昨天・今天・明天：從社會創傷到社會修和
“Breaks about social and ecological change too often leave out a vital component: how do we change ourselves so that we are strong enough to fully contribute to this great shift? *Active Hope* fills this gap beautifully, guiding readers on a journey of gratitude, grief, interconnectedness, and, ultimately, transformation.”

— NAOMI KLEIN, author of *The Shock Doctrine*

*Active Hope*

How to Face the Mess We’re in without Going Crazy

JOANNA MACY & CHRIS JOHNSTONE
Hopefulness

Hope

desire
Hopefulness

• hopeful: a sense of feeling we have when there are signs that we are likely to have the outcome we expect after putting in effort
• action relying on this type of hope is shaky because we might not commit to a cause that does not look very promising in a short period of time
• dependent on the external reality → passive hope

Desire

• desire: our longings for a future that we want to live in; a detailed and even visualized vision that you can see, describe and share to others
• dependent on one’s values and intentions regardless of how hopeful the outcome is → active hope
• this type of hope is active in the sense that it can be cultivated and strengthened through practice
Individual Self

Family/group

Community

Human society

Web of life

(Macy & Johnstone 2012,90)
• the ability of a single brain cell is rather limiting

• when trillions of brain cells work together *as a whole*, they have some capacities that we cannot tell from a single brain cell
• from the perspective of a system, with each level up, there are new capacities coming from the complex whole

• seen in this way, we are part of a larger whole that is acting through its parts

• ask yourself “What is happening through me?” ➞ “How could the Great Turning happen through me?”
“To see the power of a step, we need to ask, ‘What is it part of?’ An action that might seem inconsequential by itself adds to and interacts with other actions in ways that contribute to a much bigger picture of change.” (Macy & Johnstone 2012,111)
a larger view of time

- used to being short-sighted
- the Haudenosaunee: “How will this affect the seventh generation?”
- too focused on short-term benefits → fail to see disasters are coming our way
- compressing the history of the planet earth into 24 hours, human beings have only existed for 48 seconds, starting at 23:59:12
- seen in this light, our life would be much shorter than a blink of an eye
“… when we look at the breath-taking span of our planetary history, the idea that ‘we’ll never change' seems absurd. We are part of the most extraordinary unfolding. Where will it go next?” (Macy & Johnstone 2012, 155)
願景、方向、價值
（想要的事物）

現況
（你現時所在的情景、所有的事物）

引發創造的張力
creative tension

David Peter Stroh’s Systems Thinking for Social Change (2015, 73)
The moment of deciding

The moment of completion
轉型正義(transitional Justice)

• 是一種關心怎樣面對和對待過去發生的暴行才算符合正義的一種追求

• 相信調查過去發生的暴行，原還和公佈真相，既可以回應人民問責的需求，亦可以促進社會關係的修復，令到從專制走向民主的政治轉型更穩固、更有希望
coined in the 1980s and 1990s when

- the first truth and reconciliation commissions were set up in Latin America
- vetting and lustration procedures were used in post-conflict and post-transition regime
- trials on war crimes were conducted
- reparation policies were issued in Eastern Europe, the Balkans (巴爾幹半島) and South Africa

heavily associated with transition process from autocracy to democracy in the 1980s

boils down to the idea of how to address the legacy of the massive human rights violations in the past here and now so that we can have a brighter and more politically democratic future

- early 80s: the end of autocracy in Chile and Argentina
- 90s: the war in Yugoslavia 南斯拉夫, the end Apartheid in South Africa and the aftermath of genocide in Rwanda 區旺達
post-war trials in Nuremberg and Tokyo Tribunals (1946-1948) in the 40s set the stage for later developments

→ deepened democratization in Japan and changed the legal and political systems in West Germany

the establishment of the International Criminal Tribunal to the Former Yugoslavia (ICTY) in 1992-1993

the Criminal Tribunal for Rwanda (ICTR) in 1994

the Rome Statute for the International Criminal Court (ICC) in 1999 setting out the legal parameters for criminal justice and reparation procedures for massive human rights violations and crimes against humanity

the UN issued guidelines on transitional justice “Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice” in 2000
Guiding Principles (UN, 2000)

1. Support and actively encourage compliance with international norms and standards when designing and implementing transitional justice processes and mechanisms

