping their doors open to assist with truth, reconciliation, and justice at whatever point in time victims and perpetrators are emotionally ready. By the time all of the survivors have died, the TRC may function as no more than a museum that stores their testimony and the artifacts of suffering, transmitting memories of tyranny and reconciliation to the next generation.

II. FALSE STARTS ON THE SEQUENCING OF TRUTH, JUSTICE, AND RECONCILIATION

On the strength of South African data on truth and reconciliation, especially the work of James Gibson,⁸ Braithwaite published the model of

BRAITHWAITE ET AL., PILLARS AND SHADOWS: STATEBUILDING AS PEACEBUILDING IN SOLOMON ISLANDS 86–91 (2010). Hayner states that a defining feature of truth commissions are their temporary nature, usually being required to operate in a “pre-defined period of time.” Hayner, *supra* note 3, at 604.

⁵ This is a general issue with all forms of restorative justice and therapeutic jurisprudence. See JOHN BRAITHWAITE, RESTORATIVE JUSTICE & RESPONSIVE REGULATION 45–53 (2002).

⁶ JOHN BRAITHWAITE ET AL., RECONCILIATION AND ARCHITECTURES OF COMMITMENT: SEQUENCING PEACE IN BOUGAINVILLE (2010).

⁷ This argument should be distinguished from that of Scharf, who argues in favor of a permanent international truth commission, as an adjunct to the permanent international criminal court. Scharf’s arguments in favor of a permanent international truth commission are that there would be: “(1) superior sufficiency in funding; (2) a greater perception of neutrality; (3) less susceptibility to domestic influences; and (4) greater speed in launching investigations.” Michael P. Scharf, *The Case for a Permanent International Truth Commission*, 7 DUKE J. COMP. & INT’L L. 375, 380 (1997).

⁸ JAMES L. GIBSON, OVERCOMING APARTHEID: CAN TRUTH RECONCILE A DIVIDED NATION? (2004).

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high-integrity truth-seeking and reconciliation in Figure 1.⁹ Not one of the first twelve cases of armed conflicts so far completed in our comparative study, PEACEBUILDING COMPARED,¹⁰ fits this model. Zero out of twelve is a discouraging hit rate for a social theorist interested in elaborating starting models iteratively from new data. In this lecture, we consider the case that approaches closest to fitting the model of Figure 1, the Bougainville Civil War.¹¹ Yet, because both sides in Bougainville enjoyed total immunity from prosecution,¹² there is really no bottom loop to Figure 1.

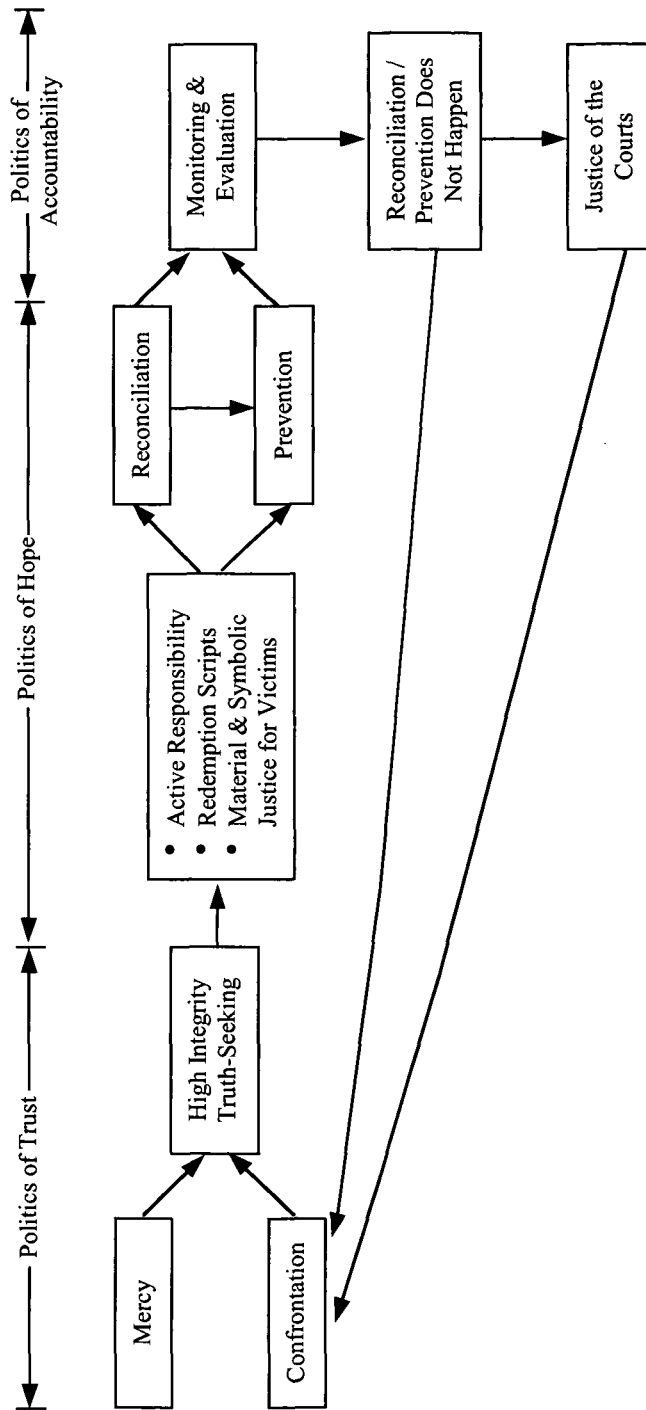
⁹ John Braithwaite, *Between Proportionality and Impunity: Confrontation Truth Prevention: The American Society of Criminology 2004 Sutherland Address*, 43 CRIMINOLOGY 283 (2005).

¹⁰ See generally PEACEBUILDING COMPARED, <http://peacebuilding.anu.edu>.

¹¹ The Bougainville Civil War is also often referred to as “the Bougainville Crisis.” Eugene Ogan, *The Cultural Background to the Bougainville Crisis*, 92–93 JOURNAL DE LA SOCIÉTÉ DES OCÉANISTES 61 (1991). Regan states that there are three dominant perspectives about the causes of the Bougainville Civil War: (1) ethnonationalist demands as a result of grievances towards the Panguna mine; (2) cultural perspectives that focus on the impact of the mine and economic inequalities that resulted from it; and (3) the role of class conflict. Anthony J. Regan, *Causes and Course of the Bougainville Conflict*, 33 J. PAC. HIST. 269, 269 (1998). These various perspectives are best exemplified by three scholarly works. First, James Griffin discusses the war from an ethnonationalist perspective. James Griffin, *Bougainville is a Special Case*, in THE BOUGAINVILLE CRISIS I (R.J. May & Matthew Spriggs eds., 1990) Second, Filer argues that social disintegration as a result of the mining operation is responsible. Colin Filer *The Bougainville Rebellion, the Mining Industry and the Process of Social Disintegration in Papua New Guinea*, in THE BOUGAINVILLE CRISIS 73 (R.J. May & Matthew Spriggs eds., 1990). Finally, Wesley-Smith and Ogan believe that modes and relations of production best explain the causes of the Bougainville civil war. Terence Wesley-Smith & Eugene Ogan, *Copper, Class and Crisis: Changing Relations of Production in Bougainville*, 4 CONTEMP. PACIFIC 245 (1992).

¹² This immunity was an entrenched feature of the various agreements that sought to establish peace. See Bougainville Peace Agreement, Papua New Guinea-Bougainville, cl. 331, Aug. 30, 2001, <http://ips.cap.anu.edu.au/ssgm/resourcedocuments/bougainville/PDF/BougainvillePeaceAgreement29Aug01.pdf> (provided amnesty for “all persons involved in crisis-related activities” and pardons for those convicted of crisis-related activities). See also Lincoln Agreement on Peace, Security and Development on Bougainville cl. 10, Jan. 23, 1998, http://ips.cap.anu.edu.au/ssgm/resource_documents/bougainville/PDF/lincoln-agreement.pdf.

Figure 1: An elaborated theory of truth and prevention



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While it is still early in the data collection process for PEACEBUILDING COMPARED, my revised suspicion already is that truth, justice, and reconciliation can come in all possible sequences.¹³ There may be no best, right, or even a most common sequence.¹⁴ When it is mostly reconciliation that comes first, as we will illustrate with the armed conflicts in Bougainville and Indonesia, it is possible for reconciliation to be done in a way that either helps or hinders future truthseeking and justice. When it is justice that mostly comes first, as we will discuss with the case of Solomon Islands, it is possible for justice to be done in a way that lays a foundation for subsequent truth and reconciliation, and it is possible for it to be done in a way that makes future truth and reconciliation more difficult. So far in PEACEBUILDING COMPARED we have not studied any Truth Commission cases that are not Truth and Reconciliation Commissions.¹⁵ When we do study cases where it is mostly truth that is secured first, our interest has now become to discover the ways that truth might lay a foundation for justice and reconciliation, or might be an impediment to them. We now proceed to flesh out these issues by considering in turn the armed conflicts around Australia, what Australian strategic studies scholars sometimes call its “arc of instability,”¹⁶ in Bougainville, Indonesia, Timor-Leste, and Solomon Islands.

¹³ For one of the most important contributions on timing in transitional justice, see Laurel E. Fletcher & Harvey M. Weinstein with Jamie Rowen, *Context, Timing and the Dynamics of Transitional Justice: A Historical Perspective*, 31 HUM. RTS. Q. 163 (2009). Also, on the sequencing of trials, amnesties, and truth commissions, see Tricia D. Olsen et al., *The Justice Balance: When Transitional Justice Improves Human Rights and Democracy*, 32 HUM. RTS. Q. 980 (2010).

