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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

SUPPLEMENT

INHALT

POLYLOG 34, DRUCKVERSION

13
FRANZISKA DÜBGEN
Grenzen der Vergebung?

27
JAMES OGUDE & UNIFIER DYER
Auf der Suche nach Gerechtigkeit und Versöhnung angesichts der Gewalt im Nachfeld der kenianischen Wahlen 2007

43
JOSEFINA ECHAVARRÍA ÁLVAREZ
Die Kunst des Social Healing in Kolumbien

67
NAOKO KUMAGAI
Die Verbindung von Schuld und Verantwortung im Fall der Trostfrauen (»comfort women«)
Für eine wirkliche Versöhnung zwischen Japan und Korea

83
URSULA BAATZ
Die hungrigen Geister nähren
Vom Samurai-Zen zu einem Zen der Versöhnung

99
JAMES GARRISON
Das Ästhetik der Macht
Ein Überblick

117
REZENSIONEN & TIPPS

146
IMPRESSUM

POLYLOG 34, SUPPLEMENT (ONLINE)

153
FRANCESCO FERRARI
Memory, Identity, Forgiveness
Archaeological and Teleological Perspectives of Reconciliation from Paul Ricœur

171
SERGEJ SEITZ
Schiffbruch mit Zuschauer?
Europa, das Politische und das Humanitäre

187
GAIL M. PRESBEY
Odera Oruka and Mohandas Gandhi on Reconciliation

209
CHRISTINE SCHLIESSER
The Case for Transformative Justice in Reconciliation Processes
An Argument in View of Post-Genocide Rwanda

219
THADDEUS METZ
Eine Theorie nationaler Versöhnung: Einsichten aus Afrika

245
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

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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et al.

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.

GAIL M. PRESBEY

Odera Oruka and Mohandas Gandhi on Reconciliation

PART ONE: INTRODUCTION

In this intercultural philosophy exploration, I am going to compare and contrast approaches to reconciliation found in East Africa and Gandhi's methods of conflict resolution which he put into practice both in South Africa and India. But before moving to these two examples, I would briefly like to survey the insights gleaned on the topic of reconciliation from the more familiar and more recent treatments of the topic by Desmond Tutu and Trudy Govier in the context of the Truth and Reconciliation Commission as it did its work in South Africa after apartheid. Where did this concept of »reconciliation« begin? Johnny B. Hill, in his monograph on the concept of reconciliation found in Martin Luther King Jr. and Desmond Tutu, notes that reconciliation is a Greek term, the verb being *katallasso* and the nouns being *katallage* and *hilaskomai*. It can be found in the Bible in the Letters of Paul. Christians focus on the idea of humans becoming reconciled to God. In biblical sources, repentance and forgiveness were a necessary experience for humans to become reconnected with a right relationship to God. Forgiveness affects all interpersonal relationships and is a prerequisite for reconciliation (see Hill 2007, 15; 18–19). An important aspect of reconciliation is humans being reconciled to each other and becoming a »reconciled community,« as expressed in the 19th century Protestant understanding of theologians like Albrecht Ritschl. Hill sees Tutu as taking this theme a step further, rejecting Enlightenment European emphases on individualism and rationalism. Tutu is probably one of the most well-known advocates of reconciliation. While an Anglican minister clearly relying upon Christian theology, he also draws upon the African philosophy of *ubuntu* to make his points. He

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emphasizes that we as persons are only persons insofar as we engage in relationships and interactions with one another. Tutu describes our interdependence: »A self-sufficient human being is subhuman. I have gifts that you do not have, so consequently, I am unique – you have gifts that I do not have, so you are unique. God has made us so that we will need each other. We are made for a delicate network of interdependence« (Battle 1997, 35).

In his book, *God has a Dream*, Tutu insists that it is through our encounter with those who are different than us and the resultant solidarity with them, that we will ultimately get to know ourselves and God better (see Hill 2007, 158). In a sermon in 1979 Tutu summed up the Christian challenge to love our neighbors, including those who are homeless, of another race, imprisoned – and during apartheid, many who were imprisoned were there due to political activism (see Tutu 1986, 147–48; 151–52). Michael Battle describes Tutu's practical advice to oppressed persons for regaining their own self-respect and amassing the spiritual fortitude they need not only for the liberation struggle but also for the difficult psychological and interpersonal work of reconciliation. Tutu encourages the practitioner to keep God's image always in mind – in the midst of conflicts with others; this practice will »restore the oppressor's humanity by releasing and enabling the oppressed to see their oppressors as peers under God« (Battle 1997, 5). This new insight breaks with the apartheid society emphasis on hierarchical racial classification.

The level of personal and interpersonal practices of reconciliation are just one small part. Reconciliation also involves groups, societies, and nations. It is a process of civil society. It can evolve from just a question of whether we understand each other's ideas into a question of how we can practically live together. Beyond the social, reconciliation can involve government institutions, and even international governance, as some of the many forms of Truth and Reconciliation Commissions (TRC) are created, involving thousands of persons directly and millions indirectly in their processes. Trudy Govier is a Canadian philosopher who worked closely with South African philosopher Wilhelm Voerword in their reflections on the Truth and Reconciliation process in South Africa. Govier has, however, studied TRC tribunals and their various processes in a host of countries and has written several books on these topics. She is a good person to turn to for sources of the study of reconciliation as both a concept and a practice on the interpersonal to the international level.