2. **Take account of the political context** when designing and implementing transitional justice processes and mechanisms

3. Base assistance for transitional justice on the unique country context and strengthen national capacity to carry out community-wide transitional justice processes

4. Strive to ensure women’s rights

5. Support a child-sensitive approach

6. Ensure the centrality of victims in the design and implementation of transitional justice processes and mechanisms

7. Coordinate transitional justice programmes with the broader rule of law initiatives

8. Encourage a comprehensive approach integrating an appropriate combination of transitional justice processes and mechanisms

9. Strive to ensure transitional justice processes and mechanisms take account of the root causes of conflict and repressive rule, and address violations of all rights

10. Engage in effective coordination and partnerships
many mass and societal-level atrocities in human history that
in the 20th century alone

- the Holocaust of World War II
- genocide in Cambodia 柬埔寨, Rwanda 盧旺達, Burma 緬甸, former Yugoslavia 前南斯拉夫
- politically motivated disappearances and/or killings: Brazil 巴西, Chile 智利, Argentina 阿根廷, Guatemala 危地馬拉, El Salvador 薩爾瓦多, China
- Japan declaring war on the United States and occupation in China
- South Africa’s apartheid and its violence
- and many others …
Justice

報復式正義
Retributive Justice

轉到正義
Transitional Justice

修復式正義
Restorative Justice
Criminal/retributive justice responds to justice by focusing on deserts (i.e., what offenders deserve) while RJ on needs and associated obligations.

<table>
<thead>
<tr>
<th><strong>Criminal Justice</strong></th>
<th><strong>Restorative Justice</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Crime is a violation of the law and the state.</td>
<td>Crime is a violation of people and relationships.</td>
</tr>
<tr>
<td>Violation creates guilt.</td>
<td>Violation creates obligations.</td>
</tr>
<tr>
<td>Justice requires the state to determine blame (guilt) and impose pain (punishment).</td>
<td>Justice involves victims, offenders, and community members in an effort to put things rights.</td>
</tr>
<tr>
<td>Central focus: offenders getting what they deserve.</td>
<td>Central focus: victims needs and offender responsibility for repairing them.</td>
</tr>
</tbody>
</table>

(Howard Zehr 2014)
**Three different questions:**

<table>
<thead>
<tr>
<th>Criminal Justice</th>
<th>Restorative Justice</th>
</tr>
</thead>
<tbody>
<tr>
<td>What laws have been broken?</td>
<td>Who has been hurt?</td>
</tr>
<tr>
<td>Who did it?</td>
<td>What are their needs?</td>
</tr>
<tr>
<td>What do they deserve?</td>
<td>Whose obligations are these?</td>
</tr>
</tbody>
</table>

(Howard Zehr 2014)
societies in the political transition from an authoritarian and oppressive regime to a full democracy often find themselves being torn between …

沉溺過去  
wallowing in the past  
too much memory

忘記歷史  
forgetting the past  
too little memory

「不想回憶、未敢忘記」
“In the course of such transitions, societies have to struggle over how much to acknowledge, whether to punish, and how to recover （都在承認過去、是否懲罰和怎樣復和這些問題上掙扎）. How to treat the continuing presence of perpetrators, and victims, and bystanders, after the violence has ended is a central problem, or better put, a series of problems. A common formulation posits the two dangers of wallowing in the past and forgetting it. Too much memory or not enough; too much enshrinement of victimhood or insufficient memorializing of victims and survivors; too much past or too little acknowledgement of the past’s staging of the present; these joined dangers accompany not just societies emerging from mass violence, but also individuals recovering from trauma.” (Martha Minow 1998,2)
perpetrators, survivors, victims’ families and bystanders all continue to live in close proximity.
Options

1. to prosecute all perpetrators
2. to set up truth commission to restore the truth and make reparation
3. to remove (lustrate) government officials who participated in mass violence and vet all that remain
4. to disclose all confidential documents
5. to create a national day of memory, museums, curricula, theatres
6. to name the names of perpetrators
① to prosecute all perpetrators
② to set up truth commission to restore the truth and make reparation
③ to remove (lustrate) government officials who participated in mass violence and vet all that remain
④ to disclose all confidential documents
⑤ to create a national day of memory, museums, curricula, theatres
⑥ to name the names of perpetrators