¹⁴ For example, Geoffrey Robertson suggests that Truth Commissions can occur before trials, “to verify the need for a court,” or after trials to build upon their work. CRIMES AGAINST HUMANITY 313 (3d ed., Penguin Group 2008) (1999) (regarding the interplay between Truth Commissions and trials). Nevertheless, he believes that both truth and justice can operate in tandem. *Id.*

¹⁵ A Truth Commission that is not a Truth and Reconciliation Commission gives reduced priority to relational justice, to reconciliation, and reintegration values such as healing.

¹⁶ This “arc of instability” has been defined by Duncan and Chand as “a wide arc of countries to Australia’s north and north-east—including Indonesia, the Philippines, Papua New Guinea, Solomon Islands, Fiji and Vanuatu.” Ron Duncan & Satish Chand, *The Economics of the ‘Arc of Instability’*, 16 ASIAN-PAC. ECON. LITERATURE 1 (2002); see also Robert Ayson, *The ‘Arc of Instability’ and Australia’s Strategic Policy*, 61 AUSTL. J. INT’L AFF. 215 (2007); John Connell, *Saving the Solomon Islands: A New Geopolitics in the ‘Arc of Instability’*, 44 GEOGRAPHY RES. 111; Kim Beazley, *Arc of Instability*, 57 NAT’L OBSERVER 17 (2003).

This region has been the initial focus of PEACEBUILDING COMPARED; it is now moving on to work in South Asia, Central Asia, and Africa.

III. MOSTLY RECONCILIATION FIRST IN BOUGAINVILLE, FOLLOWED BY LOCAL TRUTH AND RESTORATIVE JUSTICE

Bougainville suffered a terrible civil war for a decade from 1988 that pitted separatist forces of the Bougainville Revolutionary Army (BRA) against the national military and police of Papua New Guinea.¹⁷ The fighting evolved to pit Bougainville factions against each other in the worst killing.¹⁸ The PEACEBUILDING COMPARED book on the Bougainville Civil War argues that peace in Bougainville was shaped by bottom-up traditional and Christian reconciliation practices and a carefully crafted top-down political settlement.¹⁹ These two processes operated in symbiotic fashion, each making space for, and reinforcing, the other. For the student of peacebuilding, there is much to learn from the genius of this symbiosis between a top-down architecture of credible commitment and bottom-up reconciliation.²⁰

The Bougainville peace has progressively become more resilient since 1998. The sequential sustaining of the peace has been patient, what Volker Boege has called a “slow food” approach to peacebuilding.²¹ One wave of bottom-up reconciliation²² built on previous waves, expanding the

¹⁷ Regan, *supra* note 11, at 277.

¹⁸ Peter Reddy, *Reconciliation in Bougainville: Civil War Peacekeeping and Restorative Justice*, 11 CONTEMP. JUST. REV. 117, 119 (2008); Regan, *supra* note 11, at 279.

¹⁹ JOHN BRAITHWAITE ET AL., *supra* note 6.

²⁰ See ANTHONY J. REGAN, *LIGHT INTERVENTION: LESSONS FROM BOUGAINVILLE* (2010).

²¹ Volker Boege, *Bougainville and the Discovery of Slowness: An Unhurried Approach to State-Building in the Pacific*, 3 AUSTL. CENTRE FOR PEACE & CONFLICT STUD. OCCASIONAL PAPER SERIES (2006).

²² See Patricia Lundy & Mark McGovern, *Whose Justice? Rethinking Transitional Justice from the Bottom Up*, 35 J. L. SOC'Y 265, 279–283 (2008) (for more discussion on bottom up transitional justice approaches, of which reconciliation mechanisms are a part). As a contrast between bottom-up and top-down approaches, Adwan and Bar-On distinguish peacebuilding from peacemaking based on these approaches: “peace building is a planned activity, based on bottom-up processes, while peacemaking is a political agreement based on top-down processes.” Sami Adwan & Dan Bar-On, *Shared History Project: A PRIME Example of Peacebuilding under Fire*, 17 INT'L J. POL. CULTURE SOC.

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geographical scope of the peace, and the breadth and depth of forgiveness across the society. The architecture of the top-down peace settlement has also been sequenced, with linkages that require one side to meet a commitment, such as surrendering weapons before the other side will deliver their next undertaking in an agreed sequence.²³ In this architecture, international peacekeepers played a significant role in securing the credible commitments.²⁴ While peacekeepers were rarely hands-on mediators of the indigenous reconciliation, one of their greatest contributions was to initiate conversations between local enemies who were afraid of each other, allowing initial meetings to occur under the peacekeepers' security umbrella.²⁵

Bougainville never had a Truth and Reconciliation Commission.²⁶ All Bougainville combatants enjoyed complete amnesty,²⁷ though a few non-Bougainvillean members of the Papua New Guinea Defense Force (PNGDF) were convicted for human rights abuses during the war in Port Moresby. Local reconciliation efforts began early during the war itself, gathered momentum throughout the 1990s, and continue in 2011.²⁸ There has long been recognition in Bougainville that reconciliation takes decades rather than years. Some reconciliation processes over intertribal fighting caused by World War II continued into the 1980s.²⁹

513 (2004); Jim Rolfe, *Peacekeeping the Pacific Way in Bougainville*, 8 INT'L PEACEKEEPING 38 (2001).

²³ Anthony J. Regan, *The Bougainville Intervention: Political Legitimacy and Sustainable Peace Building*, in INTERVENTION AND STATE-BUILDING IN THE PACIFIC 184, 189–205 (Greg Fry & Tarcisius Tara Kabutaulaka eds., 2008); REGAN, *supra* note 20; Edward P. Wolfers, *Bougainville Autonomy—Implications for Governance and Decentralization*, 5 AUSTL. CENTRE FOR PEACEKEEPING & CONFLICT STUD. OCCASIONAL PAPER SERIES (2006); Anthony J. Regan, *Sustainability of International Peace-Building Interventions—The Bougainville Experience, 1997–2006*, in INTERVENTION AND STATE-BUILDING IN THE PACIFIC (Greg Fry & Tarcisius Tara Kabutaulaka eds., 2008).

²⁴ BRAITHWAITE ET AL., *supra* note 6, at 1.

²⁵ For further discussion of peacekeepers' role in Bougainville, see Reddy, *supra* note 18; Rolfe, *supra* note 22; Stefan Knollmayer, *A 'Share House Magnified': Civilian Integration with the Truce and Peace Monitoring Groups on Bougainville*, 39 J. PAC. HIST. 221 (2004).

²⁶ BRAITHWAITE ET AL., *supra* note 6, at 133, 137–39.

²⁷ Bougainville Peace Agreement, *supra* note 12.

²⁸ The centrality of "reconciliation" to the peace process in Bougainville is well established. See Reddy, *supra* note 18, at 119; Rolfe, *supra* note 22, at 38.

²⁹ PETER LONDEY, OTHER PEOPLE'S WARS: A HISTORY OF AUSTRALIAN PEACEKEEPING (2004); Hank Nelson, *Bougainville in World War II, in BOUGAINVILLE BEFORE THE CONFLICT* 196 (Anthony J. Regan & Helga M. Griffin eds., 2005).

Every village-level story of reconciliation was unique. The village in Selau where John Braithwaite lived in 1969 had been the base of C Company of the BRA. Starting in 1990, when the war became chaotic, voices in the village began to be raised in favor of neutrality.³⁰ Women from across Selau organized a peace march followed by an all-night vigil for peace that it is claimed 5,000 attended—most of the population of Selau.³¹ The war had opened up some old internal divisions. There were allegations that the local BRA commander had used his position to murder a man who was much disapproved because he used sorcery against adversaries.³² He was also feared and reviled by many because he had married his own daughter. In turn, there were allegations that the combat death of that local BRA commander was “friendly fire,” which was in fact “unfriendly fire” from loyal kin of the murdered sorcerer within C Company. Others dispute this. Reconciliation within the area and, between the PNGDF and the village, was accomplished in August 1991 after the women seized the peacemaking agenda with the council of chiefs and the village declared itself neutral.³³

Both the villagers and the PNGDF officers who attended the reconciliation ceremony remember it as moving and a turning point towards local peace.³⁴ It was a peace that created what Mary Kaldor calls an “island of civility”³⁵—a peace zone—in the Selau region, which demonstrated the advantages of peaceful neutrality to those living in adjacent conflict areas, in a similar way to some other peace zones in Bougainville.³⁶ The BRA

³⁰ This section of the text is heavily based upon BRAITHWAITE ET AL., *supra* note 6, at 67–68.

³¹ Paul van Tongeren et al., *Women Weaving Bougainville Together: Leitana Nehan Womens Development Agency in Papua New Guinea*, in PEOPLE BUILDING PEACE II: SUCCESSFUL STORIES OF CIVIL SOCIETY 122, 124 (Paul van Tongeren et al. eds., 2005).

³² For a discussion of the role of sorcery in Melanesian societies, see Mary Patterson, *Sorcery and Witchcraft in Melanesia* 45 OCEANIA 132 (1974). Patterson concludes that sorcery has the capacity to both resolve and increase conflict. *Id.* at 160.

³³ Ruth V. Saovana-Spriggs, *Gender and Peace: Bougainvillean Women, Matriliney, and the Peace Process*, PhD (2007) (unpublished Ph.D. dissertation, Australian National University) (on file with Menzies Library, Australian National University).

³⁴ For other, albeit brief, recollections of reconciliation ceremonies in the Bougainville context, see Reddy, *supra* note 18, at 124–25.

³⁵ MARY KALDOR, *NEW AND OLD WARS: ORGANIZED VIOLENCE IN A GLOBAL ERA* 117 (1999).