As Govier has explained, the word »reconciliation« can have many different connotations, and what is meant by pursuing reconciliation is shaped by specific contexts. There is reconciliation between individuals, groups, and nations. Sometimes reconciliation is »thin« – that is, formal, without much emotion, and sometimes it is »thick« – where attitudes and feelings are changed. The »re« in reconciliation points to the idea of repairing a relationship, but in some cases, the groups

may never have had a relationship (or at least never a good relationship). Govier outlines the steps necessary to reach reconciliation. First, the two sides must be willing to meet and talk to each other. This can be difficult if there is not a basic trust in the process. Trust is needed in order for parties to a conflict to be willing to attend meetings with each other, to engage in fact-finding together, to listen to witnesses, to come to agreements with each other, and to monitor compliance to agreements made (see Govier 2006, 10–17).

Once the two sides have agreed to meet, secondly, there must be listening to each side's story, and then acknowledgement by each side of its wrongdoing. This is often an incredibly difficult step. Each side usually has its narrative reinforcing why they are the victims and the other side are the perpetrators. In addition, those who feel that they are in power can deny wrongdoing because they think they are powerful enough to get away with denial. Denial could involve lying, or it may involve »selective attention« and willful ignorance: such states are often coping mechanisms. Someone may say an atrocity never happened, or they may just cling to their rationales and justifications for what happened, asserting that what happened was not wrongdoing. Denial of wrongdoing is a sign that perpetrators intend to act with impunity (see Govier 2006, 47; 53–55). Acceptance of responsibility is a sign that participants in violence do not intend to continue acts of violence.

Govier goes into great detail about the different forms of victimhood and perpetration, and notes that often people are a mixture of both. Even if they are not the primary perpetrators, they may be secondary or tertiary perpetrators, that is, they may be those who aid and abet violence, or those who endorse the violence of others, thereby creating a climate that encourages others to engage in direct acts of violence. It is very difficult to move people away from the stark contrasting pictures they have of themselves and the others as either complete victims or perpetrators.

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Govier insists that the best way to understand acts of perpetration are not using individual psychology and thereby labeling participants in violence as delinquents or deviants. Rather, one should call upon the field of social psychology and understand the participants as responding to social identity, political frameworks, and other contexts. Certain situations trigger violence. The participants might not be violent were it not for the context of the conflict. Therefore, resolving the conflict and getting parties to agree to a ceasefire, truce, and later other projects to build community can ensure that violence does not repeat itself. In contrast, emphases on guilt and punishment might not build the community and alternative context that would lessen future violence. Govier insists that perpetrators must not be shunned, ostracized, or castigated. For reconciliation to work, perpetrators must be reabsorbed by their societies. (see Govier 2006, 42)

After each side shares its grievances, acknowledgement of wrongdoing is necessary. Sometimes this stage is not reached, as each side insists on its interpretation that denies

any wrongdoing or justifies any violence, so that they can't see themselves as perpetrators. But, if possible, an acknowledgement of wrongdoing can prompt the further step of apology. Apologies come in many shapes and sizes, and some are formal, some are heartfelt. An apology is often delivered by a spokesperson. Some are public rituals engaged in by Heads of State. Whether an apology prompts forgiveness is dependent on many factors. Mostly, those who have been wronged have to trust the sincerity of the apology. If the apology seems thin, and if it is not followed by any concrete change in action that would be further evidence that the apology is sincere, then forgiveness may not be forthcoming. But if the victims forgive, they may feel a burden of hate lifted from themselves. Govier explains that an apology respects victims' resentment and grievance. A heartfelt apology retracts or cancels earlier messages of denigration, and can encourage a victim to amend his or her attitude so that they feel less anger (see 2006, 70–71). Forgiveness has to be a free expression. Pressure to forgive undermines the experience and the process of reconciliation. The acceptance of forgiveness is therefore an agreement between victim and perpetrator to have a fresh start together. This fresh start is possible because there has been an acknowledgment of the wrongdoing. (see 2006, 92) Oftentimes, following up accepted apologies with projects of reparations helps participants to be reassured that the apology was genuine. But, it is not always clear what form reparations should take. While reparations often refer to concrete past damages, often times there is no way to restore what was harmed. For example, a life may have been lost and there is no way to get it back. These difficulties should not be used as an excuse to do nothing.

The acceptance of forgiveness is therefore an agreement between victim and perpetrator to have a fresh start together. This fresh start is possible because there has been an acknowledgment of the wrongdoing.

A key theme of reconciliation is that it is an alternative to punishment. Govier is concerned that punishment of some wrongdoers won't in itself restore relationships. In general, those promoting reconciliation are critical of the mainstream concepts of and practices of punishment. The mentality of right and wrong and the idea that the guilty should be punished often times stoke anger and make opening up to others and living together impossible.

Reconciliation comes when harm is already done, but a new beginning is needed, after stages of acknowledging the wrongdoing, and apology. But active reconcilers can be at work before large crises happen. There is also the skill of detecting problems as they arise and addressing them by facilitating communication and co-operation. There are too few of these pro-active reconcilers in our world, but we need more of them.