_all these options enable societies to address atrocities in the past without falling prey to vengeance and forgiveness_ (不陷入尋仇和姑息兩端)
如果你有權選擇任何一種你覺得適合的方法，面對過去的暴行，你會如何回應公義的呼喚？

*In face of past atrocities, how would you address the need for justice if you had the power to choose whatever means you consider fit?*
Transitional Justice Measures

Options

1. punitive
2. historical
3. reparatory
4. administrative or constitutional
<table>
<thead>
<tr>
<th>Acknowledgement</th>
<th>Restoration</th>
<th>Criminal Justice</th>
<th>Amnesties</th>
</tr>
</thead>
<tbody>
<tr>
<td>History commissions</td>
<td>Reparation</td>
<td>Application of international human and humanitarian law</td>
<td>Blanket or conditional amnesties</td>
</tr>
<tr>
<td>Truth commissions</td>
<td>Restitution</td>
<td>Criminal justice</td>
<td>Silence pacts</td>
</tr>
<tr>
<td>Apologies</td>
<td>Compensation for past injustice</td>
<td>Tribunals and ad hoc tribunals</td>
<td>Rehabilitation programmes</td>
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<td>Memorials</td>
<td>Quota and affirmative action</td>
<td>Trials</td>
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<tr>
<td>Public debates</td>
<td>Restoration of historical sites</td>
<td>Security system reform</td>
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<tr>
<td>Film</td>
<td>Exhumation of mass graves</td>
<td>Condemnation or probation</td>
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<td>Literature</td>
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<td>Vetting and lustrations</td>
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<td>Schoolbooks</td>
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<td>Scientific research</td>
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<td>Open archives</td>
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<td>Media involvement</td>
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<tr>
<td>Symbolic naming of victims and perpetrators</td>
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(Anja Mihr 2017, 6)
transitional justice lies between vengeance and forgiveness that can address the needs for dignity, truth, accountability, mourning and healing

vengeance forgiveness
transitional justice lies between vengeance and forgiveness

vengeance

- taking revenge as a very common moral response
- observed in 9- to 18-month old babies
- a form of expressing self-respect and dignity, and a way of reestablishing equivalence
- “an eye for an eye; a tooth for a tooth” embodies the notions of equivalence and proportionality
- the danger: vengeance is easily done out of proportion and provokes pushback ➔ “horrible excess” ➔ cycle of violence

forgiveness
transitional justice lies between vengeance and forgiveness

**Vengeance**

- retribution is a restrained form of vengeance guided by some principles (rule of law)
- helps *set the normative standards* that harming others is unacceptable
- looks like a relief but often *locks them in the prison of victimhood*
- not a way out for the healing of trauma

**Forgiveness**
transitional justice lies between vengeance and forgiveness

<table>
<thead>
<tr>
<th>Vengeance</th>
<th>Forgiveness</th>
</tr>
</thead>
</table>

- forgiveness often entails *seeing or restoring the humanity* of oppressors
- letting go of the resentment, grudges, anger, and grievances towards perpetrators and releasing oneself from the place of victimhood
- the problem: often unintentionally produces *impunity*
- forgiveness often slides to forgetfulness ➔ *silencing effect*
transitional justice lies between vengeance and forgiveness

vengeance

• forgiveness takes away people’s right to be outraged and to express their outrage

• the condition for forgiveness is that the perpetrator repents or at least acknowledges the harm they inflicted on others

• difficult to know if they have changed and if they genuinely repent

• repentance for participating in mass atrocities might be far from enough

• never matches the degree of terror they brought
Complete closure is impossible nor desirable.

- “no response can ever be adequate”. (Minow 1998,5; original italics)
- the painful memory can never be scratched
- no response is adequate because the pain of the massive atrocities is beyond words
Complete closure is impossible nor desirable.

- we need to acknowledge “the incompleteness and inescapable inadequacy of each possible response to collective atrocities” (1998,5) while seeking transitional justice

- Hannah Arendt 漢娜·阿倫特 “we ‘are unable to forgive what [we] cannot punish and [we] are unable to punish what has turned out to be unforgivable’” (Arendt’s *The Human Condition* 1957, 241; quoted from Minow 1998,4)

- 無法原諒不能被懲罰的事，同時無法懲罰無法被原諒的事
Transitional justice is slow and inter-generational
Options

1. to prosecute all perpetrators
2. to set up truth commission to restore the truth and make reparation
3. to remove (lustrate) government officials who participated in mass violence and vet all that remain
4. to disclose all confidential documents
5. to create a national day of memory, museums, curricula, theatres
6. to name the names of perpetrators
Trauma Healing Journey: Breaking the Cycles

*This does not apply in all cases, for example, child sexual abuse, where those traumatized have no responsibility for what happened.