³⁶ Zones of peace are traditionally considered to be “designed to mitigate the conditions of conflict for a particular geographic community or to assist in the implementation of peace or post-conflict reconstruction.” Landon E. Hancock & Pushipa

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weapons from that part of Selau were loaded onto a helicopter and Sister Lorraine Garasu and elder Bernadette Ropa dropped them into the ocean as part of the ceremony. This sealed the peace and weapons disposal in this little pocket of Bougainville many years before peacekeepers arrived. Some PNG security forces personnel who attended reconciliations such as this one in Selau reported them as the most positive memories of the struggle, saying that the aspect of the ceremonies that most moved them was when both the soldiers and the villagers had the opportunity to speak about their personal feelings of loss for loved ones who had fallen.³⁷

The Selau region has a population of only 7,000, but the chiefs told Braithwaite in April 2006 that they had participated in eighty-seven separate formal reconciliations by then. While hundreds of large reconciliations have been held across Bougainville for big groups, and thousands of smaller ones in relation to hamlets,³⁸ families or individuals, a widespread perspective a decade after the war is that most of the reconciliations that are needed still remain to be done.

Our Selau story reveals something important about reconciliation after war. There is always a big geopolitical story of what a war is about that we read in the newspapers. In Bougainville, it was about control of one of the largest copper and gold mines the world has seen.³⁹ But Selau, which was far from the mine, was not the only locality where sorcery allegations became

Iyer, *The Nature, Structure and Variety of Peace Zones*, in *ZONES OF PEACE* 29–40 (Landon E. Hancock & Christopher Mitchell eds., 2007); see generally *ZONES OF PEACE* (Landon E. Hancock & Christopher Mitchell eds., 2007). Specifically regarding the peace zone way of thinking about Bougainville and Somalia, see Peter Reddy, *Peace Operations and Restorative Justice: Groundwork for Post-Conflict Regeneration* (2006) (unpublished Ph.D. dissertation, Australian National University) (on file with Menzies Library, Australian National University).

³⁷ One of these officers said women peacemakers from Bougainville changed him as a soldier:

I was a very aggressive traditional soldier. Very tough on people. As a result of my experience on Bougainville, I changed. I listen to my soldiers more now. I think negotiation is more important. [He explained how he was particularly affected by the compassion of women with children who had lost their husbands]...I wonder if my own wife would react that way if it was me who was killed.' Interview with PNGDF soldier, in Port Moresby, Papua New Guinea (2007).

³⁸ Another estimate states that by 2004, half the villages in Bougainville had participated in reconciliation ceremonies. Reddy, *supra* note 18, at 127.

³⁹ See Filer, *supra* note 11; Regan, *supra* note 11.

the local motivator of conflict.⁴⁰ Quite common was a situation where one chief took his people on one side of the civil war in order to claim back land and settle a score against another chief who had joined the conflict on the other side and who was believed to have stolen their land. A war about a faraway mine became an excuse to join a conflict over a local grievance that cut much deeper. There were even cases in our Bougainville fieldwork of chiefs who were believed to have committed atrocities when they fought on the U.S. side in World War II being attacked in revenge by villages who supported the Japanese side.⁴¹ It follows that after a civil war a national political settlement that touches only the national political issues is not enough. Local reconciliation dealing with those more longstanding and bitter local grievances is also needed. Local grievances rather than big geopolitical issues are probably more likely to light the sparks that reignite armed conflict in village societies like Bougainville.

The peace in Bougainville has two stories. There is the story of top-down peace ultimately negotiated under New Zealand auspices in 1997 and 1998, and ultimately under United Nations (UN) facilitation of the political settlement between PNG and Bougainvillean factions in 1999, 2000, and 2001.⁴² And there is the story of zones of local reconciliation starting soon after the onset of war and continuing the struggle to expand its reach two decades later. The continuation of this story into the late 2000s is well illustrated by the large spike of reconciliations associated with the Youth Cross (Box 1).⁴³

⁴⁰ Siwai was another prominent example. See BRAITHWAITE ET AL., *supra* note 6, at 31.

⁴¹ See MAX RIMOLDI & ELEANOR RIMOLDI, *HAHALI AND THE LABOUR OF LOVE: A SOCIAL MOVEMENT ON BUKA ISLAND* (1992).

⁴² See REGAN, *supra* note 20; Anthony J. Regan, *The Bougainville Political Settlement and the Prospects for Sustainable Peace*, 17 PAC. ECON. BULL. 114 (2002); Anthony J. Regan, *Resolving Two Dimensions of Conflict: The Dynamics of Consent, Consensus and Compromise*, 12 CONCILIATION RESOURCES ACCORD 36 (2002), www.c-r.org/our-work/accord/png-bougainville/resolving.php; Anthony J. Regan, *Development and Conflict: The Struggle for Self-determination in Bougainville*, in SECURITY AND DEVELOPMENT IN THE PACIFIC ISLANDS: SOCIAL RESILIENCE IN EMERGING STATES, (Anne M. Brown ed., 2007); Anthony J. Regan, *Sustainability of International Peace-Building Interventions—The Bougainville Experience 1997–2006*, in INTERVENTION AND STATE-BUILDING IN THE PACIFIC (Greg Fry & Tarcisius Tara Kabutaulaka eds., 2008).

⁴³ The contents of this box are from the authors' fieldnotes from southern Bougainville in 2007. BRAITHWAITE ET AL., *supra* note 6, at 69–71.

Box 1: The Youth Cross

One of the strengths of peacebuilding in Bougainville is the Church. And a strength of the international peacekeeping was that it worked this strength by giving its three chaplains—‘The Three Amigos’—free rein to work the churches as a central plank of its peacebuilding strategy. It was the Church that gave the most important base to the peacebuilding work of the women. The Youth Cross story is about how in the post-post-conflict period it gave an organisational base to youth leaders who wanted to take reconciliation to a new level. The Youth Cross story also shows that while the big story of reconciliation in Bougainville is about indigenous traditions of peacemaking, almost as big a story is the grafting of Christian traditions of healing onto the peace process.

World Youth Day—a huge gathering of Catholic young people—was held in Sydney in 2008. A lead-up in 2007 was the Youth Cross travelling to many countries of the world on its way to Sydney. The Youth Cross came to Papua New Guinea, but to the dismay of Catholic youth in Bougainville, not to their island. So the youth of Bougainville made their own little cross, travelled to Rabaul to place it on the Youth Cross, then placed it on their own large wooden cross back in Bougainville.

The Catholic Youth of Bougainville (most people in Bougainville are Catholic) decided that the theme for the visits of the Youth Cross would be ‘peace and reconciliation’. The youth believed they could show their elders how their generation could take reconciliation up to a new and more spiritual level. During my 2007

fieldwork, I followed the Youth Cross from Siwai into Bana District. For much of its journey, the cross was followed by thousands of people. Days of fasting and prayer preceded its arrival in most villages. At that point, it was stopping at every village for three days and we were told that the plan was that it would stop in every village in Bougainville. It should have been clear that there was not time to accomplish this before World Youth Day 2008.

Miracles occurred as the cross moved from village to village and some who were the subject of the miracles then became celebrities following the cross around the island. For example, one man, a village drunk, cursed at the cross when it entered his village. He instantly dropped dead. Half an hour later, miraculously, he returned to life. While he was dead, he saw many wonderful things, met many long-dead ancestors and was able to report messages from them to the crowd.

At all of the dozen villages about which I made inquiries in south-western Bougainville, major reconciliations in front of the cross relating to the nine-year civil war occurred. A Catholic priest told me that in Siwai alone, 500 separate war-related reconciliations had occurred in front of the cross.

Some reconciliations related to killings, rapes and other serious crimes, where the perpetrator(s) went before the cross as it stood in the village to ask forgiveness from the victim or their family. Many were groups who went before the cross asking forgiveness from their victims. One of these involved a young Me'ekamui fighter who had robbed a micro-finance bank with a gun that he cut in half in

front of the cross. During the robbery, shots were fired and a stray bullet hit a young mother with a baby. During negotiations in the days before the cross arrived in the young man's village, the local police sergeant gave the young man a '100 per cent guarantee' that he would not be prosecuted if he asked for forgiveness from the mother in front of the cross and changed his ways. I asked the sergeant if anyone in the community criticised him for not prosecuting such a serious crime. No, he said, everyone in the community thought it was the right thing to do and everyone felt safer when a gang member destroyed his gun and committed to obey the law in a spiritually profound reconciliation like this.

Rarely was monetary compensation paid in the reconciliations that occurred before the Youth Cross. The cross arrived in a village in the late afternoon and reconciliations occurred right through the night into the next day. It must have been exhausting (but exhilarating too) for the local priest. In Siwai, awe-struck children sat closest to the cross under cover, with the adult audience standing at the back in the sun.

The celebrations before the cross were theologically interesting. As a priest scowled at me, he said that some people would have us believe that Jesus was a *waitman*, when in fact Jesus was born in Nagovis. In some villages, when the time came for the procession of the cross to move down the road to the next village, those who would lift the cross from its base announced that it was stuck. 'The cross is stuck', reverberated around the gathering.

‘Someone must step forward to ask forgiveness before the cross leaves.’ And someone would step forward, finally finding the courage to ask for forgiveness.

This was a very different reconciliation context than the traditional one. The short time frame between the impending arrival of the cross and the proposed reconciliation before the cross gave victims little time to come to terms with the reconciliation on big matters. One of my neighbours in Siwai was told by a former BRA commander as the cross was approaching the village that he had killed her husband and he pleaded for forgiveness before the cross. She had no idea that this man had killed her husband. It was a lot to digest, yet it was a successful reconciliation that moved the whole community. But in other such cases the cross moved on to the next village with the parties still working on the healing process through planned future reconciliation meetings.