What is the motivation for engaging in conflict resolution in general, and reconciliation in particular? It is the acknowledgment that we need each other in order to survive, thrive, and have lives of meaning. Aristotle said it over two thousand years ago: we humans are social animals. There is opportunity and danger in that symbiosis. As Hobbes pointed out, we humans are such that we are vulnerable to being harmed and murdered by other humans. Studies have shown that attacks from other

humans, whether it is verbal violence or physical violence, haunt us humans more than does suffering from harm wrought by nature such as floods and earthquakes. And yet as feminist philosophers and biologists have pointed out, we humans due to our vulnerability depend upon (and often receive) a large amount of nurturing, beginning from the time we are infants and throughout a long process of growth to maturity.

There are cultural differences between groups when it comes to their valuing community over individuality, and harmony (smoothing over difficulties, saving face) in relation to truth-telling. But in all communities, both of these attributes are valued. It is just a matter of different communities having different senses of which to prioritize and to what extent when faced with a quandary where one value is in conflict with the other.

PART TWO: ODERA ORUKA

There had been traditions of conflict resolution involving reconciliation long before philosophy professor H. Odera Oruka was born (in 1944 in Nyanza Province of Kenya). He learned about ethics from sitting at the feet of rural elders who would have in-depth discussions with his father. As a young man, he won a scholarship to Uppsala University and there studied philosophy with Ingemar Hedenius. Coincidentally, Hedenius was in the midst of criticizing certain practices of punishment and retribution as he found them in his country of Sweden. It is by researching this topic and articulating his own position that Odera Oruka came close to discussing the topic of reconciliation. Reconciliation as a concept is closely related to restorative justice, an approach to perpetrators of violent crimes that finds a way to address the damage done without involving imprisonment or the death penalty. It is in this sense that Odera Oruka's work is related to reconciliation. Within a few years, when Odera Oruka goes back to Kenya and begins his sage philosophy project, we will see that he discovers a host of wise counselors who had been practicing and theorizing about conflict and its resolution, including outlining and practicing key steps in a ritualized process of reconciliation.

Reconciliation as a concept is closely related to restorative justice, an approach to perpetrators of violent crimes that finds a way to address the damage done without involving imprisonment or the death penalty.

Odera Oruka was inspired by Hedenius' criticism of retribution and punishment, and chose the topic as his Master's thesis in philosophy at Wayne State University. In the thesis Odera Oruka argued that crime is a symptom of social disharmony. He was particularly concerned that the poor often stole to survive, yet the criminal justice system punished individuals without reforming itself so that it could ensure each person's basic needs. Odera Oruka asserted that punishment of criminals was wrong and should not be done. Odera Oruka, however, explains that the reason to abolish the practice of punishment is »not only that a few innocent people are punished, but that all so-called criminals are never responsible for their acts.« (Odera Oruka 1969, 7) Odera Oruka explains that his own position diverges from Hedenius' position that there are primary causes of crime (the »criminal

forces or social context of the criminal) and secondary causes (free will, intentions, and character formation). Odera Oruka confidently counterposes that only the primary causes are determinants of crime, and if they were removed, individuals would never commit crime. Consistent with this position, he counsels that: 1) both the concept and practice of punishment should be abolished, and 2) that criminal forces be eradicated. Odera Oruka states boldly that »if they [criminal forces] were removed, no individual would intentionally commit a crime« (Odera Oruka 1969, 19; also see Odera Oruka 1985, 23). It is important to note that in this thesis, Odera Oruka does not pay attention to the question of how to reconcile criminals with victims or the larger society as a whole. The main motivation for his thesis is that he wants attention focused on eradicating criminal forces.

Society must change its customs, its values, its political ideologies, and its moral commitments in such a way that criminality is reduced.

He argued that the long-term goal of punishment was social security. But he felt that social security could only be safely based on social harmony, and that social harmony could only be based on egalitarianism, »when one group is not made to feel too superior or inferior to another, when the gap between the rich and the poor is insignificant or felt by the citizens to be so, when the society is free of hatred, wether it be racial, tribal, communal etc.« (Odera Oruka 1969, 27; 1985, 29). He favored »treatment« of both criminals and society over punishment, and looked forward to a time when people would treat criminals not with »indifference, aloofness or cruelty« but instead »feeling a fraternal concern for them« (Odera Oruka 1969, 37; 1985, 34–35). Odera Oruka's Master's thesis was soon developed into his book, *Punishment and Terrorism in Africa*. In a section clearly added onto his book's first edition after the thesis, Odera Oruka continues to argue against the position that criminals commit their crimes out of their own free will, and maintains that, if we clearly understood that criminals were suffering from a sickness, we should call for an ambulance rather than a policeman—in fact, the only role for the policeman, Odera Oruka continues, is to help put the criminal in the ambulance (see Odera Oruka 1985, 80–85). The reference to the »ambulance« (see 1985, 83) is just a humorous way of illustrating the fact that a criminal still needs to be detained so as not to harm others, and must go through individual treatment. But Odera Oruka wants to complement the focus on the individual criminal's treatment with »society treatment« (Odera Oruka 1985, 89). He clarifies that »curing« the criminal »entails removing the conditions that cause people to adopt criminal behavior« (Odera Oruka 1985, 84). One can't just treat criminals as individuals; one has to treat the »community at large« from which the criminal hails (Odera Oruka 1985, 85). Society must change its customs, its values, its political ideologies, and its moral commitments in such a way that criminality is reduced (see Odera Oruka 1985, 89).