(Yoder 2005, 47)
＊ Carolyn Yoder結合了前人的模型，建立了「創傷療癒之旅」
＊ 有別於只專注管理創傷帶來的身心不適的模型，Yoder的「創傷療癒之旅」同時兼顧個人和群體
＊ 社會創傷是集體創傷的一種，所受到傷害的不止於個人的身心，
  還包括社會關係，具體而言意指群體有多大信任(trust)，相信彼此是連繫的，並基於這種信任，以整體作為個人安身立命的基礎
＊ 所以社會創傷是一種關係創傷，它減弱甚至中斷群體內個體與個體之間的連繫，以及個人對群體的歸屬感
＊ 療癒社會創傷所需要的不單是個人創傷得到及時和足夠的照顧，
  還包括建立社會制度和過程，修復和強化社會關係
＊ 這個旅程不是直線前進的，往往是崎嶇滿途、迂迴曲折
＊ 很多時需要幾代人的努力才能由一個階段走進另一個階段
(Yoder 2005)

Trauma Healing Journey: Breaking the Cycles

*This does not apply in all cases, for example, child sexual abuse, where those traumatized have no responsibility for what happened.
• #1 Finding safety, breaking free

- it might seem paradoxical that the trauma healing journey starts with safety

- people in ongoing traumatic events are lack of safety → never able to start the healing process?

- while there may still be lack of external safety, the safety that the victim needs is of a different kind

- social support, spiritual practice, positive leaders, active willingness, an understanding of the healing process, acquisition of mind-body techniques (e.g. mindfulness) to take care of reenactment offer inner safety
• **#2-3 Acknowledgement: Mourning, grieving our own story, and naming fears**

  • the next two steps of the trauma healing journey are all about acknowledgement by way of story-telling, drama, song, writing, meditation, prayer or art

  • no consensus as to how detailed the victim needs to retell as it might trigger them into hyperarousal

  • often take a **gradual approach** so that the emotions released would not be too overwhelming to the point of re-traumatization

  • many ancient and indigenous societies have similar rituals or processes that mourn over the dead in a circle

  • when pain and many other emotions are witnessed, acknowledged and mourned, there is usually an **internal shift → new meanings are found**
• to heal trauma needs the loss to be mourned and grieved
• when grieving, we get in touch with our emotions about the loss and allow them to express themselves
• when mourning, we express our sadness, pain and despair about the loss public and often collectively
• if grieving is not allowed, trauma will last and even grow
1. the feelings and emotions that a trauma contains are so intense that the victim is afraid of getting in touch with
   ▶ at other times, anger and rage get in the way of grieving as the victim doesn’t want to show vulnerability

2. refusal to acknowledge the loss in fear of losing the last shred of hope blocks grieving

3. coming to terms of the loss necessarily entails truth-telling:
   • to grieve over a trauma created by sexual abuse requires acknowledgment of the very fact of the sexual abuse
   • oftentimes, the facts might be suppressed, denied and/or censored politically (e.g. June 4 massacre)

4. the truth of what happened can never be known (e.g. Malaysia Airlines Flight 370 (also known as MH370 or MAS370) disappeared on 8th March 2014) ➔ ambiguous grief or frozen sadness

5. the traumatic event is still ongoing and acute that the victim is still in survival mode

6. the body of the deceased cannot be found so that no cultural and religious rituals can be performed
• **#4 Acknowledgement:** Recognizing that “the other” has a story

  - turning the question of “Why me/us?” around to the question of “Why they? Why did they do it, and why did they do it to us?”

  - while 100% finding what the other do disgusting, outrageous, horrendous, the victim, with support from others and inner safety, is ready to explore the story of the “other” who harms them

  - listening and understanding ≠ endorsement, agreement and condoning (姑息)

  - what are the root causes for the suffering by asking (Yoder 2005)
    - “What was done to me/us?”
    - “What did I/we do to others?”
    - “What did I/we fail to do?”

