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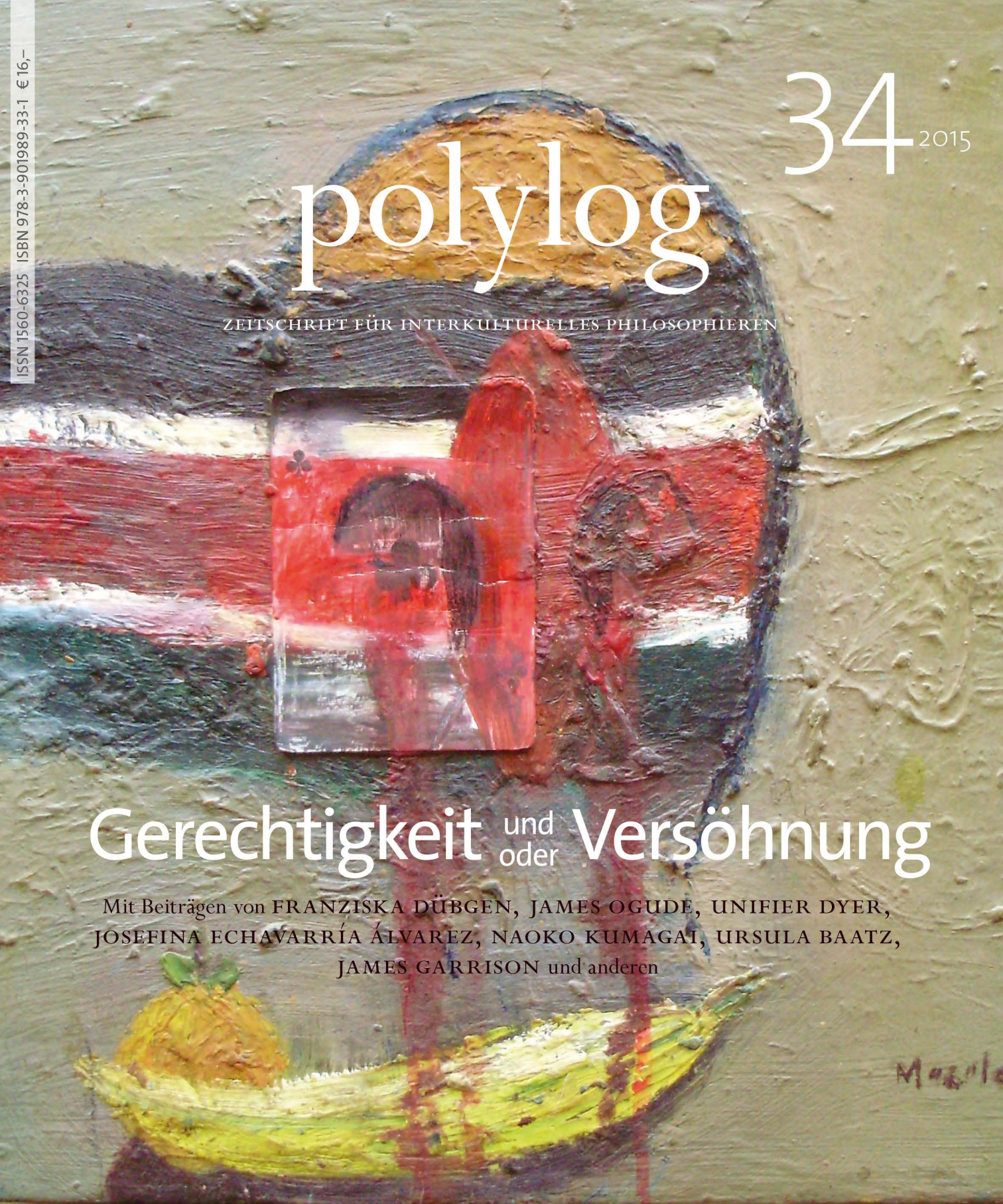

Gerechtigkeit und oder Versöhnung

Mit Beiträgen von FRANZISKA DÜBGEN, JAMES OGUDE, UNIFIER DYER, JOSEFINA ECHAVARRÍA ÁLVAREZ, NAOKO KUMAGAI, URSULA BAATZ, JAMES GARRISON und anderen

INHALT

POLYLOG 34, DRUCKVERSION

POLYLOG 34, SUPPLEMENT (ONLINE)

ANKE GRANESS

Versöhnung und/oder Gerechtigkeit?

Einleitung zum online-Supplement

Dies ist eine Premiere, nämlich die erste online-Ausgabe unserer Zeitschrift POLYLOG. Sie ist das Ergebnis des 5. *Interkulturellen und Interdisziplinären Kolloquiums des Forums für Interkulturelle Philosophie* (www.polylog.org) zum Thema »Versöhnung und Gerechtigkeit«, das im Mai 2015 in Kooperation mit unserer Zeitschrift, sowie der Wiener Gesellschaft für interkulturelle Philosophie (WIGIP) und dem Forum Scientiarum der Universität Tübingen am Institut für Wissenschaft und Kunst (IWK) in Wien stattgefunden hat. Nachdem im Dezember 2015 bereits die Printausgabe des POLYLOG Nr. 34 unter dem Titel *»Versöhnung und/oder Gerechtigkeit«* ausgewählte Beiträge des Kolloquiums veröffentlicht hat, erscheinen nun hier weitere Beiträge dieses Kolloquiums. Neu ist in diesem Zusammenhang nicht nur der freie Zugang zu den Beiträgen über das Internet, sondern auch, dass die Beiträge in verschiedenen Sprachen erscheinen, nämlich auf Deutsch oder auf Englisch. Während unsere Printzeitschrift weiterhin auf Deutsch erscheinen wird, werden wir in Zukunft auf unserer Website vermehrt Beiträge in anderen Sprachen veröffentlichen. In diesem Sinne wird unser POLYLOG in den nächsten Jahren auch polyphoner.

In dieser online-Ausgabe finden Sie nun Beiträge von Francesco Ferrari (Universität Jena), Sergej Seitz (Universität Wien), Thaddeus Metz (Universität Johannesburg), Jonathan Chimakonam (Universität Calabar), Christine Schliesser (Universität Zürich) und Gail Presbey (Universität Detroit Mercy).

Die beiden Beiträge von Ferrari und Seitz beziehen sich auf zwei der großen europäischen Denker von Konzepten der Versöhnung, nämlich Paul Ricœur und Emmanuel Levinas. Während Ferrari sich in sehr detaillierter Weise mit Ricœurs Begriff der Versöhnung und der Frage, inwiefern Vergebung eine konstitutive Dimension von Versöhnung darstellt, auseinandersetzt, nimmt Seitz sich dem derzeit aktuellen Thema des Umgangs Europas mit der gegenwärtigen Flüchtlingssituation an. Dabei verweist er darauf, dass insbesondere die Trennung zwischen humanitären und politischen Fragestellungen sich im Hinblick auf den Umgang mit geflüchteten Menschen

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als problematisch erweist, da im Zuge einer Fokussierung auf das eigene Gemeinwesen die ethischen Ansprüche Geflüchteter als nachgeordnet betrachtet werden. Mit Levinas argumentiert Seitz, dass die Bereiche des Humanitären und des Politischen keineswegs als getrennt, sondern vielmehr als ineinander konstitutiv verwoben zu verstehen sind.

Die folgenden Beiträge fokussieren nun vor allem auf Fragen nach dem Verhältnis von Versöhnung und Gerechtigkeit, wie sie sich heute im afrikanischen Kontext stellen. Thaddeus Metz unternimmt in seinem Beitrag den Versuch, auf der Basis von traditionellen afrikanischen Vorstellungen von Gemeinschaft eine Ethik nationaler Versöhnung zu entwerfen. Anhand von Fragen der Wahrheitsfindung, Vergebung und Amnestie, wie sie sich im südafrikanischen Kontext stellen, wird dieses Konzept dann einer Prüfung unterzogen.

Chimakonam setzt sich kritisch sowohl mit afrikanischen als auch »westlichen« Konzepten von Versöhnung und Gerechtigkeit auseinander und entwirft einen alternativen theoretischen Ansatz unter dem Begriff der Sequenztheorie. Dabei betont er die Notwendigkeit, Fragen der Gerechtigkeit und der Versöhnung in Postkonfliktsituationen gleichrangig zu betrachten.