John Paul Lederach argued that peace must be not only top-down and bottom-up, but also middle-out.⁴⁴ Bottom-up connects the grassroots to the peacemaking projects of elites; top-down connects capacities that can be mobilized only by national elites down to lower levels of the society. Middle-out complements these vertical strengths with horizontal capacities to move back and forth across social divides. Organizations in civil society that are intermediate between the state and families/hamlets often do this middle-out work. Yet in his more recent book, Lederach finds a web metaphor more useful. What he calls the middle-out capacity is in fact strategic networking that “creates a web of relationships and activities that cover the setting.”⁴⁵ The women of Bougainville certainly did this with peace marches that wound

⁴⁴ JOHN P. LEDERACH, *BUILDING PEACE: SUSTAINABLE RECONCILIATION IN DIVIDED SOCIETIES* (1997).

⁴⁵ JOHN P. LEDERACH, *THE MORAL IMAGINATION: THE ART AND SOUL OF BUILDING PEACE* 80 (2005).

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across the island, connecting new women to the network at each hamlet they passed.⁴⁶ So did the next generation of youth with the journeys of the Youth Cross. Lederach sees the key to weaving these webs as “getting a small set of the right people involved at the right places. What’s missing is not the critical mass. The missing ingredient is the *critical yeast*.”⁴⁷

In Bougainville, countless local peacemakers were that yeast, many of them women. Sufficient yeast is progressively connected to the project of building the bread of peace and the bread rises. Lederach connects this to Malcolm Gladwell’s⁴⁸ idea from marketing in *THE TIPPING POINT*. Gladwell’s subtitle is “How little things make a difference.” The Bougainville peace is a classic illustration of how little peacemakers, finally linked together, tip peacebuilding momentum to a critical mass. This happened even as top-down peacemakers such as Theodore Miriung⁴⁹ and John Bika⁵⁰ were assassinated and even as the leaders of the war (BRA leader Francis Ona and the PNGDF) remained spoilers of sorts,⁵¹ and even as profit-seeking international spoilers (the private military company Sandline and the shadowy multinational mining interests backing them) butted in.⁵² Once the tipping point of bottom-up support for peace passed, progressive elements in the BRA and in the PNG military and political elite moved around the spoilers to join hands with the growing mass of Bougainvillean peacemakers that had been leavened. Gradually more elements of the ongoing spoiler faction, the Me’ekamui Defense Force, have joined in reconciliations and joined the peace.

⁴⁶ Peter Ninnies, *Non-Government Organisations, Peacebuilding and Global Networks*, in *NGOS AND POST CONFLICT RECOVERY: THE LEITANA NEHAN WOMEN’S DEVELOPMENT AGENCY, BOUGAINVILLE* (Helen Hakema et al. eds., 2006).

⁴⁷ LEDERACH, *supra* note 45, at 91.

⁴⁸ MALCOM GLADWELL, *THE TIPPING POINT* (2002).

⁴⁹ The Papua New Guinea Defense Force and allied guerrillas were considered responsible following an inquiry into the October 13, 1996 assassination of Theodore Miriung. Danial Lazare, *Foot Soldiers of the New World Order: The Rise of the Corporate Military*, *NEW LEFT REV.*, Mar.–Apr. 1998, at 128, 129.

⁵⁰ John Bika was murdered by masked gunmen on Sept. 12, 1989. Terence Wesley-Smith, et al., *Melanesia in Review: Issues and Events*, 2 *CONTEMP. PAC.*, 358, 366 (1990).

⁵¹ Edward Wolfers, in a conversation with the author, accurately enough characterized Francis Ona as more an absentee than a spoiler.

⁵² SEAN DORNEY, *THE SANDLINE AFFAIR: POLITICS AND MERCENARIES AND THE BOUGAINVILLE CRISIS* (1998); MARY-LOUISE O’CALLAGHAN, *ENEMIES WITHIN: PAPUA NEW GUINEA, AUSTRALIA, AND THE SANDLINE CRISIS* (1998).

While reconciliation more traditional than the religious kind such as we see with the Youth Cross is transacted in somewhat different ways in different parts of Bougainville, there is always singing and dancing and reciprocal gift giving by the two sides to a conflict that is intended to restore balance and social harmony is universal. Pigs and ceremonial shell money are mostly the gifts involved and often small amounts of cash, which are not intended as reparation but as symbols of sorrow for the spilt blood:

To the outsider the gift may seem to be compensation (blood money). However, to most Bougainvilleans compensation (blood money) is repugnant. A gift is to wash away the tears; it in no way is a payment for the loss incurred. Compensation is for gain and is equivalent to setting a value on the life of a loved one. With a gift, one asks for forgiveness; with compensation there is no forgiveness and the person is attempting something which is impossible, that is putting a value on something that cannot be bought or paid for. With our experience (Peace Foundation), we have decided that if people want money for compensation (blood money), then we refuse to mediate and tell them to take it to the court...Not only does the blood money fail to produce reconciliation but it also leads to further disputes and fighting.⁵³

In some cases, return of the bones of a person killed in the conflict is the most important exchange. A rock may be buried or a tree planted to symbolize permanency of the peace, the growing, restored relationships, and a weight that is put away forever; spears, bows, and arrows may be broken. Our interviews testified to the ethos of permanence with reconciliations, though there were suggestions that in the south reconciliations could be less irrevocable than in the traditions of central and northern Bougainville. The weight of social disapproval from renouncing a reconciliation was reported to be enormous. "The moment the hatchet is buried, it stays buried. Anyone seen to be digging up the buried hatchet will get the most severe punishment. This means death."⁵⁴

A long sequence of mediation meetings between dozens of chiefs builds up to a public reconciliation ceremony that hundreds, and in rare cases even thousands, might attend. This is why this form of peacebuilding is at the heart of the highly participative peace accomplished in Bougainville. At the large final ceremony, both sides express hopes, fears, and regrets. Apologies

⁵³ Patrick Howley (undated) (unpublished document, on file with Peace Foundation Melanesia).

⁵⁴ Interview with President Kabui in Bougainville (2006).

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by men are often tearful and are often responded to with wailing displays of sadness and very often forgiveness by the women who are the closest family to victims. Christian traditions of prayers of solace and pleas for forgiveness are normally intertwined with the indigenous traditions of the reconciliation ritual. Both their indigenous origins and their Christian elements gave this path to peace special legitimacy in the eyes of Bougainvilleans. The sheer spread of such local reconciliations put “pressure on leaders of all Bougainville factions,” including Francis Ona and other potential spoilers,⁵⁵ not to unsettle the peace.

Dr. Bob Breen, who is finishing the official Australian history of peacekeeping in Bougainville, and who served as a colonel in Bougainville, argued in my interview with him in 2009 that the greatest contribution of the peacekeepers was accelerating reconciliations that would have eventually occurred naturally.⁵⁶ A hard part of starting a reconciliation between groups who have been killing one another is for someone to risk proposing a meeting. On Breen’s account, this was the most useful thing peacekeepers did: approaching one group and suggesting a meeting with another to making peace locally—and offering to attend to provide a third-party security guarantee for a risky meeting.⁵⁷

In June 2009, former PNG Prime Minister Sir Julius Chan, who was brought down by the Sandline mercenaries fiasco,⁵⁸ supported by the whole cabinet of his New Ireland Province of which he was Governor, and traditional culture groups participated in reconciliation ceremonies all day on June 13, 2009 at which Sir Julius apologized for his role with Sandline. New reconciliations like this one and the Youth Cross reconciliations that occurred a decade or more after the initial peace agreement illustrate the progressive creativity of new waves of reconciliation in Bougainville. For the more terrible war crimes, it often took a decade or more before perpetrators were ready to speak of them. Expanding ripples of traditional reconciliation gradually generated an atmosphere of safety to do so. Reconciliation often preceded truth in the following sense. After an attack on a village, the Bougainville Revolutionary Army Company that led the assault might, with

⁵⁵ For development of the concept of the spoiler in a peace process, see Stephen J. Stedman, *Spoiler Problems in Peace Processes*, 22 INT’L SECURITY 5 (1997).

⁵⁶ Interview with Dr. Bob Breen in Canberra, Australia (2009).

⁵⁷ *Id.*

⁵⁸ O’CALLAGHAN, *supra* note 52; Desh Gupta, *Sandline Episode: Economic Impact and Implications*, 32 J. PAC. HIST. 65 (1997); Tim McCormack, *The ‘Sandline Affair:’ Papua New Guinea Mercenarism to End the Bougainville Conflict*, 1 Y.B. INT’L HUMANITARIAN L. 292 (1998).

the support of their home villages, gradually negotiate a collective reconciliation between their company and the village they attacked. This would culminate in a reconciliation ceremony attended by hundreds of people at which the commanders of the company would apologize on behalf of their unit as a collectivity and would be forgiven. Only later, after individuals who murdered or raped specific individuals had attended that collective reconciliation and realized that the forgiveness was genuine, would they consider individual reconciliation. When they saw that no members of their unit were targeted after fronting as a group to confess the atrocities, culpable individuals found the courage to step forward to ask forgiveness from the wife or mother of a man they killed, and offer to return his bones to them. Then, the much more emotional reconciliation of an individual war criminal retrieving the body from where he buried it, returning the man's bones to his wailing women, would occur. The truth of individual criminal culpability would then finally be confessed. The justice that would come with it would be restorative in form, compensatory justice, usually with the payment of pigs and other food and traditional shell money, apology and forgiveness—"Breaking of Spears and Mending of Hearts."⁵⁹ The perpetrator would never face a formal court or go to prison.

Bottom-up, village-by-village reconciliation created momentum for the top-down political settlement. That settlement then created a pacified space in which it was safe for local reconciliation to grow across all Bougainville. This was the virtuous circle between bottom-up reconciliation and top-down political settlement. The political settlement was innovative in its temporal sequencing of linked commitments that were made credible by the linkages. It took the form of, "we will do this when you are certified by the United Nations to have done that. When we have been certified to have done it, then and only then do we expect you to solve the next problem." This temporal sequencing of linked commitments was seen with weapons disposal, power sharing, and constitutional change. It meant a slow food approach to a peace now tasted by the people of Bougainville.⁶⁰

The Bougainville bottom-up reconciliations achieved only fragile progress when war raged around them. Yet, we also found that early reconciliations paved the way to a political settlement. So we hypothesize that the commonly expressed wisdom during our fieldwork in the corridors of the UN in New York that "peacekeeping cannot work if there is no peace

⁵⁹ See PATRICK HOWLEY, *BREAKING SPEARS AND MENDING HEARTS: PEACEMAKERS AND RESTORATIVE JUSTICE IN BOUGAINVILLE* (2002).