To write his book, Odera Oruka studied the practices of punishment throughout colonial and newly independent Africa. By applying insights that Hedenius had first thought

of in the context of Sweden to the much larger and more complex African scene, Odera Oruka wrote a work that up to then had been unprecedented in the field of philosophy. Odera Oruka researched African practices of response to »crime« and disharmony through community efforts of reconciliation. Odera Oruka read works that described other places in Africa where reconciliation was used even in some criminal cases. One of the books Odera Oruka consulted while writing his own book (Alan Milner's *African Penal Systems*) reported on the 1933 »Committee of Inquiry into the Administration of Justice in Kenya, Uganda and Tanganyika Territory in Criminal Matters« (Read 1969, 114). That Commission claimed that the British penal code was not appropriately applied to the situations in Africa. The Commission concluded: »Revenge and retribution as methods of punishing criminals must go, and crime must be regarded first and foremost as an offence against the community,« (quoted by Read 1969, 114), and the commission advocated »the use of reconciliation and compensation for minor offences« as well as a host of other reforms (Read 1969, 116).

Despite independence, some African countries, Kenya included, continued the worst of past colonial practices rather than reviving African practices of reconciliation. Odera Oruka dared to raise this uncomfortable issue, even while he lived in the country he (if indirectly) criticized. Odera Oruka was a pioneer in this field in the context of the development of African ethics.

While the book has the strengths mentioned above, Odera Oruka contradicts himself when he discusses what to do with deposed African dictators. Consistent with his condemnation of capital punishment, he insists that dictators' lives should be spared and criticizes newly formed governments, some of which gained power through coups, who hastily kill deposed rulers. But then Odera Oruka argues that such rulers could be »incarcerated for life, denied the possession of any property, and tortured« (Odera Oruka 1985, 113). Surprisingly, Odera Oruka argues that such treatment could be morally justified if it were »commensurate with the crimes or acts committed by the oppressors during their days in power.« (Ibid.) He suggests that this kind of legal terrorism could be morally justified against »three great sons of God,« Marcia Nguema of Equatorial Guinea, Idi Amin of Uganda, and Jean Bokassa of Central Africa. Odera Oruka further suggests imprisonment and torture of these three would not be terroristic but merely punitive if the treatment did not exceed a »reasonable maximum« (Ibid.). Odera Oruka explains in a related end note that he still intends to argue against punishment as an institution; however, given that in our world punishment is a functioning institution, imprisonment and torture of the three dictators would be morally justified (see Odera Oruka 1985, 128, footnote 52). My concern is that the rationale in these cases is still clearly retributive. I also find it difficult to imagine what a »reasonable maximum« of torture would be. On the one hand, Odera Oruka's position here looks

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inadequate from a human rights perspective; on the other, from the perspective of those who want to kill all of yesterday's rulers, he is counseling great restraint. But we should take home two important points when reflecting on Odera Oruka's comment here. One is that, clearly, he is not taking a principled nonviolence stance here. Secondly, it seems that his motivation for his large and sweeping criticism of practices of punishment has to do with his concern regarding the poor who are driven to crime due to circumstances of dire need or inadequate social support or lack of acceptance. His stance on punishment changes when it is time for him to ponder African dictators who are victimizing poor Africans or those of lesser status.

The purpose of compensation is not to punish the offender by burdening him or her with a large fine, but rather the goal is to restitute the loss to the wronged person. Odera Oruka insists that compensation helps the wronged person to feel satisfied that justice has been delivered.

Another interesting aspect of *Punishment and Terrorism* is his coverage of African traditions dealing with crime. He insists African traditions of compensation were neither retributive nor backward-looking, but forward-looking and therapeutic. The purpose of compensation is not to punish the offender by burdening him or her with a large fine, but rather the goal is to restitute the loss to the wronged person. Odera Oruka insists that compensation helps the wronged person to feel satisfied that justice has been delivered. Odera Oruka insists that the practices of imprisonment and fines (whose monies go to the State rather than the victim) were foreign imports to Africa (see 1985, 48–49).

He does admit that there have been some »barbaric« traditions of punishment in Africa which should be stopped. For example, a Sudanese woman who has lost her virginity outside of marriage might be killed (see Odera Oruka 1985, 51). He takes the nuanced position that we must realize that some traditions are useful and others are dangerous. Realizing that traditional African culture encompasses both compensation-restitution and inhumane punishments, Odera Oruka argues, we can't simply preserve all traditions. If he advocates traditions of compensation, it is because he judges that these traditions are reasonable and helpful today, not because he counsels deference to all traditions because they are traditions (1985, 53–54). Mostly, he explains, he wants to promote reasonable solutions.

Odera Oruka's emphasis on compensation instead of punishment was echoed by Ker Paul Mbuya Akoko, interviewed as part of Odera Oruka's sage philosophy project. Akoko is asked about whether punishment was part of the Luo tradition. Akoko replies that people were punished but never executed. A murderer's property could be confiscated and given to the family of the murdered person. Also, no adult man was ever whipped as a punishment; the person might be banned for a grave offense, and forced to move away. Akoko also mentions that some persons might be drugged so that they fall ill, or cursed (see Odera Oruka 1990, 145). Akoko also shared his conviction that Luo people should learn to live in harmony with other ethnic groups, accommodating differences, instead of trying to defeat others.