Ähnlich kritisch setzt sich auch Christine Schliesser mit der Spannung zwischen der Frage nach Gerechtigkeit und Prozessen der Versöhnung auseinander, und zwar anhand der Politik der nationalen Versöhnung in Ruanda nach dem Genozid von 1994. Auch sie betont, dass ein Vorziehen von Versöhnungsprozessen vor Gerechtigkeitsfragen, ebenso wie das Vernachlässigen einer grundlegenden Auseinandersetzung mit Stereotypen von Tätern und Opfern, nicht zu einem nachhaltigen Frieden führen kann.

Gail Presbey nun widmet sich in ihrem Beitrag dem interessanten Vergleich zwischen Konzepten der Bestrafung und Vergeltung des kenianischen Philosophen Henry Odera Oruka, der afrikanische Entschädigungstraditionen den Formen europäischer Strafgerechtigkeit vorzieht, und dem Versöhnungskonzept Mohandas Gandhis und eröffnet damit eine weitere Dimension interkultureller Vergleiche und Theoriebildung, die ein fruchtbares Feld für zukünftige Forschungen bilden kann.

Die hier versammelten Beiträge bilden eine Ergänzung und Erweiterung des Prozesses eines kritischen Hinterfragens des Versöhnungsbegriffs und seines Verhältnisses zu Fragen der Gerechtigkeit aus der Perspektive verschiedener Kontexte, wie er bereits in der Printausgabe des polylog 34 begonnen wurde.

Unser Dank gilt hier allen Autorinnen und Autoren, die durch ihre Beiträge die Debatte bereichert haben, sowie Lara Hofner, die einen Großteil der editorischen Arbeit übernommen hat.

ANKE GRANESS

Reconciliation and / or Justice?

Introduction to the online-edition

This is the launch of the first online-edition of our journal *polylog*. The edition is the result of the *5th Intercultural Interdisciplinary Colloquium of the Forum for Intercultural Philosophy e.V.* (www.polylog.org) under the title „Reconciliation and Justice" at the Institute for Science and Art (IWK) in cooperation with Viennese Society for Intercultural Philosophy (WiGiP), Institute of Philosophy at the University of Vienna, and Forum Scientiarum at the University of Tubingen in May 2015. The first part of the proceedings of the colloquium was published in our print issue of *polylog* No. 34 in December 2015 under the title *»Reconciliation and /or Justice«*. In addition to the printed issue, the online edition publishes now those excellent papers of the Vienna colloquium which have not been included in the printed issue due to the limitation of space.

New in this context is not only free access to all articles, but that the articles are not published exclusively in German (like in our print issue) but in different languages, this time in German or in English. While the printed issue of *polylog* will continue to be published in German only, the online edition will publish articles in different languages, and in this, our *polylog* will become in the coming years also more polyphonic.

Our first online edition includes contributions from the following scholars: Francesco Ferrari (University of Jena), Sergej Seitz (Vienna University), Thaddeus Metz (University of Johannesburg), Jonathan Chimakonam (University of Calabar), Christine Schliesser (University of Zurich), and Gail Presbey (University of Detroit Mercy).

The contributions of Ferrari und Seitz refer to two great European thinkers of the concept of reconciliation, namely Paul Ricœur and Emmanuel Levinas. While Ferrari explores in a very detailed way Ricœur's concept of reconciliation and the question if forgiveness is a constitutive dimension of reconciliation; Seitz turns to the currently topical issue of Europe's attitude towards refugees and asylum seekers. Seitz argues that the prevailing separation between humanitarian and political issues turns out to be problematic, for a focus on the own com-

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munity excludes the ethical demands of refugees as secondary. With Levinas he argues that the humanitarian and the political cannot be conceived as separated, but rather as constitutively interwoven.

The following contributions focus on issues of the relationship between reconciliation and justice in the African context of today. Thaddeus Metz undertakes the attempt to conceptualise on the basis of traditional African ideas of community a new ethics of national reconciliation. Moreover, he applies the new theory to burning issues in South Africa, such as truth-telling, forgiveness or amnesty. Jonathan Chimakonam takes a critical approach to African as well as Western conceptions of reconciliation and justice and suggests as an alternative theoretical approach a theory which he calls »sequence theory«. He argues, that in a post-conflict situation, issues of justice and reconciliation have to be considered in an equal way. A similarly critical approach takes the analysis of processes of reconciliation in post-genocide Rwanda by Christine Schliesser. Schliesser pronounces that to favour reconciliation over issues of justice, and to neglect a confrontation with persisting stereotypes and animosities, cannot lead to a sustainable peace. Gail Presbey analyses in a comparative way concepts of punishment and retribution of the Kenyan philosopher Henry Odera Oruka, who favours African forms of compensation to forms of European criminal justice, with the concept of conflict resolution and reconciliation of Mohandas Gandhi. In doing so, Presbey opens a new field of intercultural comparative work which promises to be a fertile field for future research.

All articles contribute to a critical questioning and conceptualization of concepts of reconciliation and justice - a process which will hopefully be continued in the future.

Our thanks go to the authors who have enriched by their contributions the debate, and to Lara Hofner who was responsible for much of the editorial work.

JONATHAN O. CHIMAKONAM

Reconciliation and justice in F. U. Okafor's Igbo-African thought and its relevance to modern political thought: Toward a sequence theory

INTRODUCTION

In this paper, we shall ask; what is the nature of Igbo thought on law? What constitutes justice in Igbo and modern[1] thought? What is the place of reconciliation in Igbo and modern thought? To what extent are the models of justice and reconciliation in Igbo thought relevant to modern political thought? Are the Igbo and the modern conceptions of justice and reconciliation adequate? These shall form the spring board of my inquiries in this work.

Generally, the idea of justice is pursued in three principal ways, to wit, as retributive where offences are punished (classical), as distributive where properties are shared (see Aristotle 1999);(see Rawls 1999); (see Nozick 1974) and as harmony where order is restored (see Plato 1991). Although I will touch on all for the purpose of clarity, my arguments will center on justice as retributive which will dovetail into justice as corrective.

I will begin by defining and conceptualizing justice and reconciliation as instruments of intercultural philosophy geared toward national and international diplomacy. This is to prepare the ground for my discourse later in the work. Thereafter, I will present F. U. Okafor's interpretation of the Igbo ideas of justice and reconciliation and question its relevance to modern political diplomacy. I will establish grounds to show that both the modern and Igbo-African deployment of justice and reconciliation as instruments of diplomacy are not adequate, and on the basis of this, propose

1 I employ the term »modern« to refer to the discourses in political philosophy that largely shaped and continues to shape our today's world, and my delineation of modern covers the Enlightenment (1650–1800) and the contemporary periods (1800–present).

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what I call the »sequence theory« as a viable alternative.

JUSTICE AND RECONCILIATION: CONCEPTUAL CLARIFICATIONS

JUSTICE

In this section, I will attempt to capture the meaning of the concept of justice. This will not be an easy task, as centuries of philosophical inquiries have left the concept pregnant with many interpretations. As Maduabuchi Dukor aptly observes: »The term justice is as old as man. The minds of the masses, the oppressed, the down-trodden and the slaves are yearning for justice. Justice is a legal, ethical and ontological term. It is a common and living concept. The question of justice is a perennial one« (Dukor 1997, 497). This problematic therefore sets the stage for my investigation in this work.

The questions—what is justice? what makes a just act? what constitutes injustice?—are all philosophical questions raised under the aegis of jurisprudence or philosophy of law, which aims at examining the assertions of the law. This examination is done not only in light of logic but also in light of ethics, such that when one claims that justice consists in maintaining the dictates of the law, an ethical question could be raised when the law in question is clearly found to be immoral and inhumane. Proper justice then should consist in keeping to the dictates of a good law. Yet again, another issue arises concerning what is good. G. E. Moore (see 1903, 4–5) happens to say that good is indefinable. If good is indefinable, how then are we to know a good law? Of course, we do not need the definition of a car, before we could know what a car is, but as soon as one raises the question whether a large automaton that transports people across the seas can be counted as a car, the concept of car will immediately become controversial. This appears to demonstrate the importance of definitions. Little wonder Plato devoted a significant section of his dialogue *The Republic* in search of a definition of justice.