• these questions are inappropriate for sexual abuse
• **#5-7 Reconnection: Recognizing interdependence, taking risks**
  - by asking the previous three questions people come to put their suffering in a larger picture
  - understand more what makes the “other” the way they are
  - more willing to get go of the good vs. evil narrative and rehumanize the “other”
  - it comes to a critical moment that people need to decide if they are to take risk in “meeting” the “other”
  - may take the form of negotiation for peace or the Truth and Reconciliation Commission like the one in South Africa
  - sometimes, it is those who are left behind in an atrocity meet each other
  - “September 11 Families for Peaceful Tomorrows”: family of the deceased in 911 travelled to Afghanistan and Iraq to meet those families which lost their children in the retaliatory war by US
• **#8-12 Reconnection**
  
  • *only when* hurt and pain are acknowledged, witnessed, mourned and held accountable can people move forward to considering the possibility of *forgiving*

  • truth is a prerequisite for reconciliation

  • to forgive is not the same as forgetting or foregoing (=giving up) justice

  • forgiving is a process where both sides release themselves from the grip of the other

  • they no longer limit who they are by defining themselves *only in opposition to* the “enemy”

  • the process is very delicate and challenging
• #8-12 Reconnection

• there are different ways of establishing truth and reconciliation in the aftermath of atrocities

• one central question is how to grapple with (兼顧) justice and reconciliation (i.e. repairing broken relationship)

• historically, there were criminal courts and about 50 Truth and Reconciliation Commission in various places

• how successful are they? what challenging problems did they face?
什麼是真相委員會？
面對和處理過去暴行的一種努力，促進社會大眾對國家過去暴行的理解和接納，從而推進政體轉型
有真相委員會功能的組織有很多，而且不一定叫「真相委員會」：
• 在阿根廷、烏干達、斯里蘭卡的「失蹤人口委員會」(commissions on the disappeared)
• 厄瓜多爾、海地、毛里求斯、巴拉圭、通哥的「真相與公義委員會」(truth and justice commissions)
• 肯尼亞的「真相、公義與和解委員會」(truth, justice and reconciliation commissions)
• 危地馬拉的「澄清歷史真相委員會」(historical clarification commissions)
• 南非、智利、秘魯的「真相與和解委員會」(truth and reconciliation commissions)
絕大部份是國家通過總統命令、立法或和談而設立的，但巴西層有由民間和教會私下組織的真相委員會，調查1964至1979年間軍政府的暴行
“A truth commission (1) is focused on past, rather than ongoing events; (2) investigates a pattern of events that took place over a period of time; (3) engages directly and broadly with the affected population, gathering information on their experiences; (4) is temporary body, with the aim of concluding with a final report; and (5) is officially authorized or empowered by the state under review.” (Hayner 2011,11-12)

真相委員會

• 專注過去而不是仍然發生的事件；
• 調查在一段時間內發生的一連串有關係的事件；
• 直接或間接接觸受影響的群眾，搜集她 / 他們的經驗；
• 臨時設立的組織，目標是刊出總結工作的報告；
• 由被調查的國家正式授權設立。
在國家層面上影響真相委員會的成立、職能、權力、影響力等的因素 (Hayner 2011,17)

- 要為過去暴行負責的群體和人士的勢力，以及她/他們控制政體過渡政策的能力
- 公民社會，包括受害者和人權組織的組織力
- 國際社會的興趣、角色和參與程度
- 過去暴行的種類和嚴重程度，以及政體轉型的性質
- 國家的政治與社會文化
※ 目的：

1. 发掘、澄清和正式确认过往发生的暴行
   事实往往已广为人知，委员会寻求真相是为了解除强制的沉默，以及推翻过往政府或国家对事实的否认；光复历史；统一和调和关于各种事件的版本，有助和解和减少冲突；官方对往事的承認帶來療癒；

