

TRUTH, UNDERSTANDING, AND REPAIR

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As a mediator working in the public arena, I very much appreciate the perspective of Brudholm and Rosoux as they critique the unexamined and often harmful push for forgiveness.¹ In my work, I have never asked anyone to apologize and never considered asking anyone to forgive. I will argue here instead that the quest for truth, understanding, and victim-defined repair present more appropriate vehicles for addressing certain cases of severe injustice than might a focus upon apology and forgiveness.

An apology or expression of forgiveness can have dramatic, transformative effects. Perhaps the seminal example of such power is the oft-told story of Irène Laure,² whose apology for her hatred to German participants at a 1947 conference brought about major changes in the Germans as well as in others. Other authors in this symposium have described similar circumstances. We may see, however, following Brudholm and Rosoux, that such examples are limited to special, indeed virtually unique, circumstances.

My work does not involve situations of ongoing violence, so the parties concerned do not have the immediate threat that ongoing or recent genocide or mass murder generates. Neither does it typically involve such a one-sided determination of right and wrong as was found in post-Nazi Europe. Consider, however, the cases of these recent projects in which I have been invited to work, all featuring a substantial legacy of injustice and harm:

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My book, *Resolving Public Conflict: Transforming Community and Governance*, describes how public-conflict-resolution procedures can assist in vitalizing democracy. With two colleagues I am co-author of *Reaching for Higher Ground in Conflict Resolution*, which describes how diverse groups and communities can create expectations for addressing conflict with integrity, vision, and creativity. I am currently working on a project to address the enduring impact of slavery and racial segregation and discrimination involving the University of Virginia and adjacent communities. I received a B.A. from the University of Virginia and an M.S. and Ph.D. in Conflict Analysis and Resolution from George Mason University. I would like to thank the symposium organizers, the Andrus Family Fund, which supported the symposium and has supported my work, and Marina Piscolish for her work in defining the concept of “unrightable wrongs.”

1. Thomas Brudholm & Valérie Rosoux, *The Unforgiving: Reflections on the Resistance to Forgiveness After Atrocities*, 72 LAW & CONTEMP. PROBS. 33 (Spring 2009).

2. See, e.g., Michael Henderson, *Initiatives of Change*, in POSITIVE APPROACHES TO PEACEBUILDING 205 (Cynthia Sampson, Mohammed Abu-Nimer, Claudia Liebler & Diana Whitney eds., 2003).

1. An abandoned gold mine posing a significant environmental threat is located in an area claimed by a Native American tribe illegally displaced over a century ago—a displacement whose legal remedy (financial compensation) has been rejected by the tribe.
2. A creosote company has severely damaged a beautiful harbor and much of the surrounding land. That land is also notorious as the exact site where the nation's very first Japanese Americans, forced to leave their homes during World War II, disembarked for their imprisonment in internment camps.
3. An idle chemical-manufacturing plant sits next door to families who claim death and debilitating illness due to the improper disposal of the plant's chemicals twenty years earlier.
4. A coalition of municipalities seeks a permanent water supply from a reservoir owned in part by Native American tribes, whose traditional cultural property would be flooded by the reservoir's expansion.

These cases all involve what I call “unrightable wrongs.”³ Unrightable wrongs, for purposes of this essay, refer to past injustices, often shaped by prejudice and discrimination, that were systematically or intentionally inflicted upon a community or identity group. Unrightable wrongs have historic, present, and future consequences for the parties involved and for the broader community. Such wrongs have come to involve a broad and complex set of issues and stakeholders, thus making efforts at resolution seem daunting or even impossible. And unrightable wrongs have spiritual, moral, emotional, social, economic, and political aspects and implications.

There is a paradoxical relationship among the goals of those who seek out my assistance, my aspirations for my work, and the concrete ends that I pursue while doing that work. I do this work to support resilient groups and communities that can be sustained ecologically, economically, and socially, and whose relations can be characterized by terms such as just, fair, equitable, and effective. Thus my purpose manifestly includes building sustainable relationships.

My work is generally triggered not by the desire to address past injustices per se, but by an ongoing socio-physical problem—for example, a conflict over a heavily contaminated manufacturing plant or an impaired river. I most often work in communities where significant environmental and health problems exist, and where the need to mend fractured relationships is rarely, if ever, a primary goal of the parties themselves. Rather, the immediate and often-urgent goals are to address ongoing ecological, economic, and human physical and social harm, and to prevent any further harm.

3. This use of the term “unrightable wrongs,” and the subsequent description, were first proposed to me by Marina Piscolith, Ph.D., in 2003. Marina Piscolith is a private practitioner; she is coauthor of *Reaching for Higher Ground* with myself and John Stephens.