Questioned by Socrates (who was Plato's mouthpiece in the dialogue), Cephalus defined justice as speaking the truth and giving back what one owes to another (see Plato 1991, 7; BK1 331c); Polemarchus on the other hand defines it as giving benefits and harms to friends and enemies (see 1991, 8; BK1 332d); and Thrasymachus conceives it as the advantage of the stronger, for might is right (see 1991, 22; BK1 344c). Interestingly, Socrates faulted these three definitions on the grounds of ethics rather than logic. It is not ethical to give back a deadly weapon to a mad man; it is not right to cause harm and a just man would care for the interest of others beneath his authority. These are arguments for ethical theories such as those of the categorical imperative, altruism and utilitarianism. This has made it awkward to conceive justice as a logical concept exclusively.

Aristotle was also careful to describe justice as both what is just in the eyes of the law and fair in terms of human reason. In his words: »just means lawful and fair, and unjust

means both unlawful and unfair« (Aristotle 1999, 72). He goes on to make a distinction between distributive and rectificatory justice. While distributive justice focuses on the distribution of property on the basis of geometrical proportion in which equals are treated equally and unequals treated unequally in accordance to the principle of merit, rectificatory justice stipulates a remedy of an inequitable division between parties through arithmetical progression (Aristotle 1999, 73–80). Obviously, Aristotle's positions regarding slaves and the free born and the existence of social stratification mean that individuals in society cannot be treated as equals on account of their shared humanity. In today's discourses on justice, these Aristotelian positions would be anathema. To suggest, as Aristotle did, that laws should be made to recognize and sustain divisions in the society seems to us now anti-democratic, oppressive, repressive, and grossly inhumane.

It is thinking like this that compels modern political theorists to broaden the concept of law. In this way, a law could be good or evil. A properly constituted modern state therefore becomes one governed by good or just laws. Justice would then be the keeping of the dictates of a good/just law. Notwithstanding our inability to define »good«, an outline of the criteria for good law is possible. Any good law must be reasonable, have the stamp of legitimacy, be promulgated by a legitimate authority and above all be intended for common good.

These are some of the requirements of the kind of modern positive law by which a truly modern society is governed. Modern political theorists like Hobbes, Hegel, Locke and Rousseau are responsible for developing important thoughts on sovereignty, the rule of law and human rights, which completely redefined political practice in modern time. Thus from the modern view of the notion of justice as retributive, which is strictly logical, people like John Rawls and Robert Nozick have introduced a bit of morality to the concept, in talking of justice as fairness (see Rawls 1985, 224–225) and justice as respecting individual liberties (see Nozick 1974, 160–163) respectively. The two theories of justice propounded by Rawls and Nozick respectively represent some of the most advanced thoughts on justice in the modern age.

Justice is then retributive if any breach is adequately punished as specified in the law without compromise.

In this paper therefore, I will narrow my treatment of justice down to three main senses namely;

- Justice as retributive in the sense of punishing offense.
- Justice as distributive in the sense of distribution or ownership of property
- Justice as corrective in the sense of psychological healing

Justice as retributive emerges from the idea that there are laws by which a society is governed, the breach of which attracts the threat of punishment, just as obedience to the laws might attract certain rewards in the form of distribution. Justice is then retributive if any breach is adequately punished as specified in the law without compromise. We may there-

fore talk about the innocent being entitled to rewards or about the fair distribution of property and the guilty being entitled to punishment or fair retribution. This is because as David Schmidtz (2006, 8) observes »punishment cannot be an innocent person's due«, if we take the concept of justice to refer to the fair allocation of people's due (Schmidtz 2006, 6). Similarly, it seems incontestable that justice could be retributive. Advocates of this school (the non-compromise school) believe that this is the only way stability and progress can be maintained in any society where rule of law might thrive. The outstanding point here is that it is the interest of the society or the state that determines the sway of the apparatus of retributive justice. This once again echoes well with John Rawls pattern-based justice as fairness as opposed to Robert Nozick's liberty-based justice as fairness.

In justice as corrective perpetrators are not regarded as despicable criminals and accordingly treated with disdain, as is the case in the criminal justice system.

But Nozick topples Rawls' pattern-based justice as fairness and prescribes liberty-based justice as fairness in his famous slogan about »how liberty upsets patterns« (Nozick 1974, 160). I will not go into which is more tenable, as that is beyond the scope of this work. But what the foregoing discussions leave open is that justice as fairness could be both distributive as well as retributive. The arguments of this work will be focused on justice as retribution rather than distribution since my focus is on punishing offences. But above all, my articulation of the sequence theory will centre on the notion of justice as corrective.

The notion of justice as retributive also echoes well with my idea of justice as corrective. In this, perpetrators are not regarded as despicable criminals and accordingly treated with disdain, as is the case in the criminal justice system. On the contrary, they are treated with care and pity like family members who are ill in health. The justice system they are subject to is a corrective one. Its goal, whilst being punitive, is to carefully re-integrate them into the society. The punishment they are given is not of a you-get-what-you-deserve variety, but is more about a necessary penance to win back one's lost humanity. In other words, to commit a crime in a corrective justice system is to violate a shared humanity, which is a very bad thing to suffer. One casts herself away from her society and becomes solitary. C. B. Nze remarks that in the Igbo-African communalistic world, »a solitary individual dances carrying his bag—an infamous thing to do—cursed life indeed…« (Nze 1989, 31). Similarly, the corrective justice system views society as a commonwealth where everyone is supposed to look out for everyone else. Crime tears one apart from this commonwealth and renders her an outcast. The corrective justice system I advocate here therefore becomes a mechanism for re-integrating the offender back into the human fold. Punishment is therefore meted out as a ritual of re-integration rather than as a ritual of excommunication. The perpetrator is guided through trial period as a candidate for correction and not as an outcast to be despised.

RECONCILIATION

What is reconciliation? Indeed, as obvious as the meaning of reconciliation may seem, I doubt if one universally appealing definition would ever be possible. The reason is not far-fetched. Reconciliation can be conceived both as a concept and as an instrument of diplomacy. The latter stands as our conception in this work. Thus as a diplomatic instrument, there are those who would want to separate reconciliation from justice and rather merge it with forgiveness (the compromise school) as well as those who would want to see reconciliation separated from forgiveness and merged with justice (the non-compromise school). It is almost silly nowadays for anyone to share both visions. My position in this paper is that the artificial parallel between the practice of reconciliation and retributive justice must be eliminated if the quests for true reconciliation and social stability are to be achieved. Arising from this, I will present some authoritative definitions of reconciliation (as a diplomatic instrument) in the field of conflict resolution that rival my own views.

According to Bar-Siman-Tov (2004, 72), reconciliation means »restoring friendship and harmony between rival sides after resolution of conflict, or transforming the relations between rival sides from hostility and resentment to friendly and harmonious relations«. For Elin Skaar, Siri Gloppen and Astrid Surke, reconciliation is conceived as a broad concept covering mutual agreement between parties to abandon armed conflict and extending to the pursuit and creation of mutual trust on the basis of forgiveness and a complete rebuilding of social ties between victim and villain in their work *Roads to Reconciliation* (Skaar, Gloppen, and Suhrke 2005, 4). For her part, Karen Brounéus defines reconciliation as a »societal process involving mutual acknowledgment of past suffering and the changing of destructive attitude and behaviour into constructive relationships toward sustainable peace« (Brounéus 2003, 3). And for Bar-tal and Bennink (2004, 15) reconciliation simply »consists of mutual recognition and acceptance, invested interests and goals in developing peaceful relations, mutual trust, positive attitudes, as well as sensitivity and consideration for the other party's needs and interest«. To end the list, Camilla Riesenfeld (2008, 9), who also reflected on the views of the above scholars, defines reconciliation as a »social-psychological process that takes place within the minds of people but may be generated by societal institutional changes and aims at changing destructive, violent and negative images and attitudes into peaceful and constructive ones«. It is obvious that these sample definitions above, in my estimation, are guilty of the error of keeping reconciliation and justice apart—a sort of binary opposition because they place forgiveness at the centre of their model. Let me describe those who hold this view as the compromise school because they compromise the place of justice in the reconciliation process. For this, I consider them not only inadequate but also unacceptable when it comes to modern political thought.A credible definition of reconciliation from the perspective of this paper would be something closer to the following view.

The artificial parallel between the practice of reconciliation and retributive justice must be eliminated if the quests for true reconciliation and social stability are to be achieved.

David Bloomfield defines reconciliation as an »over-arching process which includes the search for justice, truth, forgiveness, healing and so on« (Bloomfield 2006, 13). Similarly J. P. Lederach conceives of reconciliation very much like a rendezvous or a meeting place for the cardinal concepts such as truth, mercy, justice and peace (see Lederach 1997). One can observe that justice as a socio-political concept is central in the two latter definitions. These latter definitions represent the school I would like to describe as the non-compromise school, who would prefer justice to feature prominently in reconciliation process.