⁶⁰ See Boege, *supra* note 21.

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to keep” goes too far. While a political settlement can create peace without genuine truth and reconciliation, and while truth and reconciliation might be unlikely to secure peace without a political settlement, truth, justice, and reconciliation could be more than just value added on top of a settlement. Rather, my argument is that top-down political settlement and bottom-up restorative justice form a virtuous circle that so far has consolidated a deeply sustainable peace in Bougainville.

IV. MOSTLY NON-TRUTH AND RECONCILIATION FIRST IN INDONESIA, WITHOUT JUSTICE

After the fall of President Suharto in 1998, many commentators felt Indonesia would break up like Yugoslavia because an even larger number of ethnic and religious wars and independence conflicts flared up from one end of Indonesia to the other, from Aceh to West Papua.⁶¹ The PEACEBUILDING COMPARED volume *Anomie and Violence: Non-Truth and Reconciliation in Indonesian Peacebuilding* considered seven such conflicts that each took more than a thousand lives—in several cases a great many thousands.⁶² With the exception of West Papua, all these conflicts have been settled, and no one sees Indonesia today as at risk of breaking up.⁶³ At the height of this conflict in 2002, Indonesia, with the world’s largest Muslim population of any country,⁶⁴ had the highest number of terrorist incidents and deaths in the world.⁶⁵ These had steeply increased for some years before September 11,

⁶¹ See AMY CHUA, *WORLD ON FIRE: HOW EXPORTING FREE MARKET DEMOCRACY BREEDS ETHNIC HATRED AND GLOBAL INSTABILITY* GLOBAL INSTABILITY 293 (2003). Amy Chua was one of many commentators proved premature on breakup when she opined in the final paragraph of her interesting book on how democracy could unleash violence against “market-dominant minorities” minorities’ (such as the Chinese in Indonesia) that “the results of democratisation in Indonesia have been disastrous.” *Id.*

⁶² See JOHN BRAITHWAITE ET AL., *ANOMIE AND VIOLENCE: NON-TRUTH AND RECONCILIATION IN INDOONESIAN PEACEBUILDING* (2010).

⁶³ For discussion of Indonesian political stability, See Rodd McGibbon, *Indonesian Politics in 2006: Stability, Compromise and Shifting Contests over Ideology*, 42 BULL. INDOONESIAN ECON. STUD. 321 (2006).

⁶⁴ According to the World Health Organization, the population of Indonesia in 2009 was 229,965,000. WORLD HEALTH ORGANIZATION, *Global Health Observatory Data Repository*, http://www.who.int/gho/count_ries/idn/en/.

⁶⁵ See Timo Kimimaki, *Can Development and Democratization Address the Root Causes of Terrorism in Southeast Asia?*, 20 PAC. REV. 49, 50 (2007); U.S. DEPT. OF STATE, *PATTERNS OF GLOBAL TERRORISM 2002 REP.: EAST ASIA OVERVIEW*,

2001. But after 2002, as terrorism steeply increased across most of the Muslim world, Indonesian terrorism sharply declined.⁶⁶ Iraq, Afghanistan, and Pakistan overtook Indonesia as the countries with the largest terrorism problems.

Anomie and Violence argues that bottom-up reconciliation worked quite well in Indonesia and laid a foundation for formal top-down peace agreements that mostly stuck.⁶⁷ In this sense, Indonesia was like Bougainville. Where it was absolutely different is that reconciliation was not based on speaking the truth about the conflict that had occurred and nor did reconciliation lay a foundation for a gradual acknowledgement of truth, at least not yet, a decade on from these conflicts. The traditional indigenous reconciliations that we described for the Indonesian conflicts often had many elements in common with Bougainville reconciliations, such as prayers, giving of gifts, feasts, dancing, speeches of sorrow and forgiveness, and even burial of ritual objects to signify a permanent peace that meant any spoiler would have terrible things befall them. But when we explained to reconciling parties in Indonesia that in Bougainville reconciliations individuals would often step forward and confess to burning a particular house, killing a particular man, or raping a particular woman; we were always told that no one ever admitted such things in their reconciliations.⁶⁸ The situation was actually worse than simply one of perpetrators being afraid to speak the truth of their crimes. Often reconciliation was based on lies in which all sides acquiesced. The most common one was that it was “outside provocateurs”

<http://www.state.gov/documents/organization/20112.pdf>. (Note also that these public databases exclude large numbers of terrorist incidents in Indonesia of which the author is aware of from his fieldwork, but nevertheless portray accurately the *pattern* of their rise and fall.)

⁶⁶ For further discussion on recent trends of terrorism in Indonesia, see Martin van Bruinessen, *Genealogies of Radicalism in Post-Suharto Indonesia*, 10 SOUTHEAST ASIA RES. 117 (2003); John T. Sidel, *It Is Not Getting Worse: Terrorism is Declining in Asia*, 2 GLOBAL ASIA 41 (2003); JOHN T. SIDEL, RIOTS POGROMS, JIHAD: RELIGIOUS VIOLENCE IN INDONESIA (2006); Sidney Jones, *Briefing for the New President: The Terrorist Threat in Indonesia and Southeast Asia*, 618 ANNALS AM. ACAD. POL. & SOC. SC. 69 (2008).

⁶⁷ BRAITHWAITE ET AL., *supra* note 62.

⁶⁸ This may reflect Hayner’s point that, “There are some countries, although few, which emerge from civil war or other period of intense violence with no interest in investigating the details of recent events.” Priscilla J. Hayner, *International Guidelines for the Creation and Operation of Truth Commissions: A Preliminary Proposal*, 59 LAW & CONTEMP. PROBS. 173, 176 (2005). Hayner points to the example of Mozambique, arguing that in some cases a policy of reconciled silence may be appropriate. *Id.*

who started the violence, when in fact it was locals who both started and finished the killing on both sides. In most of these conflicts, there were few or no prosecutions for the violence. Where there were prosecutions, there was often a feeling that scapegoats were prosecuted, and the political masterminds of the violence went free⁶⁹—a feeling that frequently seemed to have some merit.

In that book, we argued that while truth and reconciliation is better than non-truth and reconciliation, reconciliation is better than no reconciliation.⁷⁰ Moreover, reconciliation in Indonesia seemed to have succeeded in helping settle a permanent peace in all conflicts except West Papua. So, how was reconciliation accomplished? One widespread modality of healing was *gotong royong*, a core tenet of Indonesian philosophy meaning “mutual aid” or “joint bearing of burdens.”⁷¹ The military, whose actions in fueling conflict and inactions in preventing it caused resentment on both sides in all the Indonesian conflicts, participated widely in *gotong royong* by rebuilding houses that had been lost to victims on both sides.

Sometimes, the ethnic or religious group that ended with control of a village would invite back only a small number of trusted families of the ethnic other as a first step toward rebuilding trust. Much of the discussion at these reintegration meetings was with government officials and humanitarian agencies, who attended to offer practical assistance with resettling people into their old villages. A common gesture of practical reconciliation was for a Christian community to start rebuilding a mosque they had burned down, or a Muslim community to start rebuilding a church they had razed. The cleansed group might be invited back to the village to see this for themselves as a sign of the sincerity of the desire for reconciliation and to give advice on how to do the rebuilding. Then they might do some work together on the project.

When they returned, their former enemies often organized a moving welcome ceremony for them. They were showered with gifts of food and other necessities from a steady stream of visits to their home by former enemies who, before the conflict, had also been friends and neighbors. The point of this summary narrative is not to say this always happened. There was also bitterness, unpleasant exchanges, and people who were shunned.

⁶⁹ The most dramatic illustration of this feeling of the political masterminds going free while a few were targeted (indeed executed) was the Central Sulawesi conflict. BRAITHWAITE ET AL., *supra* note 62, at 273.

⁷⁰ *Id.* at 44.

⁷¹ CLIFFORD GEERTZ, LOCAL KNOWLEDGE: FURTHER ESSAYS IN INTERPRETIVE ANTHROPOLOGY 211 (Basic 1983); John R. Bowen, *On the Political Construction of Tradition: Gotong Royong in Indonesia*, 45 J. ASIAN STUD. 545 (1986).

The point of our narrative research is to give a sense of how reconciliation without truth worked when it did work—which was quite a lot. When a mosque built substantially by Christian hands was opened, the Christian community would be invited, and sometimes Christian prayers would be said inside the mosque.

We also found rituals of everyday life to be important to reconciliation. Christians attending the funeral of a respected Muslim leader, and embracing Muslims soon after the conflict, were of reconciliation. So were Christians being invited to the celebration of Muhammad's birthday, Muslims to Christmas celebrations, and *halal bi halal*. *Halal bi halal* is an Indonesian ritual at the end of Ramadan where neighbors go to one another's homes to ask forgiveness for any wrong they might have done in the past year (without mentioning any specific wrongs).⁷² The modernist Indonesian press often criticizes *halal bi halal* as a shallow and insincere ritual where neighbors who cannot stand each other nevertheless seek this generic forgiveness. Yet, in villages where people had been slaughtering one another, we were repeatedly told of *halal bi halal* having deep meaning. Forgiveness was requested by a looter or a killer, and although nothing was spoken of the looting or killing, as the two neighbors wept together in a long hug, both knew exactly the crimes over which they were shedding their tears. In our interviews, we were told of simple acts of kindness that were important for building bottom-up reconciliation: a Muslim religious leader who picks up an old Christian man in his car and drops him at the market or the loan of a Muslim lawnmower to cut the grass of the Christian church. Peace zones where peace markets could operate to reopen old trading relationships were central to the trust-building of the *Baku Bae* reconciliation movement in Ambon.⁷³ All these were included among the great variety of locally creative and meaningful ways that people reconciled without ever speaking the truth to one another about who was responsible for crimes.