Through his ongoing research on African sages, Odera Oruka learned more and more

about African traditions of reconciliation. I have been grateful to have had the opportunity to interview Kenyan sages, some of whom went into detail regarding their practices of reconciling parties to a conflict. One example of a dispute that was resolved took place in 1992 between two brothers. One brother accused the other of killing his child. However, Wanyonyi Manguliechi reminded them that in Bukusu tradition, a person only calls someone a thief if he or she has been caught in the act of stealing. Since there was no physical act by the accused brother against the child, neither poisoning, cutting, nor spearing, Manguliechi suggested that the brother could not have been responsible for the death. The brothers heeded his advice. While the brothers earlier had not been speaking to each other, Manguliechi now ordered them to prepare a meal, to eat together, and after eating, to shake hands and declare that their disagreement was now over. Ever since, the accord has stayed in place. The genius portrayed in this case is not only in encouraging one brother to give up a superstitious account of the death of his child, but also in devising a ritual, so that the brothers could concretely act out their reconciliation. Such actions reinforce a change in attitude. (Manguliechi 1995)

While *Punishment and Terrorism in Africa* was Odera Oruka's first major publication, one of the last writings of Odera Oruka's, presented at a conference in India just a few months prior to his death, was his paper »Mahatma Gandhi and Humanism in Africa.« I would like to look at that paper to judge the lifelong consistency as well as further development of Odera Oruka's thought on humane punishment and reconciliation. I will also turn to Mohandas Gandhi for some intercultural philosophical reflections on some similarities and contrasts between Odera Oruka's ideas and positions held by Gandhi on the topic of punishment and reconciliation.

To understand Odera Oruka's 1995 reflections on Gandhi's philosophy, it is important to realize that for several decades, one could see Odera Oruka citing Frantz Fanon approvingly in various of his works (see for example Odera Oruka 1997, 108; 143)[1]. By 1995 (a few months before his death), he had a different perspective on violent revolution. In his experience, and surveying Africa, violence led to a »vicious circle« of violence, escalating to what he calls an »inferno.« (Odera Oruka 1997, 135). He therefore sums up his position: »And so even a very acute and insightful observer fails to see what real ultimate ethical-moral justification is there for any use of violence for change. The very value of humanity gets lost in the continuous practice and history of violence. Africa should perhaps now turn and apply Gandhi rather than Fanon« (ibid.). He then turns to the topic of South Africa. While the end of apartheid and Mandela's becoming the new President could be seen as the fruit of many years of violent resistance against white racism, he argues that such a view would

Realizing that traditional African culture encompasses both compensation-restitution and inhumane punishments, Odera Oruka argues, we can't simply preserve all traditions.

1 See also Odera Oruka's unpublished 1976 autobiographical novel *In the Mother Africa (the Family Broke Down),* in possession of the author (Odera Oruka 1976, 153).

overlook the fact that South Africa's peaceful transition was due to »a great historical peaceful compromise that should be emulated everywhere« (ibid). He judges the success of the current compromise because he thinks it best fulfills the utilitarian maxim of increasing happiness for the most number of persons, while still guaranteeing rights of the minority (see 1997, 136).

»And so even a very acute and insightful observer fails to see what real ultimate ethical-moral justification is there for any use of violence for change. The very value of humanity gets lost in the continuous practice and history of violence. Africa should perhaps now turn and apply Gandhi rather than Fanon«

Odera Oruka

Does Odera Oruka therefore, in 1995, fully embrace Gandhi's position of nonviolence? While he approves of the peaceful settlement in South Africa and concludes that it was done in a way that was consistent with Gandhi's philosophy, Odera Oruka stops short of fully embracing Gandhi's nonviolent position. Odera Oruka outlines the many ways in which he agrees with Gandhi's view, but then he highlights one or two ways in which he thinks Gandhi has gone too far. First of all, regarding the agreements: Odera Oruka thinks that both Gandhi and Fanon have peace and the welfare of humanity as their highest goals. Odera Oruka also considers himself a humanist. Odera Oruka has defined Gandhi as embracing a kind of humanism because Gandhi identified God with humanity, particularly the »starving millions« (1997, 133). He saw within Gandhi's concern for people's economic well-being a version of his own emphasis on fulfilling an economic moral minimum; in other words, Gandhi cared for the bodies of the poor (and not only their souls as some other religious persons might hold) (see 1997, 134). Also, Odera Oruka describes succinctly and accurately Gandhi's monistic view which states that we are all one, and that because of this, any violence I might perpetrate on others would be felt by myself. Odera Oruka says that this view is consistent with his own as articulated in his article »Parental Earth Ethics« (1997, 133). In fact, if we look at his paper on Parental Earth Ethics we see that he and his co-author Calistous Juma repudiate Judeo-Christian ethics which they consider to be imperious and embrace an ethic closer to that found in India which demands that animals and other aspects of nature be treated as sacred. Here Odera Oruka and Juma mention Gandhi specifically (Odera Oruka and Juma 1994, 121). While they admit that certain European thinkers also emphasized the interdependence of all of life (mentioning Darwin, Carl von Linné and Gilbert White), they nevertheless turn to Hawaiian cosmology as well as Dogon cosmology for alternatives that are more supportive of the insight that humans rely upon each other and nature to such an extent that nature should be cherished. Odera Oruka argues for using the metaphor of parental earth ethics because he argues that »the world is a family unit« – but he hastens to add that the world, unlike some families, does not have a »sovereign,« and also, he wants to avoid »quasi-religious« interpretations of »the kinship relations of all people« in favor of scientific understandings of this interrelatedness and interdependency (1994, 125–27). Given this last remark, it's unclear whether Odera Oruka really would hold to a metaphysical monism of the type that commentators say that Gandhi held (see Weber 1991, 138–39).