According to the *New International Webster's Comprehensive Dictionary* the word »reconcile«, which is adopted from two Latin words re + conciliare which translate to again + unite, means to bring back friendship after estrangement

Drawing on this, according to the New International Webster's Comprehensive Dictionary the word »reconcile«, which is adopted from two Latin words *re* + *conciliare* which translate to *again* + *unite,* means to bring back friendship after estrangement (Smith 2004, 1054). Interestingly, the idea and usage of the word as a »concept« in modern political diplomacy goes beyond the original lexicographic scope assigned to it. According to its dictionary meaning, it clearly suggests a form of restoration of a broken old order. However, as a diplomatic instrument, it sometimes goes beyond this scope and covers the notions of prevention and revolution. Thus there are broadly three main scopes which reconciliation as a diplomatic instrument covers, which are as follows:

- Never again (prevention)
- New beginning (revolution)
- Restored old order (restoration)

It is my view in this work that none of these three senses of reconciliation as an intercultural and diplomatic instrument would be effective without the justice component. And no definition of reconciliation as a political concept would be adequate without taking all of the above into consideration. For this reason, some think it might be suitable to talk of (re) conciliation which could cover all the possible senses of the term rather than just reconciliation. This is because conciliation could refer to »revolution« as opposed to »restoration« or even »prevention«. Reconciliation on the other hand captures the idea of »restoration« but not revolution or prevention. However, (re)conciliation appears to capture all three senses. On the whole, the principle of »never again« refers to a broken present being replaced with a new present and banished to the future that must not reoccur again (see Schaap 2003, 12). This idea of a »new beginning« refers to a new present introduced afresh— something revolutionary (see Schaap 2003, 7)— and, »restored old order« refers to a new past reintroduced to replace a broken present. In this paper though, I will work under the assumption that reconciliation covers all of the three senses described above. Reconciliation, therefore, would be a socio-psychological and political historical moment that is inevitable in which a broken order, whether past or present, is effectively replaced with the »new« through the triadic ring of justice, remorse and forgiveness. Interestingly, the concept of truth is not as important as conventional conceptions

of reconciliation would portray things. This is because; the inevitability of the historical moment of reconciliation has unfolded all truths and made them obvious. Reconciliation thus is properly constituted after the moral weight of »corrective justice« has broken the perpetrator and caused him or her to want to show remorse. In return, the victim satisfied with the act of justice and broken by the moral weight of the perpetrator's remorse would show forgiveness. This obviously revolutionizes the idea of reconciliation by switching roles of the perpetrator and the victim. In the conventional sense, the victim plays the active role of stomaching all the pain, whereas in my new conception the perpetrator becomes the active agent who carries the burden to sue for reconciliation to prevent or restore or institute harmony in a Troubled Context.

In this paper »Troubled Context (TC)« will refer to all crisis zones in which reconciliation is courted as a veritable option. But we must first note that all TCs have no uniform background inspiration. While some are cases in which a new present is introduced afresh (revolution); others are cases in which a broken present is replaced with a new present and banished to the future that will, within expectation, never reoccur again (prevention); and some yet are cases in which a thriving past that was unsettled by a broken present is restored (restoration). In this way, reconciliation could mean a different thing in different TCs. Thus, to properly assess the viability of the concept of reconciliation in modern political theory, one must reduce the discussion to a specific TC.

The concept of reconciliation, without a doubt, is fast emerging as a buzzword in contemporary political discourse. Despite the modern advancement of political thought and notwithstanding the sophistication of the idea of rule of law and of justice, modern political trends appear to favor the allocation of more space to reconciliation. The question is why? Why is reconciliation between the Hutus and Tutsis in Rwanda important? Why is reconciliation between the Igbo and other tribes in Nigeria important? Why is reconciliation between blacks and whites in South Africa important? These are questions about similar scenarios in different countries. As Nebojsa Petrovic (see 2005, 1), who confronted with a similar question about the Serbs, Croats and Bosniaks explains, reconciliation is important for the preservation of one's mental health on the individual level, while on the level of the society, reconciliation is important so as to prevent old conflicts from re-emerging and re-escalating. But are these the only reasons? Of course not, besides prevention, reconciliation could also be about revolution or restoration depending on the nature of the TC. One can also ask: has reconciliation, no matter in which frame, worked so effectively in any known TC since the last quarter of the twentieth century? The answer is, No! For example, forty-five years after the famous post-civil war programs of Reconstruction, Rehabilitation and Reconciliation aimed at mending the relationship between the Igbo

Reconciliation, therefore, would be a socio-psychological and political historical moment that is inevitable in which a broken order, whether past or present, is effectively replaced with the »new« through the triadic ring of justice, remorse and forgiveness.

and other tribes in Nigeria, bloody ethnic inspired conflicts between the Igbo and the other tribes, have remained a reoccurring feature, with the cities of Lagos, Kaduna, Aba and Kano as their battlefields. The Biafran war (Nigeria Civil War, 1968-1970) was a war of secession fought by the Igbo of Eastern Nigeria who felt marginalized and threatened within the Nigerian state. It ended with the Igbo on the losing side. Too many war atrocities such as pogroms and genocides were committed by the soldiers and commanders on the Nigerian side. Part of what sparked the secession call in the mid 1960s was a continued program of ethnic cleansing that targeted the Igbo, largely in Northern part of the country. By the end of the war, nearly three million Igbo lives had been lost (see Achebe 2012, 312). The post war program of reconciliation did not in any way bring war criminals to justice. The result was that the Igbo lost faith in the process and the cycle of ethnic violence has since continued (see Achebe 2012, 243–252). In South Africa, where there was a massive campaign of reconciliation spear-headed by Desmond Tutu's Truth and Reconciliation Commission (TRC), notions of forgiveness and amnesty hinging on the idea of *ubuntu* were preferred to retribution. Some (see for example Wilson 2001) count the gains of the South African experiment in terms of the avoidance of civil war, the peaceful character of the transition, and the resulting social stability. Others (see Hayner 2011) and (see Bloomfield et al. 2003) mention the fact that the Truth Commission was able to use amnesty to get perpetrators to come open with their crimes, which elicited remorse and helped victims heal, and victims' families find closure to sad memories. These show the immense advantage of reconciliation over retribution. However, despite these clear advantages that amnesty (forgiveness) as an instrument of reconciliation affords, there are strong arguments vitiating it as a morally and politically correct principle. For example, arguments have been raised about amnesty granting freedom tickets to criminals (see Laplante 2009, 951–984); about perpetrators enjoying amnesty without showing remorse or who tell their hideous story in a triumphalist tone; about amnesty violating international criminal and human rights laws (Naqvi 2003), (Schabas 2011); about it denying victims their right to justice (see Sooka 2006, 311–325); about it providing protection to perpetrators and denying the same to victims (see Wilson 2001, 167–172), and so forth. Indeed, sensitive observations like these bring amnesty of the type that characterized the Nigerian and the South African reconciliation programs into serious question. It is largely for this reason that Freeman and Hayner observe that amnesty is »inconsistent with a states' obligation under international law to punish perpetrators of serious human rights crimes« (Freeman and Hayner 2003, 137). Following from this, John Dugard declares that »Amnesty is no longer accepted as the natural price to be paid for transition from repression to democracy« (Dugard 1999, 1001). The questions that arise are: is reconciliation impotent as a diplomatic

»Amnesty is no longer accepted as the natural price to be paid for transition from repression to democracy«