V. MOSTLY TRUTH AND RECONCILIATION IN TIMOR-LESTE FOLLOWED BY LITTLE JUSTICE

Timor-Leste was invaded by Indonesia in 1975 and became a site of a civil war that cost more than 100,000 lives.⁷⁴ The same post-Suharto anomie

⁷² BRAITHWAITE ET AL., *supra* note 62, at 177.

⁷³ *Id.* at 171, 187.

⁷⁴ See JOHN G. TAYLOR, *INDONESIA'S FORGOTTEN WAR: THE HIDDEN HISTORY OF EAST TIMOR* (Zen 1991); JAMES DUNN, *EAST TIMOR: A ROUGH PASSAGE TO*

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discussed in the last section led to a vote for independence in 1999.⁷⁵ This concession by the new democratic government was so resented by the Indonesian military that they burned three quarters of the buildings in Timor-Leste to the ground and killed all the independence supporters they could find.⁷⁶ Timor-Leste differed from Indonesia after 1999 in that it put in place a TRC that did an extraordinarily thorough job of documenting the truth of what happened during the nation's civil wars.⁷⁷ That truth was widely disseminated across the globe, but not initially in Indonesia. More recently, however, its report has been published in Indonesian and disseminated there. There has also now been a much less thorough Truth and Friendship Commission with five Indonesian and five Timor-Leste Commissioners.⁷⁸ This was the first bilateral TRC the world has seen.⁷⁹ In spite of profound procedural limitations, the forthcoming *PEACEBUILDING COMPARED* book on Timor-Leste concludes that this commission has at least begun Indonesia's

INDEPENDENCE (Longueville Media 2003); ANDREA K. MOLNAR, *TIMOR-LESTE: POLITICS, HISTORY, AND CULTURE* (2010); Carsten Stahn, *Accommodating Individual Responsibility and National Reconciliation: The UN Truth Commission for East Timor*, 95 AM. J. INT'L LAW 952 (2001); Brad Simpson, "Illegally and Beautifully:" *The United States, the Indonesian Invasion of East Timor and the International Community 1974-76*, 5 COLD WAR HIST. 281 (2005); Nicholas J. Wheeler & Tim Dunne, *East Timor and the New Humanitarian Interventionism*, 77 INT'L AFF. 805 (2001).

⁷⁵ The East Timorese went to the polls on August 30, 1999 leading to an "overwhelming victory of the pro-independence movement" in the referendum. Wheeler & Dunne, *supra* note 74, at 805. However, when the results were announced on September 4, 1999, violence erupted. Stefanie Frease, *Playing Hide and Seek with International Justice: What Went Wrong in Indonesia and East Timor*, 10 ILSA J. INT'L & COMP. L. 283, 285 (2004).

⁷⁶ See DUNN, *supra* note 74; DAMIEN KINGSBURY, *EAST TIMOR: THE PRICE OF LIBERTY* (2009); Anthony L. Smith, *East Timor: Elections in the World's Newest Nation*, 15 J. DEMOCRACY 145 (2004).

⁷⁷ See generally *Chega! The Final Report of the Commission for Reception, Truth and Reconciliation in Timor-Leste (CAVR)* (2005), available at <http://cavr-timorleste.org/en/cheгаReport.htm> (providing a detailed description of the tumultuous events occurring in Timor-Leste, and 1999, when the people of Timor-Leste declared independence from Indonesia).

⁷⁸ Final Report of Commission of Truth and Friendship Indonesia-Timor-Leste (2008).

⁷⁹ Leigh Ashley Lipscomb, *Beyond the Truth: Can Reparations Move Peace and Justice Forward in Timor-Leste?*, 93 ASIA PAC. ISSUES 4 (2010).

journey toward the truth of acknowledging the atrocities perpetrated by its military in Timor-Leste.⁸⁰

In Indonesia, where most of the war criminals fled, there has been almost no justice directed at the perpetrators of war crimes.⁸¹ Inside Timor-Leste, eighty-four mostly lower-level Timorese members of militias, recruited to do much of the Indonesian military's dirty work, were convicted in the courts.⁸²

Theoretically for less serious war crimes, but in practice often for serious crimes like burning down villages and even murder,⁸³ Timor's TRC put in place a Community Reconciliation Process that most commentators regard as a greater success than the selective criminal prosecutions of small fry, while culpable generals went free.⁸⁴ Unlike so many of the internationally funded programs of the early 2000s, employees of Timor-Leste's TRC were 80% local and Commissioners were 100% local. Regional staff from each district ran the Community Reconciliation Process (CRP) in their district. While we will see that the CRP was a perpetrator-centered process that could have done much more to give voice to female victims,⁸⁵ at least in requiring by regulation that 30% of the regional commissioners who chaired the hearings

⁸⁰ JOHN BRAITHWAITE ET AL., NETWORKED GOVERNANCE OF FREEDOM AND TYRANNY: WAR AND PEACE IN EAST TIMOR (forthcoming 2012).

⁸¹ Frease, *supra* note 75, at 287–88. Indeed, the legal proceedings that have occurred are said to have: “produced a distorted legal record of events. The official court record portrays the violence in East Timor as a purely East Timorese conflict in which Indonesia benevolently intervened to separate two fighting parties.” Frease, *supra* note 75, at 288.

⁸² Caitlin Reiger & Marieke Wierda, *The Serious Crimes Process in Timor-Leste: In Retrospect*, INT’L CENTER FOR TRANSITIONAL JUST. PROSECUTIONS CASE STUD. (2006).

⁸³ In the oral and audio-visual presentation of this Schwartz Lecture, a passage was shown from the documentary, PASSABE, of a TRC Community Reconciliation Process meeting in which a man confessed to participation in burning down the village in which it was held, to assaulting some individuals and killing one with his machete—one of seventy-four who were rounded up and murdered. See PASSABE (Lianain Films 2005). The documentary is about how survivors in the village did not want him to be prosecuted because all the others involved in the massacre said, “[Y]es they were there, but by the time they arrived the burning and killing was over” or some such exculpation, while he was the one to speak the truth of the atrocity and confess his involvement in it.

⁸⁴ For a discussion on imported and indigenous judicial methods in East Timor, see Tanja Hohe, *Justice Without Judiciary in East Timor*, 3 CONFLICT SECURITY & DEV. 335 (2003).

⁸⁵ Susan Harris Rimmer, *Transitional Justice and East Timorese Women* (2008) (published Ph.D. dissertation, Australian National University) (on file with Menzies Library, Australian National University), available at http://cigj.anu.edu.au/cigj/link_documents/Publications/SusanThesis1.pdf.

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were women, front-stage empowerment of women was higher than among officers of the formal justice system. There were even some cases where all the members of panels (usually with three to five members) were women.

Regional Commissioners negotiated with local elders the appropriate way of ritualizing *nahe biti bo'ot* ("stretching the big mat" on which deponents⁸⁶ perpetrators, victims, and elders would sit) for that locality;⁸⁷ though *adat (lisan)* leaders had a reduced role from their traditional role of judge and jury, deferring to the mediation role of a panel of prominent community members and a chair from the TRC staff from that district.⁸⁸ Pre-negotiations before the ceremony often lasted three months. Usually, the ceremony itself ran for one day during which more than one deponent would be heard. There was usually chewing of betel-nut, drinking of wine or blood or both mixed together, cooling conflict by sprinkling coconut water, sacrifice of animals, and reintegrative feasting.⁸⁹ A storyteller or *lian nain* would mediate between victims and perpetrators in pursuit of an agreement, and the restoration of balance between the spiritual and secular world that had been disturbed by the wrongdoing.⁹⁰ There was great variation from place-to-place in how large the latter spiritual balance issues loomed. A reconciliatory prayer by a Catholic priest in the local language usually opened proceedings. Part of the genius of the CRP resided in mobilizing a ritually serious engagement of truth and reconciliation by drawing upon the legitimacy of state justice—through reading a letter from the General Prosecutor authorizing the hearing—of *lisan* through ritual calling upon

⁸⁶ The use of the term "deponents" rather than perpetrators was intended to communicate that it would often be the case that people who burned houses did so under fear of violence from the Indonesian military, so it would be possible for all present at the CRP—deponent, victims, community members—to share an identity as survivors of the occupation. On this point, see Ben Larke, ". . . And the Truth Shall Set You Free:" *Confessional Trade-Offs and Community Reconciliation in East Timor*, 37 *ASIAN J. OF SOC. SCI.*, 646, 660 (2009).

⁸⁷ Sandra Scheeringa, *Enhancing the Local Legitimacy of Transitional Justice Institutions: Local Embeddedness and Customary Law in CAVR*, in *EAST TIMOR: BEYOND INDEPENDENCE* 129, 136 (Damien Kingsbury & Michael Leach eds., 2007).

⁸⁸ Larke, *supra* note 86, at 658.

⁸⁹ Dionisio Babo-Soares, *Nahe Biti: The Philosophy and Process of Grassroots Reconciliation (and Justice) in East Timor*, 5 *ASIA PAC. J. ANTH.* 15, 20 (2004); STANLEY, *supra* note 1, at 114.

⁹⁰ The *lian nain* "know the history and are in contact with the ancestors. They come from specific families that are the 'owner of the words.'" Hohe, *supra* note 84, at 343.

deceased ancestors to join the proceeding and enforce its conclusions,⁹¹ and of the legitimacy of the church through the priest's prayer.