One other very important point, on which Odera Oruka speaks, is regarding Gandhi's concept of truth. Odera Oruka says of Gandhi's view: »since we are all members of the same family, of the same reality, truth is both in me and in all others. Truth is there even in our enemy, and truth is God or God is truth. And it is our duty to help bring out truth in others. But the non-violence method is capable of bringing out truth even in our adversaries.« (Odera Oruka 1997, 134). At this point in the article, Odera Oruka just puts forward what he thinks is Gandhi's position. He doesn't say yet whether he agrees with it or not. But a few pages later in the same article he says that he thinks that Gandhi was only against physical violence and that he would permit psychological or intellectual violence. Odera Oruka (1997, 137) clarifies: »By making an argument against an adversary which is intellectually superior to his/her argument, one inflicts intellectual violence on the adversary.« Now in fact, many Gandhi scholars would strongly disagree with Odera Oruka's reading of Gandhi on this point. In fact, Odera Oruka made the point rather quickly and with slim evidence. But clearly we can tell that Odera Oruka wanted to preserve for himself the continued ability to intellectually attack his opponent's arguments. In fact, he stated that for Africa to progress politically and socially, there would be a need to engage in »psychological, spiritual and intellectual kinds of cultural confrontations and exchanges« (Odera Oruka 1997, 137). With this one caveat, he went on to claim that he agreed with Gandhi's emphasis on eschewing physical violence, and he suggested that the dire consequences of violence such as the genocides in Rwanda and Burundi could have been avoided if all parties emphasized adherence to nonviolent methods.

Now, the field of philosophy has marched on another twenty years since Odera Oruka's death. During this time various scholars have shed light on the need to re-examine philosophy's methods of searching for truth. Scholars like Phyllis Rooney (2010) have pointed out the narrowness and destructiveness of professional philosophical practices that focus solely on debunking positions held by intellectual opponents. Such intellectual prowess, which Odera Oruka indulged in as did so many Western-trained philosophers, pays scant attention to the fact that one's opponents have some truth to their position. While Odera Oruka embraced much of Gandhi's insights – even advocating »compromise« which had been used in the South Africa situation – Odera Oruka cast aside concerns for verbal and psychological violence. I want to turn now to a fuller description of Gandhi's method of conflict resolution, with special attention to his theories of truth, nonviolence, and the value of compromise.

»Since we are all members of the same family, of the same reality, truth is both in me and in all others. Truth is there even in our enemy, and truth is God or God is truth. And it is our duty to help bring out truth in others. But the non-violence method is capable of bringing out truth even in our adversaries.«

Odera Oruka

PART THREE: GANDHI

I will argue that Gandhi can be understood in a context of two different approaches to conflict. I see Gandhi as trying to steer a middle course between harmony and confrontation.

I also argue that most of his most outspoken critics are those who think that he should have been more confrontational. Gandhi sometimes compromised, or cared for his opponent, or seemed to bargain away what his followers thought they were trying to gain; rather than see these as personal weaknesses or neuroses of Gandhi, I think they can be clearly understood as the decisions of someone trying to breach a middle ground between two approaches to conflict.

Gandhi walked a fine line: he explained that one should never vilify an opponent, but one should give a truthful characterization of his acts.

In the many conflicts facing Gandhi throughout his life, he most often jumped into the middle of conflicts and tried to resolve them, rather than merely trying to avoid conflict. Erik Erikson found out from interviews with Gandhi's peers that from childhood, Gandhi would love to involve himself in resolving disputes between siblings and children on the playground (see Erikson 1969, 103–11). Gandhi's career as a lawyer exhibited a kind of love-hate relationship with legal ways of resolving conflict. While he found himself tongue-tied when having to represent clients in the public fora of the courtroom (see Gandhi 1983, 82), he excelled when he could meet with the two aggrieved parties outside of the courtroom and settle their dispute out of court. As he explained, »My experience has shown me that we win justice quickest by rendering justice to the other party« (Gandhi 1983, 160). We could speculate that in this more private setting, Gandhi could pay attention to the subtler issues of »face« and try to build a relationship which could lead to compromise on an issue. At the same time, Gandhi was willing to address errors he thought others were committing, and was not so concerned with other's »face« that he would spare them criticism. Gandhi walked a fine line: he explained that one should never vilify an opponent, but one should give a truthful characterization of his acts. (Gandhi 1931).