John Dugard

instrument? Or is it a problem of application? With regard to the first question, I will advance the theory that reconciliation (with its embedded program of amnesty) as a diplomatic instrument is deeply short-changed in modern time when it is deployed without justice as a component. There is a great deal of talk about reparation or restitution, forgiveness, remorse, confessions and amnesty rather than retribution; and this kind of talk extols and elevates forgiveness while bypassing justice. The justification is generally laid on a mere assumption. This assumption is that socio-political stability will be engendered if victim and perpetrator are made to swear an oath of reconciliation (the latter confessing the truth and the former forgiving), which to arbiters is a symbol of peace. But, as can be seen in the South African case, the problem usually recedes momentarily only to re-evolve and re-emerge because the appearance of peace is not the same as the acceptance of peace. It is hard for the victim to accept peace when the perpetrator walks free. And with regards to the second, I will extrapolate that the conventional model of reconciliation strategies promoted by those whom I described earlier as the compromise school is deeply flawed. The basis of this flaw lies on the idea of binary opposition in which reconciliation is treated as superior to and independent of retributive justice. In typical Derridean terms (Derrida 1982), I would say that, since recent times, reconciliation can be regarded as a superior opposite of retributive justice. The argument for me is that justice when it is retributive evinces, at best, a punitive gain and at worst, a total failure in sustaining socio-political stability. Reconciliation as an emotive term, for me is then quite in error when it comes to being capable of thriving where justice has failed for a long period. In most cases, this assumption owes merely to the sound of the term, re-concile! However, reconciliation in practice, does not promise the same meaning it carries as a dictionary word. We do not obtain reconciliation simply by summoning aggrieved parties and asking one party to admit its wrongs and the other to forgive – that would be magic. Those who study the dark human emotions know that magic is not a relevant word in such domains. I therefore conclude that the modern application of the concepts of reconciliation and justice as an effective diplomatic socio-political algorithm in its binary opposition is flawed. As a remedy, I will postulate what I call the »sequence theory«. In this theory reconciliation will be presented as a viable political instrument only if it rides on the crest of justice. There is usually a dilemma that arbiters have to face at a period of transition. It is that of the question »to punish or to pardon?« A period of transitional justice is often teetering and teeming with all sorts of tensions. There is the fresh reality of the preceding violence and the heavy burden of the possibility of a new escalation. Katherine Franke recognizes the difficulty of making a choice between justice and forgiveness at such times. For her »[T]his is no easy task, and shortcuts both in dealing with the past and in building a just future often appear irresistible« (Franke

We do not obtain reconciliation simply by summoning aggrieved parties and asking one party to admit its wrongs and the other to forgive – that would be magic.

2005). It is the lure of shortcuts, one can say, that encourages arbiters to pursue reconciliation while playing down retribution. In a sense, the choice of reconciliation appears to be a less treacherous way out. This is because, the victims, whether they be in Peru, Chile or South Africa, are usually on a back footing, lacking in resources to breed new violence. But the choice of pardon over punishment raises a serious moral objection. Wole Soyinka appears to engage this concern in his work *The Burden of Memory, the Muse of Forgiveness*. Even though, Soyinka appears to recognize the importance of forgiveness and of reparation, he seems to suggest they might not be adequate. In fact, his discussions can be brought around one question namely—is pardoning morally outrageous actions moral? Soyinka appears to place a high premium on forgiveness. He sees it as a value far more humanly exacting than vengeance but he does not seem to think that forgiveness alone will suffice in resolving conflicts (see Soyinka 2000). A thorough reading of Soyinka quickly discerns that his goal was to establish the dilemma involved in post-conflict resolutions where arbiters have to choose between punishing and pardoning. Martha Minow, in her *Between Vengeance and Forgiveness,* also engaged with the dilemma involved in punishing or pardoning. She describes it as a dilemma of facing history after mass atrocities; of seeking a path between vengeance and forgiveness and of negotiating a route between too much memory and too much forgetting (see Minow 1998). Her argument aims at establishing that reconciliations are not as easy as some make them to appear. Troubles do not simply end and go away from the human heart with Truth and Reconciliation Commissions. In fact, she appears to gesture toward the deep influence of vengeance. Humans are apt to opt for vengeance than for forgiveness. Punishing the offender is what approximates vengeance for the victims. A shortcut would be to choose pardon over punishment, and this always has its problems.The above discussion of the views of Franke, Soyinka and Minow appears to strengthen my proposal, which involves an integration of punishment into a programme of reconciliation. The articulation of my proposal proper will be the focus of the latter section »Toward a Sequence Theory«.

Soyinka sees it as a value far more humanly exacting than vengeance but he does not seem to think that forgiveness alone will suffice in resolving conflicts.

F. U. OKAFOR'S ARTICULATION OF JUSTICE AND RECONCILIATION IN IGBO-AFRICAN PHILOSOPHY OF LAW

The Igbo-African conceptions of justice and reconciliation as espoused by F. U. Okafor in his book *Igbo Philosophy of Law* (Okafor 1992) are important aspects of this work. Okafor was a professor of philosophy for many years at the University of Nigeria Nsukka before becoming the vice-chancellor of Anambra State University, Uli. Most of his publications cover the areas of jurisprudence, African philosophy and political philosophy. In the book under review, Okafor covered issues ranging from Igbo political philosophy to jurisprudence. In the first chapter he discusses the Igbo political setup and in the second he dwells on the Igbo

cosmological and metaphysical world-view. Chapters Three and Four concern the nature of Igbo laws and the characteristic features of Igbo human positive laws respectively. The last two chapters i.e. five and six, dwell on the Igbo positive laws and their native religion and of course, the notion and exercise of rights in the Igbo traditional society. In the conclusion he undertakes the challenge that Igbo philosophy of law poses to legal positivism, whereas in the postscript he discusses the British influence on Igbo judicial methods. In all of this, my interest would concern the Igbo idea of law and human rights which inform the understanding and interpretation of the concepts of justice and reconciliation. From the foregoing, I will discuss how the concepts of justice and reconciliation are conceived of in the Igbo-African philosophy of law. To do this, I will take larger inspiration from the work of F. U. Okafor. To ensure balance, I will not limit my insights to F. U. Okafor's presentation.

According to Okafor (see 1992, 36–38), the Igbo conceive of justice as retributive as well as restorative. Offences are to be punished in accordance with laid down norms and in similar fashion; those who have caused harm or loss to their neighbors are compelled to make restitutions or reparations after facing the weight of justice. As Okafor (see 1992, 38) puts it for instance, the thief or the criminal is expected to make restitution. In some mild cases of pardonable human error adequate restitution plus harsh words of caution may be enough but in sterner cases, the offender is punished and the burden of reparation is additionally imposed on him or her. The idea of reconciliation is tied to the mild case where reparation serves as an act of remorse. The kinsfolk will join the offender to appeal to the victim saying »*iwe nwanne anaghi eru n'okpukpu*« meaning that »the anger against a kinsman should not get to the bone«. This ceremony of reparation is done in the knowledge that everyone is capable of offending another unintentionally. The victim of an unintended offence is thus compelled to accept restitution and to forgive. Where he or she refuses and where the community has determined that the offence was a mild and unintended one, the offender runs the risk of losing everything. The idea behind this effective means of resolving a crisis, as Okafor puts it, is the importance of preserving social stability. In his words: »the Igbo laws are effective instruments for achieving social harmony, promoting moral rectitude and maintaining sound political order« (Okafor 1992, 50). Indeed, in Igbo thought all acts that negate people's rights or violate any established law are regarded as acts of injustice. Okafor is of the view that »the Igbo idea of justice is clear and distinct. For them, justice simply means giving to everyone his or her due. Favoritism towards any gender or caste stands condemned as a mutilation of justice« (Okafor 1992, 40). However, it is not all injustices that are resolved through stern retribution. Offences of small importance, like accidentally causing harm, or death to one's livestock, or economic source, committed unintentionally and deemed pardonable by the assembly are not

»the Igbo idea of justice is clear and distinct. For them, justice simply means giving to everyone his or her due. Favoritism towards any gender or caste stands condemned as a mutilation of justice«

F. U. Okafor

punished. The offender is allowed the right to make reparation as a gesture of remorse. It is in this sort of case that the idea of reconciliation becomes active in Igbo thought. Satisfied by the act of remorse and adequate reparation which the offender has paid, the judges, who are usually a circle of kinsmen, would enjoin the victim to accept restitution and to forgive. The argument is that it serves the interest of peace and safety of all to bear with the remorseful offender on the basis that anyone could have been the unfortunate offender.This is of course, not always the case. The mercurial temperament of humans as well as their propensity toward greed, avarice and malice sometimes compel them to injure one another intentionally and sometimes even unintentionally, but to a great extent. Such offences that are intentional, no matter how little or big, are deemed unpardonable and as a result punished along with the burden of restitution. In this case, the idea of reconciliation is virtually absent.

Whichever way one interprets it, freedom and reason go together, and the age of Enlightenment ushered in a period of free thinking.