2. 回應受害者及其家屬的需要；制訂補償方案

3. 避免有罪不罰(impunity)的情況並向相關人士問責

4. 勾畫制度責任和建議改革

5. 促進和解和減少過去於當下引發的衝突
※ 目的：

1. 發掘、澄清和正式確認過往發生的暴行

2. 回應受害者及其家屬的需要；制訂補償方案
   給予受害人和家屬一個公開的平台表達事件對自己的影響；
   阿根廷曾出現政治異見人士被人間蒸發的黑暗日子，家屬想
   知道受害人的下落，有助尋回屍體，解決ambiguous loss帶來
   的痛苦；有完整的哀悼；設立「被失蹤」(forcibly disappeared)的法律類別，幫助遺屬辦理法定程序；只有德國
   容許受害人查閱跟自己相關的機密文件，知道誰是探子；

3. 避免有罪不罰(impunity)的情況並向相關人士問責

4. 勾畫制度責任和建議改革

5. 促進和解和減少過去於當下引發的衝突
目的：

1. 发掘、澄清和正式确认过往发生的暴行

2. 回应受害者及其家属的需要；制定补偿方案

3. 避免有罪不罚（impunity）的情况并向相关人士问责
   真相委员会结束后把有强力证据指证相关人士犯罪的名单转交检控当局，甚至公开加害者名单；

4. 勾画制度责任和建议改革
   改革军警和司法制度；解散军警后重新甄选，又罢免将过去与专制有连繫的公务员；

5. 促进和解和减少由於往事引发的衝突
about 40 commissions similar to the Truth and Reconciliation Commission (TRC) of South Africa from 1974 to 2009 (Hayner 2011)

the TRC of South Africa is often considered a success

a negotiated settlement between the African National Congress (非洲人國民大會) (an opposition party against apartheid) and the apartheid regime in the 1990s

the former wanted truth while the latter wanted reconciliation
Transitional Justice

1. inclusive (all contributed)

2. exclusive (victor’s justice)
different from many other TRCs, South Africa’s is a consensus among various political parties

➔ proponents lobbied and consulted various political leaders and sought their endorsement

➔ bottom-up approach

a lot of preparations for political transition from an authoritarian regime to a democracy

the parliament enacted an interim Constitution in November 1993 ➔ in April 1994 Nelson Mandela was elected as the first president
“What responses do or could lie between vengeance and forgiveness, if legal and cultural institutions offered other avenues for individuals and nations? For nations recovering from periods of massive atrocity, the stakes are high, the dangers enormous. Members of those societies need to ask not only what should count as a good reason to forgive, and not only what are the appropriate limits to vengeance. They need to ask, what would it take, and what do our current or imagined institutions need to do, to come to terms with the past, to help heal the victims, the bystanders, and even the perpetrators? What would promote reconstruction of a society devastated by atrocities? What could build a nation capable of preventing future massacres and incidents or regimes of torture?”

(Martha Minow 1998, 21; original italics)
The Postamble of the constitution reads:

“In order to advance such reconciliation and reconstruction, amnesty shall be granted in respect of acts, omissions and offences associated with political objectives and committed in the course of the conflicts of the past. To this end, Parliament under this Constitution shall adopt a law determining a firm cut-off date, which shall be a date after 8 October 1990 and before 6 December 1993, and providing for the mechanisms, criteria and procedures, including tribunals, if any, through which amnesty shall be dealt with at any time after the law has been passed.” (quoted from Burton 2016, 13-14)
the underlying assumption of setting up a TRC is that only truth can heal the divided society; granting amnesty is the price we pay for truth and peace

many family member of victims and the disappeared wanted to know their whereabouts

**strategic consideration:** the process of political transition is very *delicate* and *fragile*

→ granting amnesty increases the likelihood of *peaceful transition* and *stability*
right after transition, tons of work was to be done, including

- amending laws and institutions that implemented apartheid
- removing physical segregation
- reducing economic inequality, improving health and education services

→ prosecution is costly

the Land Commission, the Human Rights Commission, the Gender Commission and the Youth Commission

TRC was set up according to a new legislation “The Promotion of National Unity and Reconciliation Act” (enacted in July 1995)
• granting amnesty is greatly controversial

• full disclosure of the truth in exchange for amnesty about the past conflict from 1960 to 1994

• the same as *impunity* (有罪不罰), being immune from criminal and civil litigation once and for all without the need to speak out the truth
• some families of the victims sought the court to declare the TRC unconstitutional but failed

• amnesty is offered *individually* on conditions that distinguish it from a *blanket amnesty* (i.e. impunity)

• a way to get perpetrators who hold key information in the process of reconciliation
President Mandela set up *an advisory committee* that nominates commissioners of the TRC.