This is not to say that the parties do not recognize the extent to which conflict and fractured relationships exist, or that such broken relationships make the work's purpose a greater challenge. In all of these situations, the vision of past injustices remains alive. And there is every reason to understand that the events that may be long past cannot be ignored: Ongoing *problems* trace origins to earlier events and circumstances, and thus can only be fully understood within a historical context. Current *dynamics* are still shaped by those events and circumstances, and will continue to be absent change. And legitimacy of *intervention* and *change* and successful *transition* depends upon knowledge, understanding, and acknowledgment of past events in order to avoid repeating oppression, injustice, and mistakes, and revictimizing communities.

My tools are limited, but they are powerful. I help construct conversations among people who often have different and conflicting interests, such that they may gain knowledge—knowledge about one another, about their relationships, and about the issues at stake. At the most basic level, I seek explanation and understanding, with the assumption that if people have this knowledge and understanding, they will make better choices than they would otherwise.

The paradox is that the way I work means abandoning any notion that I know what is best for people. I never tell people what they should do about a problem. I do not even say that they should stop fighting, or that resolving their conflicts is always possible or wise. I do not push people to agree.

Thus, promoting forgiveness is never my goal. Neither is apology nor even reconciliation, even when I may believe that there is good reason for both. I have never in the course of my work invited anyone to forgive wrongs done to them by others. In the context of the work that I do, I have too much respect for self-determination, and too real a sense of my own limitations of understanding, to think that I know when apology, forgiveness, or reconciliation is best for individuals and relationships. I would, in fact, be concerned that a premature effort to seek reconciliation would prevent the manifestation of conflict that is necessary for certain wrongs to be made less wrong and, sometimes, even made right. I have witnessed the too-eager propensity of people concerned with public order to avoid such conflict by pretending that harm has not occurred.

Having said that, when egregious wrongs of this sort have occurred, of course people do want change. They want *recognition* of what has happened. They want widespread *understanding* and *acknowledgment* of what the impact of those events has been on themselves. They want *action* to repair the wrongs. They are often not sure what such actions would actually do, and they often disagree even amongst themselves. But only once recognition, understanding, acknowledgment, and action toward change have begun might they consider the possibility of relationships with those whom they blame for those wrongs.

Based primarily upon what I have found through the course of my work with damaged communities, I have developed the following conceptual framework, which allows conflict interveners as well as the parties themselves to

think clearly about the path that leads to addressing these unrightable wrongs. This framework represents both the goals of this work *and* the path to those goals. The framework includes *truth*, *understanding*, *repair*, and *relationship*, in that order.

Truth(s). What facts about this situation are people least familiar with? What do past or ongoing dominant narratives reveal about efforts to hide those facts? How can truths be uncovered in the face of continuing opposition and fear? How could such truths be shared? Such questions dominate situations of protracted harm, not least in part because it is normal to cover up key features of such situations, whether that be the nature and extent of a chemical contamination or the nature and extent of harm inflicted upon individuals and communities. For example, few people know that the courthouse in my hometown of Charlottesville, Virginia, revered by historic preservationists as a place where three former Presidents practiced law, was also the location used for buying and selling human chattel. The historical marker so visible to tourists and townspeople simply ignores that fact.

Understanding. Uncovering the truth is not the same as understanding the meaning of that truth. What is least understood about this situation? What has been the impact of this situation for those most involved? This element typically requires face-to-face exchange that allows for encounter, mutual learning, and change. To return to the example of the courthouse in my home town, a public forum about the future of the courthouse attracted primarily the older, white citizenry interested solely in historic preservation of the physical building. Yet, when one elderly African-American gentleman declared that his ancestors were bought and sold there, the shift in discourse was palpable. The tone was no longer one of reverence, but of questioning: What does this juxtaposition of honor and shame mean to us today? How can we convey that meaning fully?

Repair. What does repair look like to those most affected by this injustice? Who would be involved in determining that repair and how? How might repair begin? What would that repair mean? Repair for the courthouse example may mean a prominent plaque acknowledging all the history, as well as recognition from the preservationists of the complete historical dimensions of the courthouse and those who practiced law as well as slavery there. Defining such repair need not be solely a task of the victim(s) or their advocates, but it should be driven by their needs and ideas.

Relationship. Only after examining the first three elements can one begin to examine questions oriented to the future: What are the prospects for transformed relationships? What would ideal relationships look like for the parties harmed? What achievements might those relationships create?

I do not want to make this framework appear facile or to sound like the linkage of truth, understanding, and repair is a proven formula for overcoming all challenges of severe injustice. It is not. But as Tom Tyler notes in this symposium, the nature of procedural justice, not quality or fairness of outcome, consistently determines satisfaction among parties, including victims of grievous

wrongs—a finding that transcends race, gender, and ethnicity.⁴ And a model that does not put the onus of repair upon the victims of egregious harms but that responds to their needs is necessary in order to avoid replicating those harms and revictimizing anew those who deserve better.

4. Tom Tyler, *Governing Pluralistic Societies*, 72 LAW & CONTEMP. PROBS. 187 (Spring 2009).