THE RELEVANCE OF F.U. OKAFOR'S IGBO-AFRICAN JURISPRUDENCE IN MODERN TIME

Modern political theory emerged against the backdrop of domination of human by fellow human. In the periods leading to the feudal system in Europe where absolute monarchies culminated in the domination of humanity by the Church, freedom and human rights suffered great repression. Slavery was rampant and much of Europe's population was poor, oppressed and dominated. The collapse of papal power and the emergence of the age of Enlightenment brought about freedom and with freedom comes the courage to use reason. For Bruce Janz, Henry Odera Oruka argues that freedom is a prerequisite to use one's reason and that this view tallies with Kant's Enlightenment dictum *Sapere Aude* (have the courage to use your own reason), only that Kant views reason as that which will bring freedom by enabling humans dispose of superstitions. Thus we must have courage to use reason, which will then bring us enlightenment (see Janz 2009, 73). Whichever way one interprets it, freedom and reason go together, and the age of Enlightenment ushered in a period of free thinking. Mogobe Ramose writes that:

»The emancipation of reason from the Dark Age of unscientific thinking was deemed to be an essential precondition for the realisation of human liberation. There was thus a link between the freeing of the human mind and the liberation of the human being. In a sense, this was the basic theme of the Enlightenment. Enlightenment is a man's release from his self-incurred tutelage. Tutelage is a man's inability to make use of his understanding without direction from another. Self-incurred is the tutelage when its cause lies not in lack of reason but in lack of resolution and courage to use it without direction from another.« (Ramose 2002, 12)

It is from this period of Enlightenment, when the chaos of the Dark Age was overtaken, that thinkers like Thomas Hobbes, John Locke, Hegel, and Rousseau, and so on, began

theorizing the best way to organize the state in order to ensure that reason and freedom are never again dominated. The political landscape that developed out of the thoughts of the actors above was democracy with capitalism as its economic option.

Thinkers like Karl Marx, Fredrick Engels and their latter followers like V.I. Lenin, eventually emerged to turn the tide in a different direction, i.e. from democracy and capitalism to socialism and communism. These thinkers were occupied with the evil of economic exploitation of human by fellow human. They faulted democracy, a fast rising political system of modern time as being accessory to capitalism that fosters the exploitation of the individuals. As a credible alternative, they proposed socialism. The fact remains that despite the nuances, a common ground of all modern political thinkers is the place of the individual in a modern state. How much freedom does she require? How much should be allowed her by the state she has constituted? These became the inspiration behind the main lines of jurisprudential thinking that emerged in the 20th century.

From the foregoing, greater focus on the individual rights and liberties and jurisprudential analyses of the viability, plausibility and *normativity* of the leading principles of modern political thought have been carried out by a number of 20th century thinkers like Isaiah Berlin, John Rawls, Emmanuel Levinas, Paul Ricouer, Robert Nozick, Jacques Derrida, to name but a few.

I will not be concerned here with laying out these thoughts, since it goes beyond the scope of this work. What I will on the other hand be concerned with is the extent to which Okafor's articulation of some aspects of Igbo philosophy of law, such as the concepts of justice and reconciliation, connect and are relevant to modern political thought in terms of prioritizing the community or accentuating the individual.

My discussions in the section on conceptual clarification have shown that it is not in all TCs that reconciliation can apply as restoration. The Igbo conception however maintains a strait-jacket treatment of reconciliation in which it is viewed as restorative and is necessary only when the perpetrator has unintentionally, from the point of human error, committed a crime which is pardonable and for which he is also remorseful. The role of reconciliation, here, is then tied to reparation and aimed at ensuring that the bond of the community is not upset. This portrays Igbo thought as projecting state sovereignty over the individual liberties. The later modern political thinkers tend to elevate the individual over the state. This imposes a limitation of some sort on Igbo thought by projecting the interest of the community as the sole reason for reconciliation. This severe limitation in the Igbo conception of reconciliation reduces its relevance in modern political thought where the background influence on TCs might vary from place to place and from time to time.

This portrays Igbo thought as projecting state sovereignty over the individual liberties.

History has also taught us (post-World War I experience) that justice without reconcilia-

tion may yet leave painful wounds that might eventually create more troubled times. But justice accompanied by reconciliation can create a more enduring peace (e.g. the official statements of the German head of state concerning the German role, guilt and responsibility for the crimes of World War II as well as, on the side of the Allies who had bombarded Germany, the Marshall Plan after World War II could be seen as an economic strategy to reconcile the Allies to the new Germany). Given the facts that Okafor's Igbo-African jurisprudence does not treat reconciliation as an effective part of justice and that its conception of justice is one that demonizes the perpetrator, its relevance in modern political thought is again vitiated. But I find Okafor's position quite insightful in developing my sequence theory. This is because it allows reconciliation to be accommodated within the program of corrective justice. In this theory, reconciliation necessarily follows in a sequence after a program of »corrective justice«. In other words, reconciliation is seen as the second and necessary part of a healing process after corrective justice.

Reconciliation is necessary and remains an imperative for building societies with sustainable peace initiatives and social stability, but only after justice has had its full course.

REFLECTIONS ON JUSTICE AND RECONCILIATION IN MODERN POLITICAL THOUGHT

It is obvious today that despite the immense progress in political theorizing of modern time, humanity all over the world remains trapped in a struggle to understand and react to Troubled Contexts in which human rights and liberties are breached. These TCs demand not only justice to maintain the stability of the union but as we have tried to demonstrate, they also demand reconciliation to sustain the internal social bond. The question then is: given the impression that justice has not sufficed over the years, should we abandon it and pursue reconciliation as some popular views in contemporary political philosophy now have it? I disagree with this view in that it will lead to massive catastrophes to abandon justice in the illusion that expressions of emotions, in the guise of reconciliation, would engender more socio-political stability. My take is that the abandonment of justice will spell doom for those unions we wish to preserve. This is so because what reconciliation without justice will do to the victim was what justice without reconciliation did to the perpetrator. But in this work we do not recommend throwing away the baby alongside the bathwater. Reconciliation is necessary and remains an imperative for building societies with sustainable peace initiatives and social stability, but only after justice has had its full course. This is what I call the necessary sequence of justice and reconciliation.

From the argument in the above, the point that must be highlighted here, however briefly, is that to those I describe as members of the compromise school, reconciliation maintains a parallel with justice in the form of binary opposition. It is rare to come by a proposal for reconciliation in modern political thought that also includes justice. It is easy to observe, as we stated earlier, that none of those four

proposals by parties from the compromise school allows room for justice. The impression generally created is that the two cannot go together. But this is a mere assumption that is incorrect. Igbo thought as espoused by Okafor shows that they can. Borrowing a page from the latter, in the spirit of intercultural philosophy, I propose the sequence theory that makes room for not only the complementarity of the two but also for the imperative of this complementarity above all else.

Generally, proponents tend to be carried away by the soft landing which reconciliation promises the perpetrator and focus more on forgiveness than justice. It is as if the reconciliation advocates in post-conflict zones, who are always neutral arbiters, are more interested in the media glory that would come to them as semi-divine beings should they succeed in bringing the feared antagonist to the table. Of course, it is never something of great difficulty to drag the shattered victims down to the floor of the reconciliation commission to cry out their hearts once more. These reconciliation advocates (and indeed, all reconciliation proposals that exclude justice) impose the burden of forgiveness on the victim in return for the probably unrepentant antagonist admitting, even if theatrically, that he had mistreated the victim. For a classic case of this sort of reconciliation proposal, see the Guatemala reconciliation program recounted in Camilla Riesenfeld (see 2008, 4–58) and the South African reconciliation program recounted in Richard Wilson (see 1999, 1–43). Richard Wilson, for example, recounts a story of Duma Khumalo, a black South African who was unfairly sentenced to jail in 1986 for a murder he did not commit during the Apartheid era. He was released some seven years later in 1993 and for the next three years he sought a fair retrial before a white dominated board in vain. When interviewed in 1999 by Wilson, he simply said »I just wanted justice« (Wilson et al. 1999, 2–3). For many black people like Khumalo in post-Apartheid South Africa, justice was more important than building social relations. This does not imply that building social relations through reconciliation is not desirable—no, not all. The basis of arguments in favor of justice is that even a reconciliation program needs a strong foundation in justice to prevent reoccurrence or to establish a new beginning or restore a broken past. In the absence of justice in any post conflict zone, the quest for vengeance as Khumalo was almost forced to resort to, always tends to create a social rupture. And this is the very evil that architects of reconciliation seek to avoid. This is the problem also raised in the research of Richard Wilson, in the South African context, where the Truth and Reconciliation Commission was structured to suppress expressions of vengeance/justice and victims were literally compelled to forgive the perpetrators, as are the TRCs in other countries (see Wilson et al. 1999, 14–17). The question that naturally arises is: how reliable is such reconciliation program that lays justice aside? And indeed, how sustainable? Evidence from Nigeria, from South Africa, and recently from Rwanda simply show that purported reconcil-

The basis of arguments in favor of justice is that even a reconciliation program needs a strong foundation in justice to prevent reoccurrence or to establish a new beginning or restore a broken past.

iations procured from such TRCs hardly make deep-seated ontological impact in the affected societies and that their purported benefits are hardly sustainable. This point about the failure of TRC-orchestrated reconciliation has been corroborated in the research conducted in the former Yugoslavia by Nebojsa Petrovic. Petrovic suggests that reconciliation without justice has left the Serbs, the Croats and the Bosnians bitterly divided, years after their reconciliation program (see Petrovic 2005, 1–3). The question therefore is: if reconciliation with its instrumentality of forgiveness does not produce a lasting and an effective result, why is it so? And what is the way out? Paulin Manwelo argues that:

The popular conflict management model of reconciliation in which justice is excluded apparently denies victims any form of psychological appeasement and satisfying redress to crimes committed against them by perpetrators.