Gandhi was also very open minded and willing to listen to his opponent seriously, since his opponent may indeed possess the truth or at least some part of the truth. The logic of this connection between humility regarding our truth claims and nonviolence was explained by Arne Naess, Johan Galtung's teacher and co-author: »It is ethically unjustifiable to injure an opponent if it is not verified that he is wrong and you are right. Now, it is always more or less unverifiable that he is wrong and you are right. Therefore, it is always unjustifiable to injure an opponent.« (Naess in Weber 1991, 33). This experience by the opponent of being heard can be satisfying and encourage the further participation of the opponent. As Gandhi explained, »All my life... the very insistence on truth has taught me to appreciate the beauty of compromise. I saw in later life that this spirit was an essential part of Satyagraha. It has often meant endangering my life and incurring the displeasure of friends.« (Gandhi 1983, 129). Here Gandhi is alluding to the fact that other friends of his were less willing than he to listen to the other side in a dispute.[2] Even in the first Satyagraha, re-

2 It should be noted, however, that Gandhi has also been criticized for not always being able to see the other's point of view. Jurgensmeyer for example

garding the »Black Act« or registration ordinance, Gandhi gave a lengthy paraphrase of the South African government's point of view on the topic, noting that it made some sense even though he disagreed with the position. Gandhi explained that large-mindedness and the respecting of various standpoints on an issue was an essential trait of a Satyagrahi (see Gandhi 2001a, 101).[3] Certainly it would be counter-productive to begin battling an opponent before one has taken the time and concern to try to understand the opponent's rationale – how else could one ever hope to come to a solution acceptable to both parties?

Gandhi's Satyagrahas dramatized conflicts that were under the surface or part of the status quo. So Gandhi could not be characterized as someone who papered over substantive issues in order to reach social harmony. Gandhi regularly exposed the self-serving reasons for the actions of their opponents even if they were papered over with concern for the »common good« (see Gandhi 2001a, 97–100). And yet his reluctance to press his opponents beyond a certain point could be seen as a sign of concern about the opponent's saving face – an attribute of harmony value systems and central to the value system of traditional China. (see Bourai 2004, 178). One only needs to remember Gandhi's staunch refusal in 1939 to seize the opportunity of Britain's vulnerability in the war to push the issue of India's independence. There are several other occasions when Gandhi seemed to be aiding his opponent in ways that many did not understand. Gandhi explained that it was wrong to destroy wells and fields during war as part of a strategy of making it difficult for the enemy to survive. He argued instead, »The sentiment of leaving something for the enemy purifies and ennobles me.« (Kumarappa 1951, 99). While Gandhi liked facing conflict, he argued that conflict could be moral, and the process of fighting virtuous, if one stuck to rules and procedures of nonviolence (see Jurgensmeyer 1989, 39).

»The sentiment of leaving something for the enemy purifies and ennobles me.«
Gandhi

One of Gandhi's dramatic successes was the halting of violence between Hindus and Muslims during the time of the partition of India with Pakistan. As recounted by Rajeev Bhargava, in August 1947 Gandhi arrived in Calcutta on the same day that a train in Punjab had been sabotaged. A local newspaper, noting how violence was escalating out of

argues that Gandhi was not able to see Ambedkar's point of view and became dogmatic and inflexible. Jurgensmeyer complains that while Gandhi emphasized that Satyagraha begins with a search for the truth, Gandhi did not describe how to go about this search for truth (see Jurgensmeyer 1989, 41; 45). Also, a reader suggested to Gandhi that Gandhi's decision to support the British against the Zulus in the Zulu war in South Africa was a case of Gandhi's neglecting to hear both sides of the issue before committing to the British side (see Gandhi 1948, 23).

3 It should be noted, however, that the British and South African governments might not have summarized their viewpoint in the manner in which Gandhi has done so. Gandhi's tone here is similar to that in *Hind Swaraj*. Would the British have summed themselves up as crass materialists and proud of it? This passage might be more of an exposé of their view, rather than their view as they would have stated it themselves.

Gandhi walked a fine line: he explained that one should never vilify an opponent, but one should give a truthful characterization of his acts.

control, commented that Calcuttans needed »psycho-therapy on a mass scale.« When the Chief Minister of the Muslim League in Bengal asked Gandhi to stay and help him quell the growing violence, Gandhi said he would do so only if Suhrawardy would stay with him in a Muslim area badly hit by the riots. This was a shock to Hindus, since Gandhi seemed to be living with their enemies, those who had attacked Hindus (see Bhargava 2004, 390–91). But they should not have been shocked because from the start Gandhi had described the practice of nonviolence as involving going into dangerous areas of town and trying to rescue people who are in danger (see Kumarappa 1951, 92; 94).

With Gandhi set up in Calcutta people came to him, each side wanting to pin the blame for the violence on the other side. Gandhi did not want to hear such details as who started what. He was only interested in ending the fighting by looking inside themselves and finding their own error. Gandhi escalated pressure by beginning a fast. In response people held peace demonstrations, they organized themselves in groups to prevent killings. In Calcutta, the killers were known to the victims. When the worst offenders on both sides came forward to beg forgiveness and reconcile, then Gandhi broke his fast. Bhargava remarks that it is hard to imagine what could have helped to stop the riots if Indians were not fortunate enough to have a person like Gandhi among them. Could it be resolved only by a person, or could there be institutionalized procedures that could handle an emergency like this? (see Bhargava 2004, 391–92)

One might suspect that the way Gandhi resolved conflict depended much upon his person, the fact that he was well known and well loved, rather than any formula. Folberg and Taylor describe »celebrity mediation« – the novelty of a celebrity or a public figure as mediator often helps parties that were formerly inflexible become willing to engage in conflict resolution, especially if the dispute becomes public. As they explain, »few disputants wish to appear unreasonable in the spotlight of public attention« (Folberg and Taylor 1986, 140). But more was at work in Gandhi's approach than the mere fact that he was a celebrity. And anyway, this idea of »celebrity« begs the question – because Gandhi must have gotten his reputation by his prior actions. Firstly, he shows his willingness to engage in a conflict by locating right in the middle of it and giving it his full attention. Gandhi showed his level of commitment by agreeing to live in a part of town which had real security problems. This is in character with his practices throughout the years – for example, when he stayed with Muriel Lester who ran housing for the poor upon coming to London for the Round Table conference.