299 names were nominated and 47 were shortlisted for rounds of televised interviews.

Mandela appointed 17 out of 25 names and added two others without going through the selection process to foster geographic and political balanced representativeness.
Archbishop Desmond Tutu was appointed the chairperson of the TRC and Alex Boraine as his deputy (i.e. vice-chairperson).

7 out of 17 were women.

The headquarters was situated in Adderley Street, Cape Town with 4 regional centres with an annual budget of $18 million per year and about 400 supporting staff.

First meeting in December 1995.
the TRC stressed the *absolute political neutrality*

upheld *transparency* and *accountability* by broadcasting and televising as much as possible every public hearing with a special 4-hour TV *Truth Commission Special Report* TV program on Sunday evening

built a complex *information management system* and a database on the basis of former TRCs in Haiti and El Salvador 薩爾瓦多

offered training to 400 staff who are constantly reminded of ethical and professional integrity
limited by the Promotion of National Unity and Reconciliation Act, the TRC was only charged with the mandate to investigate and document “gross violations of human rights” (嚴重侵害人權罪行)

concerning bodily integrity 身體完整性 / 自主權 such as

- the right to life
- the freedom from torture, cruelty, inhumane or degrading treatment from abduction and arbitrary and prolonged detention

⇒ the apartheid is a crime against humanity 反人類罪

other forms of inequality such as systemic and institutionalised discrimination and forced removals were not directly dealt with
Gross violations of human rights:

a. “killing, abduction, torture or severe ill treatment

b. any attempt, conspiracy, incitement, instigation, command or procurement to commit an act referred to paragraph (a), which emanated from conflicts of the past and which was committed (during the mandate period) by any person acting with a political motive.” (quoted from Burton 2016,28)

• the mandate period is 1 March 1960 to 10 May 1994
Truth and Reconciliation Commission

① The Amnesty Committee
    特赦委員會

② The Human Rights Violation Committee
    人權侵害委員會

③ The Reparations and Rehabilitation Committee
    補償與復康委員會
1. The Amnesty Committee

- presided by three judges who reviewed whether the applications for amnesty fit the legal criteria
  - the act must be committed within the mandate period and was *politically motivated* 因政見而驅使
  - full disclosure of all relevant information 全面披露相關資料
- ended up receiving 7,115 applications for amnesty, 1,167 granted and 4,500 denied
- the judges would determine to what extent the act was committed as a means to pursue one’s political motive, how far it was associated with a political party, organisation, institutions
- no apology or expression of remorse was legally required
- primarily a judicial process where applicants and the victims or their family members could attend with legal representatives

2. The Human Rights Violation Committee

3. The Reparations and Rehabilitation Committee
The Amnesty Committee

charged with the task of investigating, restoring and reporting the truth through public hearings and invitation to written submissions

started by designing a questionnaire

trained teams of “statement takers” (證言記錄員) who worked in the 4 regional centres to interview those who volunteered to give testimony in about 2,000 hearings

many shared what they witnessed and/or experienced in the past to the statement takers for the first time

they needed safe and emphatic environment to air their sadness, hurt, despair and grievances

the statements collected were not taken at face value; they were investigated by the Investigation Unit composed of former government’s security and intelligence sectors

more than 22,000 testimonies from victims + witnesses recorded
The Amnesty Committee

The Human Rights Violation Committee

The Reparations and Rehabilitation Committee

- tasked to come up with recommendations about reparations and rehabilitation
- chaired by a psychologist
- offered on-the-spot emotional support to deponents (證人) in public hearings, including briefing before hearing and referrals to professionals
TRUTH AND RECONCILIATION COMMISSION
HEALING OUR PAST
FIRST HEARING - EAST LONDON 15 - 18 APRIL 1996
Inkatha Freedom Party’s (因卡塔⾃由黨員)Richards Bay “Each day there were several hundred people attending the hearings, filling the hall to capacity. As time went on they began to warm to the applicants, as did the committee members, who asked fewer and fewer questions as they realized that the applicants were telling everything that they could remember and were committed to having the whole truth told. On the penultimate day there was an informal meeting between the community and the applicants at which many questions were asked about specific incidents. Then one by one survivors came forward and forgave the applicants and thanked them for telling everything, allowing them to know what had happened and also telling them who else had been involved and who had given instructions. At the end of the meeting a resolution was taken to forgive the applicants and to tell the committee that the community accepted that the applicants were telling the whole truth within the bounds of the failings of human memory, that the attacks were launched with a political motive and that they would not oppose amnesty.