»In modern political philosophy, justice plays a psychological and, overall, an immensely therapeutic role in reconciliation and, therefore, the peace process. Without a doubt, *a priori* and *a posteriori,* so to say, before as well as after violence, the justice to which each one of us is entitled (*suum cuique*) reassures, creates confidence and provides guarantees for the future. Justice is this ›ingredient‹ which provides confidence to build stable relationships. This is why reconciliation can be considered as the daughter of justice, which establishes reconciliation from the bottom up. This being so, what about the current debate on reconciliation? If it is true that reconciliation is the daughter of justice, one must disapprove of the current tendency, above all by certain peace activists, to separate reconciliation from justice.« (Manwelo 2009, 19)

The above contribution by Manwelo aptly captures my central thesis in this work, which concerns the necessity of the complementarity of justice and reconciliation. One of the interesting implications of this view is that true and effective reconciliation in any post-conflict zone is difficult without justice. This is because, vengeance is a natural feature of humanity transformed into state-administered justice for the stability of modern societies run by laws. The popular conflict management model of reconciliation in which justice is excluded apparently denies victims any form of psychological appeasement and satisfying redress to crimes committed against them by perpetrators. The failure or inability of reconciliation programs that exclude justice to engender peace and social stability has compelled this research to propose a sequence theory in which justice and reconciliation are weaved into a single conflict resolution proposal.

TOWARDS A SEQUENCE THEORY

I posit the inadequacy of both modern and Igbo models of reconciliation processes and propose the sequence theory as a viable alternative. I derive this concept from two English words namely, sequence and theory. Of the two, the word sequence is the arrowhead. *The New International Webster's Comprehensive Dictionary of the English Language—Encyclopedic Edition* (Smith 2004) defines it as 1. The process or fact of following in space, time, or thought; succession or order: also sequen-

cy. 2. Order of succession; arrangement. 3. A number of things following one another, considered collectively; a series. 4. An effect or consequence (see Smith 2004, 1147). Theory on the other hand is defined by the same dictionary as 1. A plan or scheme existing in the mind only, but based on principles verifiable by experiment or observation (see Smith 2004, 1302). Put together, sequence theory becomes a scheme for treating justice and reconciliation collectively and in a succession. The basic shortcomings of the conventional models include the idea of binary opposition in which reconciliation is set apart from justice. The assumption is that the two, as they serve different masters, forgiveness and retribution, cannot be compatible. As a result, some modern political thinkers assume the superiority of reconciliation over justice, since the latter has been known to brutalize the perpetrator producing a great deal of social instability as a result. Modern thinkers tend to produce a parallel conception of justice and reconciliation such that they assume quite in error that any proposal for handling a Troubled Context is either justice-inclined or reconciliation-inclined. The assumption here is that the two cannot go together. Most modern reconciliation proposals consist of programs such as dialogue, confession, acknowledgement of guilt, truth telling, reliving experiences, remorse, forgiveness, etc. These are principles inspired by the Judeo-Christian religious tradition. But modern societies are not run by the principles of the Holy Bible. They are run by constitutions and a good constitution spells out, among other things, principles by which offences are to be redressed as deterrents in order to establish order and social stability. We must realize that not everyone in the modern world is a Christian. Even if this were the case, the world would have to be a religious society run by the Holy Bible for such proposals to be effective. This, at the moment, is far from reality. For these reasons and more, I reject the modern model that tends to separate justice from reconciliation while favoring reconciliation proposals. I also reject the Igbo model that gives reconciliation a minimal space in a program of justice. My position is that justice and reconciliation ought to be complementary. Modern proposals favor reconciliation because it is believed that justice-proposals end up brutalizing the perpetrator to the point that malice, animosity and vengeance are sown in the perpetrator and they linger to nurture new crises. Assuming this position is correct, it would also be correct for a proposal of reconciliation without justice. The point here is psychological. It is exactly the same psychological tendency that justice ruptures in the perpetrator that reconciliation ruptures in the victim. What has been missing all along in the justice-driven proposal was the reconciliation component. And any reconciliation proposal without the justice component, as some of the modern thinkers advocate, would hardly fare better. Reconciliation proposals, when properly conceived would therefore be a socio-psychological and political historical moment that is inevitable and in which a broken order, whether past or present, is effectively

My position is that justice and reconciliation ought to be complementary.

established, restored or replaced with the »new« through the tripartite ring of justice, remorse/repentance and forgiveness. This is the essence of the sequence theory.

Thus the sequence theory states that reconciliation is possible only after justice has occurred. To this effect, I will enunciate five pre-conditions for reconciliation in the sequence theory, including:

And I would like to place psychological restitution higher than economic restitution ...

- Justice must take place as a corrective measure
- The perpetrator must be broken
- The victim must be broken
- The historical moment must be inevitable
- There must be a learned neutral arbiter

The first pre-condition calls for the statement of the sequence theory and I formulate the syllogism of the sequence theory thusly: one can have justice without reconciliation but one cannot have true reconciliation without justice, hence, to create a chance for true reconciliation, one must first procure justice. This pre-condition simply states that any talk of reconciliation must hinge on justice where justice is administered as a corrective rather than as a punitive measure.[2] In this type of justice system, perpetrators must be treated in the court and prosecution process as candidates for correction not as outcasts for destruction. This has an important psychological contribution to the efficacy of the reconciliation component. Crimes upset not merely the social but also the psycho-social order and justice is imperative in making restitution. Some modern advocates of reconciliation without justice place so much emphasis on themes like economic compensation, restitution and reparation, something akin to the concept of restorative justice with which Christian Gade (see 2013, 11–35) seems to equate the South African case. This process seems to set aside the psychological component which justice alone satisfies. Themes of repentance, confessions and truth-telling might be highly recommended in religion but in the resolution of social conflicts, they offer little or no psychological restitution. This is something that Dale Miller (2001, 527–553) articulates as respect proceeding from the experience of justice, which justice alone psychologically provides. And I would like to place psychological restitution higher than economic restitution, because by punishing the offender, justice answers to the yearnings of the victim's psychology to obtain due redress for harm done to her. Economic reparation of any sort serves secondary needs. It is this psychological component that justice brings into the sequence theory proposal that I develop in this essay.

Regarding the second pre-condition, sequence theory requires that the perpetrator be broken. Being broken here does not refer to a negative assault, but is an emotional experience in which one is led through measures that demonstrate care, love and belongingness to give up her hard lines. A perpetrator, for example would, cease being hard and re-

2 I am indebted to Gail Presbey of the University of Detroit Mercy, USA whose comments when I first presented this paper in Vienna gave me this insight.

morseless and would become truly repentant. What this entails is the psychological burden that only justice as a corrective measure can impose on the perpetrator generating in him the true feeling of remorse inspired by a legal process that treats him as a candidate for correction rather than as an outcast for destruction. This psychological burden has the capacity to break the perpetrator making her realize the injustice and pain her actions have inflicted on the victim. It is this state of mind that predisposes a perpetrator to switch experience and feel the pain of the victim, which can compel her to extend her hand and reach out to her victim for true reconciliation.