Where agreement on a peaceful way forward was not reached, cases would be referred to the police. Where it was reached, the Community Reconciliation Agreement would be read out and signed by panel members and by deponents, who would apologize to the community. Once perpetrators of crimes had been welcomed back into the community at the end of the process, they could no longer be prosecuted for them.

The opening remarks by the Chair of the local CRP Panel (in common with the closing agreement) would usually include a renunciation of the use of violence to achieve political ends. Then the perpetrator/deponent would read a statement he or she had voluntarily prepared in advance with assistance from CRP staff. Questions were then asked, including from victims, who were also invited to make statements of the impact of crimes on them. Reparations and other measures would then be agreed and registered with the Dili District Court.⁹² The final stage of the process usually involved some kind of ritualized readmission of the war criminal to the community.

While only 20% of those indicted by the Serious Crimes process were processed through to a trial, and these were systematically less serious indictments, 90% of deponents who requested that they be called to account under the community reconciliation process, 1,371 individuals, saw the ordeal through to completed community reconciliation hearings.⁹³ The incomplete cases were either adjourned and then dropped, or cases where the deponent did not attend. If the CRP was a less severely punitive justice than that of Serious Crimes Panel cases, it at least consistently delivered the kind of justice it provided once a case got underway.

There was nevertheless a problem, in the words of Zifcak, of the CRP becoming a "victim of its own success"⁹⁴ after 30,000, perhaps 40,000, people had attended its hearings. His rough estimate is that there were another 3,000 deponents interested in coming forward to make admissions and seek reconciliation after the CRP shut down.⁹⁵ There were also cases where the CRP visited local towns but not more remote villages where

⁹¹ Commission for Reception, Truth and Reconciliation, *supra* note 77, at Part 9, 24.

⁹² Spencer Zifcak, *Restorative Justice in Timor-Leste: The Truth and Reconciliation Commission*, 68 DEV. BULL. 51, 52–53 (2005)

⁹³ Scheeringa, *supra* note 87, at 138.

⁹⁴ Zifcak, *supra* note 92, at 53.

⁹⁵ *Id.* at 51.

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people were waiting and expecting them to come.⁹⁶ In the Timor book for *PEACEBUILDING COMPARED*, various other qualifications upon the broad assessment of the success of the CRP are discussed.⁹⁷ But it is Zifcak's concern that it was a victim of its own success that is of principal policy relevance to our analysis of time and TRCs in this lecture. Because the Timor TRC was given an operational life of only three years, just as demand was building for its community reconciliation work, it was cut off.

VI. MOSTLY PUNITIVE JUSTICE FIRST IN SOLOMON ISLANDS

The Solomon Islands violence of 1998–2003 is often described as an ethnic conflict and a land conflict on Guadalcanal between armed gangs from Guadalcanal and from the neighboring island of Malaita.⁹⁸ As we describe in our *PEACEBUILDING COMPARED* volume on that conflict, it was a more complex conflict than that.⁹⁹ What distinguishes peacebuilding in the Solomon Islands is that the international peacekeeping operation led by Australia adopted a much more systematically prosecutorial approach than in any other peace operation we know. Some 6,300 Solomon Islanders were arrested, many on multiple charges, in the first three years of the Regional Assistance Mission to Solomon Islands (RAMSI).¹⁰⁰ Some RAMSI officers John Braithwaite interviewed saw it as a *de facto* policy in the early years of the intervention to charge leading militants with something reasonably plausible to get them locked up on remand, while they more carefully sought to build evidence against them. When Australian Prime Minister Howard announced the intervention, he referred to the risk of the Solomons becoming a “safe haven for transnational criminals and even terrorists.”¹⁰¹ The formidably Christian Solomons in truth seemed an inhospitable safe haven for transnational terrorists. Many who supported the intervention as a good thing for the people of the Solomon Islands went along with a story that also allowed Howard to impress members of the Bush Administration—for

⁹⁶ Stanley, *supra* note 1, at 116.

⁹⁷ BRAITHWAITE ET AL., *supra* note 80.

⁹⁸ Shahar Hameiri, *The Trouble with RAMSI: Reexamining the Roots of Conflict in the Solomon Islands*, 19 *CONTEMP. PAC.* 409, 410 (2007). Tarcisius T. Kabutaulaka, *Australian Foreign Policy and the RAMSI Intervention in Solomon Islands*, 17 *CONTEMP. PAC.* 283, 284 (2005).

⁹⁹ JOHN BRAITHWAITE ET AL., *supra* note 4, at 1–4.

¹⁰⁰ As further evidence of the scale of arrests, there were 773 arrests in a six month period in 2003 alone. Kabutaulaka, *supra* note 98, at 297.

¹⁰¹ John Howard, *AUSTL. PARL. DEB.*, H.R. (Aug. 12, 2003) (ministerial statement).

example, Secretary of State Condoleezza Rice—with how he was cleaning up his regional bad lands.¹⁰²

The leadership of RAMSI for many years declined to support civil society and church agitation for a TRC, and supported the disestablishment of the National Peace Council that was doing productive reconciliation work when the peacekeepers landed. By 2009, however, the Solomon Islands Government was no longer willing to resist community demand for a TRC and legislated for one—but with a life of one year, extendable to two. Limited donor funds then did arrive to support the TRC, which was launched by Desmond Tutu in late 2009.

The first thing that was fascinating about the criminal justice first approach in the Solomon Islands (without donor support for truth and reconciliation) is that combatants in the prisons started their own reconciliation program. The prisoners called in the Sycamore Tree Program, sponsored by the churches and Prison Fellowship International, to help them do it. This reconciliation work had little donor support. Much of the funding came from former militants, who participated in the program while inside and supported it from outside after they served their sentences.

Leaders of the church and prison staff told us that the most prominent Malaita Eagle Force leader, Jimmy Rasta, had provided formidable funding to transport families (by boat from Malaita, for example) to join reconciliations inside the prison and for other needs of the program. Rasta's wife, Vika Koto, we were told, always cooked and brought the food for the reconciliations. She had served two years in prison herself on remand awaiting a murder trial in which she was acquitted. We were struck that in our conversations with the Rasta family, they did not mention this generosity. It was others, including their former enemies, who reported their generosity. Rasta did, however, tell us that all forty-three employees in his brick-making, plant hire, and roadwork business were ex-combatants. He claimed the business existed for the purpose of serving their reintegration, rather than his accumulation of wealth. Rasta won a landslide victory to enter Parliament in 2010, and became a minister in the new government. Then, in late 2010, Rasta was charged with another crime from the year 2000 and went back into prison.

¹⁰² Australia under Howard has been said to have been “declared America’s ‘deputy sheriff’ in the Pacific region.” Clive Moore, *Australia’s Motivation and Timing for 2003 Intervention in the Solomon Islands Crisis*, 19 ROYAL HIST. SOC. QUEENSLAND J. 732, 740 (2005).

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Most of the key militant leaders from the two sides, even though RAMSI originally segregated them in prison, experienced reconciliations inside the prison. When we interviewed them both inside and outside the prison, these reconciliations seemed deeply meaningful to them. Prison staff reported amazement at observing the ex-combatants living together in a small prison for years, and never observing unpleasant interactions, let alone violence, between those who had been killing each other during the conflict (except in respect of two militant leaders, who in one case was mentally disturbed and traumatized and in the other had taken a bullet in his brain).

Since the conflict ended, the number of arrests and incarcerations per capita, more so per conflict death, exceeds that in any case of post-conflict justice the authors know. The big question for Truth and Reconciliation Commissions in other nations has been: Which will be the cases for which the truth established will be used to launch prosecutions, and where will amnesty be allowed? The Solomons already has an amnesty law, albeit one whose spirit—as articulated in speeches in the Parliament that enacted it—has hardly been honored. In a context in which most of the post-conflict justice work is done, the key policy question is no longer: “How willing are we to trade away justice to get to the truth and to reconciliation?” More of the emphasis can be on the nation-building opportunity that a sad truth about the past and reconciliation for the future can deliver in a post-conflict environment. South Africa is the best-known example of seizing that nation-building opportunity thanks to the grace of leaders such as Nelson Mandela and Desmond Tutu, who were able to rewrite the national story of South Africa as a coming together of peoples—black, white and coloured—who were all victims of an institution called apartheid. Abraham Lincoln had likewise been able to re-narrate what it meant to be an American 160 years ago at the end of his Civil War: black or white, North or South, to be an American was to be a victim of slavery as an institution—an American is a person who is part of a national struggle to transcend the terrible legacy of slavery.¹⁰³

The truth and reconciliation process in Solomon Islands provides an opportunity for citizens to tell their stories and to hear those of others, to discover what it means to be a Solomon Islander. The process of storytelling began with the first hearings in March 2010 “featuring a procession of children from all over the islands” and an opening by the chair “stating that

¹⁰³ See Robert Meister, *Forgiving and Forgetting: Lincoln and the Politics of National Recovery*, in *HUMAN RIGHTS IN POLITICAL TRANSITIONS: GETTYSBURG TO BOSNIA* (Carla Hesse and Robert Post eds., 1999).

the hearings would disperse shame, but also that the perpetrators would have a chance to regain their humanity.”¹⁰⁴

Jimmy Rasta says he wants a “Forgiveness Bill.” Alex Bartlett wants a “Pardon Bill.” The Sikua government’s National Policy Statement included to “[t]able a Pardon/Forgiveness Bill in Parliament for enactment.”¹⁰⁵ Upon his election in August 2010, the incoming Prime Minister Danny Philip announced he would introduce a Forgiveness Bill to cover all ex-militants. It is an option for the Solomon Islands Government to apologize to militants through the Truth and Reconciliation Commission for failing to honor the spirit of the amnesty agreement it signed in Townsville in 2000, to commit to an end to all new criminal trials arising from the conflict, and for the Governor-General to pardon all of those currently in prison who are rehabilitated and stand ready to apologise for their wrongdoing. A Truth and Reconciliation Commission report recommendation for a Forgiveness Bill would doubtless not be passed by the Parliament before 2013. By then, the ex-combatants remaining in prison would have been there a long time.