We then all sang Nkosi Sikelele together, with the applicants tentatively raising their fists, and then Mkhize led everyone in prayer at the request of the community. At the end of the meeting people rushed forward to hug the applicants.” (Hayner 2011,185)
the dates for the first public hearing: 15-18 April 1996 in East London

it came as a surprise that nearly every one who was interviewed by statement takers wanted to appear at the hearing

some felt disappointed for not being selected

selection criteria:

• well-know incidents as well as incidents not in the public eye
• diversity in terms of age, gender and regions
• victims as well as perpetrators (e.g. security, the military, the undercover)

Ernest Malgas speaking in a hearing: https://youtu.be/9IDzrrVw-j0
Controversies over amnesty

- granting amnesty to perpetrators by the TRC took over the right of the victims and their families to choose whether to forgive or not
- only few judges and the military of the former regime applied for amnesty as many had already been made immune from criminal litigation (not civil) by the Indemnity law
- the evidence collected during the TRC’s hearings was transferred to the prosecution units of the new government after the conclusion of the TRC
- many people those who were named but had not applied for amnesty were not prosecuted
the mandate of a truth commission varies ➔ some were rather limited that it focused on investigating incidents leading to death or disappearance within a designated period of time

shortage of financial support ➔ the truth commission of South Africa did not investigate forced removals

ambivalent to investigation of “foreign influence”

• Guatemala’s truth commission openly criticized the US and private corporates in their final report

• Timor-Leste’s truth commission disclosed the fact that Indonesia used famine as a weapon that killed 100,000 to 180,000 people
limitations: truth commissions are often too focused on finding who is accountable ➔ give more weight to documentation of human right violations, the name of victims, perpetrators, when, where and what they did
they seldom ask why and how ➔ make it more difficult to understand how oppression emerged, operated and was maintained ➔ unintentionally exclude social, cultural factors
the truth commission of Guatemala adopted a different approach
investigated what are the conditions for the 30-day armed conflict and its impact on economy and the population
interviewed people who were not severely affected but witnessed how the incident unfolded ➔ deeper understanding of the context that gave rise to the incident
another project at Guatemala interviewed family members of the victim to reconstruct a multiple dimensional portrait of the victim by asking their family members about the victims’ interest and personality
<table>
<thead>
<tr>
<th>Dimension of Reconciliation</th>
<th>African</th>
<th>White</th>
<th>Colored</th>
<th>Asian Origin</th>
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<tr>
<td>Interracial reconciliation</td>
<td>Not very</td>
<td>Somewhat</td>
<td>Somewhat</td>
<td>Somewhat</td>
</tr>
<tr>
<td>Support for a human rights culture</td>
<td>Not very</td>
<td>Somewhat</td>
<td>Somewhat</td>
<td>Somewhat</td>
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<tr>
<td>Political tolerance</td>
<td>Not very</td>
<td>Not very</td>
<td>Not very</td>
<td>Not very</td>
</tr>
<tr>
<td>Institutional legitimacy</td>
<td>Somewhat</td>
<td>Somewhat</td>
<td>Somewhat</td>
<td>Somewhat</td>
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</table>

<table>
<thead>
<tr>
<th></th>
<th>Somewhat or Highly Reconciled</th>
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<tr>
<td>Interracial reconciliation</td>
<td>37.2%</td>
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<tr>
<td>Support for a human rights culture</td>
<td>44.9</td>
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<tr>
<td>Political tolerance</td>
<td>21.4</td>
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<tr>
<td>Institutional legitimacy</td>
<td>81.2</td>
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</tbody>
</table>

*Source: Author's compilation from the 2001 Truth and Reconciliation Survey.*

*aThe possible scores on each dimension of reconciliation are: highly reconciled, somewhat reconciled, not very reconciled, and hardly reconciled at all.*
societies in the political transition from an authoritarian and oppressive regime to a full democracy often find themselves being torn between …

「不想回憶、未敢忘記」

too much memory
too little memory

wallowing in the past
forgetting the past