As to the third pre-condition, the victim is not likely to stick out her hand and accept the hand of reconciliation offered by the perpetrator unless she has also been broken. A victim can be broken when a perpetrator accepts and remorsefully goes through a corrective justice procedure whether in jail term, fine or other forms of corrective justice in true remorse for her crimes. The remorseful gestures of the perpetrator and the willful acceptance of the burden of punishment imposed on her imposes an emotional burden on the victim and helps her give up her hard lines of never forgiving, never reconciling or never accepting the perpetrator back into society. It must be emphasized that my idea of a corrective justice system requires the perpetrator to plead guilty to the offences she has committed and willingly assist the course of justice and accept whatever burden imposed on her. A procedure like this would create a room for the victim to switch experiences with the perpetrator. The harsh burden of justice imposed on the perpetrator made possible by her willful cooperation with the legal process, which she remorsefully accepts, will most likely break the victim. The psychological burden that the suffering of the perpetrator will impose on the victim will make her share the guilt of the perpetrator, by seeing that it was for her sake and her demand that the perpetrator is being made to suffering by the state. This will most likely impose a burden of a pseudo-perpetrator on her where the breaking of the original perpetrator transforms her into a fresh victim. This is what I will call the »uniting of experiences« or »unity of experiences« between the perpetrator and the victim that predisposes them to reach out and to accept a hand of reconciliation.

The psychological burden that the suffering of the perpetrator will impose on the victim will make her share the guilt of the perpetrator, by seeing that it was for her sake and her demand that the perpetrator is being made to suffering by the state.

I now come to the fourth pre-condition which sets my proposal markedly apart from more conventional proposals on reconciliation. This requires a true reconciliation program to be an »inevitable historical moment« rather than a »process« or even a »place«. Most proposals in our age conceive of a reconciliation program either as a process (see Bloomfield 2006, 13), (see Brounéus 2003, 3), (see Riesenfeld 2008, 9) or as a place (Lederach 1997). Process presents reconciliation as an infallible algorithm that unalterably leads to an expected outcome: peace. There is no evidence, much less a guarantee, that once the process is activated, the outcome then becomes inevitable, yet this is the impression reconciliation as a process creates. Also, as a

process, reconciliation consists of a string of programs usually including dialogue, confession, acknowledgement, truth telling, reliving experiences, remorse, forgiveness, etc. These are principles inspired by the Judeo-Christian Holy Bible. But modern societies, as I noted earlier, are not run by the principles of the Holy Bible. They are run by constitutions and a good constitution spells out among others, principles by which law-breakers are to be punished and, in my way of speaking, corrected. On the other hand, place advocates present reconciliation as a Nirvana that guarantees peace to all actors; perpetrator and victim alike who enter into it. This is however far from reality. Reconciliation is thought of as a gathering of some sort or a meeting point like the TRCs between the victim and the perpetrator with the inexorable expectation of repairing bruised relationships. This meeting works in reality by compelling the exchange of apology and forgiveness from perpetrator and victim respectively. But we know that apology and the show of remorse as well as forgiveness are internal experiences that can neither be compelled nor verified.

Reconciliation is rather an »historical moment« that inevitably results or emerges when the perpetrator has been broken by a corrective justice program which in turn breaks the victim following his or her unification of experience with the broken perpetrator.

On the whole, process and place tend to present reconciliation as something we can just orchestrate mechanically with no recourse to the psychological states of the actors involved. This is not only mistaken but also clearly incorrect. A true reconciliation does not work like a process-like input and output computer program that is mechanically determined from the outset; it is not a factory place for transforming raw materials into a finished product; it is rather an »historical moment« that inevitably results or emerges when the perpetrator has been broken by a corrective justice program which in turn breaks the victim following his or her unification of experience with the broken perpetrator. It is inevitable because, it unavoidably happens when both the perpetrator and the victim have been broken. In other words, once the perpetrator and the victim are broken, the outcome becomes an inevitable historical moment.

The last pre-condition lies in the need for an experienced neutral arbiter to mediate the reconciliation program between the perpetrator and victim. I put an emphasis on experience of the arbiter because of the psychological demands of the program. It must not be taken for granted that human beings are egotistical beings who are perpetually haunted by feelings of superiority or inferiority complexes. An experienced arbiter who is aware of this is vital to the management of the reconciliation program. The inevitable historical moment does not last forever; it is a window of true remorse and forgiveness that offers a golden opportunity of which the arbiter must take advantage. A poor management of this opportunity or a neglect of the psychological states of the actors could lead to a loss of this moment. For example, in the inevitable historical moment, the perpetrator and the victim, having unified their experiences, are on a painful internal program of self-recrimination which places an uncomfortable strain on their psychological states. The experienced arbiter, aware of this internal pain, must patch them

through a program of reconciliation in a way that soothes this psychological pain. An inexperienced arbiter might not be aware of this internal pain and might end up pursuing the course of reconciliation in a way that will prick at their egos and thereby exacerbate the existing internal pain. This might lead to one or both parties recoiling and even pulling out of the program entirely. And once the inevitable historical moment is lost, it might be very difficult if not out-rightly impossible to obtain it again.

These constitute the five pre-conditions for reconciliation under the sequence theory. And the two apparent implications to the five pre-conditions are as follows:

- True reconciliation without justice is impossible
- Reconciliation without justice has become an instance of theatre in contemporary political philosophy

Regarding the first implication, sequence theory maintains a complementarity of justice and reconciliation. This means that true reconciliation necessarily goes with the justice component. On no condition within the theory is it possible for a true reconciliation to take place in the absence of justice.

The second implication takes a swipe at some of the popular modern proposals which exclude the justice component from the reconciliation program. It particularly calls the sincerity of arbiters, perpetrators and even the victims into question by presenting their roles as a type of stage acting. Arguments could be raised concerning the sincerity of arbiters who literally drag the victim to the floor of the TRC to cry out her heart while reliving her ordeal. One could ask, to what purpose? And indeed, to what end? Some advocates of the reconciliation-without-justice approach have explained that the TRC affords people who are present at the commission's auditorium and, indeed, the whole world watching on TV the opportunity to learn how much the victim has suffered. Whether this contributes to the healing of the victim is hardly obvious. One thing that is however obvious is that the perpetrator gains a soft landing in the form of amnesty granted her by arbiters without her consent in exchange to act a drama of remorse by admitting his guilt. Another obvious thing is that the career arbiters, many of whom make a lot of money from arbitration and consultation and whose fortunes depend heavily on the international reach of their profiles, gain a lot when feared dictators appear on camera to admit their guilt and apologize to the victim. For this all-important episode, by far, the very climax of TRC-theatre episodes, arbiters are always ready to go to any length to offer ridiculously irrational soft landings, which may include not only freedom from prosecution but also lifetime security and a safe heaven in exile to notorious criminals who have brought untold mayhem to humanity. These false arbiters present themselves in the theatre of reconciliation they direct as the protagonists whose selfless goal it is to bring about the happiest ending to the drama of rec-

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onciliation staged in the theatre of the TRC. For this, I am compelled to think that TRCs are a bad idea from the onset.

However, since questions are more important than answers in philosophy and since every answer according to Karl Jaspers (see 1974, 11) leads to a fresh question, one may wish to foresee problems with sequence theory. Thus, whereas the central goal of sequence theory is social stability; and whereas justice is the exertion of legitimate vengeance by the state on the perpetrator and on behalf of the victim; does justice not transform the former perpetrator into a fresh victim (that of the state brutality) and change the former victim and the state into a fresh perpetrator? Thus, is reconciliation possible at all after justice has been exerted? This prepares the ground for further research beyond the scope of the present work.

CONCLUSION

In this work, I drew a line between those I call the compromise school and the non-compromise school. I also considered the modern or conventional proposal alongside the Igbo model espoused by F. U. Okafor. I dismissed the modern model on the ground that it compromises justice in its reconciliation approach. I also dismissed the Igbo-African model as being inadequate for trivializing the reconciliation component. On the basis of the above, I proposed what I call the sequence theory. I explained the structure and the pre-conditions for the application of the theory. The sequence theory rides on the crest of corrective justice articulated as a better version of retributive justice system.

The centerpiece of my argument is that Igbo society heightens the community domination of the individual; modern societies heightens individual liberty and minimize community or state brutality. Also, modern societies depend on rule of law and not on rule of emotions, as it is in the religions. From the foregoing and where necessary, reason only needs to be complemented and not replaced by emotions, as the advocacy for reconciliation approach without justice might portend. Hence, the need for the sequence theory of justice and reconciliation that I propose in this work.

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