Almost all have been model prisoners. Most had no prior criminal record of any kind, and come from loving families that stand ready to support them on release. From inside prison, they have shown leadership to the rest of the nation in how to bring the killers from the two sides together in reconciliation. The TRC could acknowledge this leadership. Most of these ex-combatants are profoundly committed to non-violence as a result of their reconciliation experience with Sycamore Tree—most are respected, energetic leaders from communities that need more hard-working leadership.

The main prison in Solomon Islands is overcrowded, so there is a case that the nation would be well-served by emptying out combatants who have paid their dues when so many other killers and masterminds of violence have gone free and when many more serious criminals than those locked up were released in return for testifying against those on the RAMSI target list. Of course, the argument against Rasta’s “Forgiveness Bill” is that it would do injustice and compromise the rule of law. But it also does violence to the rule of law to offer immunity to more serious criminals who testify against less

¹⁰⁴ Susan Harris Rimmer, *Building Democracy After Conflict: Working Paper No. 4, The Solomon Islands Truth and Reconciliation Commission* 6 (Austl. Nat’l Univ. Ctr. For Int’l Governance & Just., Working Paper No. 4, 2010).

¹⁰⁵ NAT’L PARL. SOLOMON ISLANDS FOREIGN REL. COMM. REP., INQUIRY INTO THE FACILITATION OF INTERNATIONAL ASSISTANCE NOTICE 2003 AND RAMSI INTERVENTION (Nov. 2009), available at <http://www.parliament.gov.sb/files/committees/foreignrelations/FRC%20Final%20Report.pdf>.

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serious ones because the latter happened to hold an office in the command structure of a militant group. It also does violence to the rule of law to turn a blind eye to the corruption of multinational logging companies and the ministers they paid as root causes of the conflict. It does violence to the rule of law to fail to prosecute RAMSI officers who offered financial inducements to witnesses to testify against those on their target list. If it is an acceptable deviation from the rule of law to legislate for these RAMSI officers to enjoy immunity from prosecution in respect of any crimes they commit in responding to the conflict,¹⁰⁶ why is it unacceptable to grant such immunity to former militants? A counter to the rule-of-law objection to a Rasta Forgiveness Bill is therefore that there was selective injustice in who served time in prison.

In the near future we will discover what paths to future truth, justice, and reconciliation the Solomon Islands' TRC and government chooses. Whatever it does choose, the Solomons case already suggests how little path dependency there is in the choice peace operations and governments make on the sequencing of justice, truth, and reconciliation. It shows how civil society actors and villagers can make their own choices to follow the paths not taken by the state and the internationals. It shows that it is never too late to retrieve restorative justice from punitive justice, reconciliation over a criminal injustice system (indeed from within its bowels), truth and memory from a history of lies and forgetting.

VII. CONCLUSION

There is a great deal every nation can learn from the peace in Bougainville about the way top-down, sequenced architectures of formal peace agreements and bottom-up, local reconciliation can be mutually reinforcing. The bottom-up reconciliation started first and enjoyed local success first. It established "islands of civility"¹⁰⁷ from which a wider peace process could begin and spread—something we also saw in Ambon, Indonesia and other cases. More important still was the lesson that the people of Bougainville continue to express today—the view that most of the reconciliation remains to be done. From the outsider's point of view, Bougainville has done far more reconciliations, involving more people from the top to the grassroots, than any other case we have studied. It is the

¹⁰⁶ Shahar Hameiri, *Governing Disorder: The Australian Federal Police and Australia's New Regional Frontier* 22 PAC. REV. 549, 566 (2009).

¹⁰⁷ Kaldor, *supra* note 35.

attitude that reconciliation is always unfinished work—that there is still much violence that is unconfessed, in need of apology—and traditional compensation, that most focuses us on the theme of this essay.

Solomon Islands is a radically different story of an exceptionally prosecutorial approach where, as in Iraq, international forces produced a long list of militant commanders they set about arresting and trying one by one. Yet, an approach that meets the definition of restorative justice, with some help from western restorative justice NGOs, but that was actually a mixture of Christian and pre-Christian approaches to traditional village reconciliation, became as important within the prisons of Solomon Islands as it was in the villages of Bougainville. From Solomon Islands to Bougainville to Timor to North Maluku, traditional reconciliations that had restorative justice characteristics actually had greater peacemaking power than western restorative justice because of spiritual beliefs (Animist, Christian, or both) that those who broke an oath to keep the peace would suffer terrible misfortune. In all these places, oaths to keep the peace overwhelmingly were honored after they were made in the customary fashion; even when up to that time, the young fighters who made them had morphed into organized criminal gangs. The big picture is one of bottom-up indigenous justice traditions with a restorative quality finding a space even in the face of conscious top-down policies for punitive justice.

Hence, one conclusion is that whatever happens first—truth, justice or reconciliation—there is always a creative way of making space for the other two, even if that space is confined within prison walls. Our finding of non-truth, yet reconciliation, in Indonesia makes an interesting case-in-point. Simply because reconciliation in Indonesian conflicts helped create peace without truth, future high-integrity truth-seeking in Indonesia is not ruled out when people feel safe enough to face it. The unique institution of a bilateral Truth and Friendship Commission between Indonesia and Timor-Leste, flawed as it was, took some preliminary steps in Jakarta toward confronting truths about atrocity in Timor-Leste that had previously been suppressed. Susanne Karstedt's research shows that in the 1940s and '50s reconciliation in Europe was based on the German people believing the lie that atrocities were only the responsibility of a small inner circle around Hitler.¹⁰⁸ This lie, that was part of the legacy of Nuremburg, was corrected after later war

¹⁰⁸ Susanne Karstedt, *The Nuremberg Tribunal and German Society: International Justice and Local Judgment in Post-Conflict Reconstruction*, in *THE LEGACY OF NUREMBERG: CIVILISING INFLUENCE OR INSTITUTIONALISED VENGEANCE* 12, 28 (David A. Blumenthal & Timothy L. H. McCormack eds., 2008).

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crimes trials from the 1960s gave direct voice to the victims of concentration camps for the first time.

While the Indonesia-Timor Truth and Friendship Commission shows absolutely no sign of laying a foundation for future justice in Indonesia's courts for its criminal generals, nor should we rule that possibility out completely. Keeping a flickering flame of reconciliation conversation going might be the basis for a new philosophy of permanent Truth and Reconciliation Commissions comforting survivors with a societal commitment to never give up on truth, memory, and justice as a project for the "longue durée."¹⁰⁹ The Bougainville experience of enduring reconciliation shows that most of the perpetrators and survivors of the worst atrocities are not ready for meaningful reconciliation in the first few years after the peace. They are not emotionally ready. More than that, after a civil war, people are so busy with rebuilding their homes, their churches, their schools, and re-planting decimated fields.

A permanent TRC that keeps its doors open for a century has the option of educating survivors that truth, justice, and reconciliation are partial accomplishments of the *longue durée*. They can never be quick and easy is the educational message. The other message is that, whenever survivors are ready, they can walk through the TRC's doors to record their story, to request that perpetrators step forward for reconciliation or justice, or both. The ethos of the educative appeals to victims of a permanent commission is that survivors can put their trust in their children and grandchildren to preserve the memory of their suffering and never close the door on truth, justice, and reconciliation. This is part of why using the archives and artifacts of a permanent TRC for a museum is important. It becomes a focus for educating future generations of schoolchildren in the sacrifices of their forebears.¹¹⁰ Particularly in poor countries where capital city tourist attractions tend to be few, museums that commemorate recent wars often become major drawcards that can charge tourists admission fees that offset costs.¹¹¹ International

¹⁰⁹ *Id.*

¹¹⁰ This would be in addition to the potential educative effects that time-limited truth commissions already possess. Stephan Landsman, *Alternative Responses to Serious Human Rights Abuses: Of Prosecution and Truth Commissions*, 59 *LAW & CONTEMP. PROB.* 81, 88 (1996). For a discussion of the importance of history education in transitional justice more generally, see Elizabeth A. Cole, *Transitional Justice and the Reform of History Education*, 1 *INT'L J. TRANSITIONAL JUST.* 115 (2007).

¹¹¹ Often referred to as "dark tourism," a fascinating literature exists on this emerging field. See generally JOHN T. LENNON & MALCOLM FOLEY, *DARK TOURISM: THE ATTRACTION OF DEATH AND DISASTER* (Continuum 2000); Paul Williams, *Witnessing*

peacekeepers and their families are often particularly interested later in their lives to visit such war museums in the countries where they served. A permanent commission might also educate perpetrators who crave immediate forgiveness and closure that part of the suffering that it is their responsibility to bear is patience until their victims are ready for reconciliation, if ever.

Genocide: Vigilance and Remembrance at Tuol Sleng and Choeung Ek, 18 HOLOCAUST & GENOCIDE STUD. 234 (2004); Senija Causevic & Paul Lynch, *Phoenix Tourism: Post-Conflict Tourism Role*, 38 ANNALS TOURISM RES. 780 (2011); Philip Stone, *A Dark Tourism Spectrum: Towards a Typology of Death and Macabre Tourism Sites, Attractions and Museums*, 54 TOURISM: INTERDISC. INT'L J. 145 (2006); THE DARKER SIDE OF TRAVEL: THE THEORY AND PRACTICE OF DARK TOURISM (Philip Stone & Richard Sharpley eds., 2009); Philip Stone & Richard Sharpley, *Consuming Dark Tourism: A Thanatological Perspective*, 35 ANNALS TOURISM RES. 574 (2008).