Gandhi did not come to arbitrate as to who was most responsible for the riots, Hindus or Muslims. He just wanted both parties to stop. The fact that he reached out to the Muslim community in such a concrete way made some Hindus think he was betraying them – giving too much to the »enemy,« but from his perspectives such bold moves showing confidence in the reasonableness of the Muslim commu-

nity was needed in order for any kind of dialogue to start which could end the mutual hostilities.

Bhargava suggests that Gandhi's procedure in this instance of the riots is a model for institutionalized conflict resolution. The first step, he explains, is to try to reinstate procedural justice apart from questions of substantive justice, since the other substantive questions may be so controversial the two sides could not agree. And yet there is a need, in the immediate, to prevent »limitless, negative self-assertion« and »break the cycle of revenge.« There need to be confidence and trust inducing mechanisms so that one side can begin to consider the other side which perpetrated past atrocities to be part of the negotiation process for ending hostilities (Bhargava 2004, 401). Bhargava does not think that in situations such as these it is fair or productive to tell those wronged that they must forget their past sufferings, or that it is unbecoming or uncivilized to harbor resentments and vow revenge. These approaches suggest that the harm done was insignificant, and damages the victim's self-esteem. Such an approach does not heal the wounds a person has suffered (both physical and emotional), but rather just makes them worse by denying them (see Bhargava 2004, 402–03). Instead, the plea to lay down arms and agree to procedural justice should be made on the mere argument that doing so ends immediate carnage while giving people time to take stock of the situation and reconsider their actions.

Intently listening to one's opponent, and considering their needs as important, may lead to the middle ground of compromise. Gandhi would not compromise on important principles but he would compromise about issues he thought were not as central in importance, but were very important to the opponent. But it is important to try to understand what Gandhi understood by compromise, and when it could be used in conflict resolution or not.

In the current conflict resolution literature, bringing a conflict to »compromise« is a kind of consolation prize. Everyone's goal these days is a win-win solution, and compromise is a situation in which both sides lose a little. It's true that in the context of compromise both sides consider the losses acceptable given the gains of ending the conflict. But in Miall et.al, compromise is second to »problem solving« in which, by looking at a situation in a new way, both sides gain (see Miall, Ramsbotham, and Woodhouse 1999, 6). But Gandhi called himself an advocate of compromise. What does Gandhi mean by this? Is this merely a case where the new terminology (beyond compromise) had not been created at the time that Gandhi spoke?

Galtung noted that among Gandhi's four acceptable approaches to conflict was compromise. Galtung wrote, »Gandhi often spoke in favor of compromise even when it looked as if the struggle could be won in the sense that all grievances would be addressed, all claims could be met. The point was not to win, but to proceed in the struggle so as to lay the best basis possible for post-conflict life« (Galtung

Gandhi explained that it was wrong to destroy wells and fields during war as part of a strategy of making it difficult for the enemy to survive. He argued instead, »The sentiment of leaving something for the enemy purifies and ennobles me.«

1996, 115–16). Galtung explains that Gandhi's approach to conflict resolution is »puritan« because his goals are broader than resolving any particular conflict, involving as well self-purification of all parties to the conflict and transformation of structures.

»All my life ... the very insistence on truth has taught me to appreciate the beauty of compromise.«
Gandhi

This Gandhian ideal of compromise departs from the more usual use of the term, which involves »ambitions are lowered, then the goal is reduced, to the point that it may be attained... most people will probably at some point in their life have to make some compromise, often referred to as ›becoming realistic‹.« (Galtung 1996, 95). In this context, when people's goals become more modestly to »resolve an incompatibility without touching the actors and their relations... The actors are still there, with their structure basically untouched. But the conflict is settled because both parties can now relax their conception of what is acceptable to them so that their modified goals become compatible« (Galtung 1996, 114). But from Galtung's perspective, Gandhi isn't usually advocating compromise in this sense of the word. As he explains, »Conflict resolution in the Gandhian sense does not come about primarily through confrontation of views, dialogue, bargaining, and compromise, but through experimentation with new forms of social life« (Galtung 1996, 117). Such an approach might involve reconceptualizing identity, status, and roles. Galtung admits that one needs lots of time for this version of conflict resolution.

And yet, as Gandhi put things in his own words, »All my life ... the very insistence on truth has taught me to appreciate the beauty of compromise. I saw in later life that this spirit was an essential part of Satyagraha. It has often meant endangering my life and incurring the displeasure of friends.« (Gandhi 1983, 129). Here Gandhi is alluding to the fact that other friends of his were less willing than he to listen to the other side in a dispute.

Philosopher John E. Smith noted in 1969 (in Weber 2006, 226, footnote 15) that there is an inescapable tension in the commitment to use nonviolence in conflict resolution: on the one hand, one is encouraged by Gandhi to hold fast to nonviolence because it is right. At the same time, one also chooses nonviolence »because, as a matter of actual fact derived from past experience, this method has been shown to be more effective than violence in accomplishing certain objectives« This means that Gandhi's approach is both derived inductively from a series of examples, and a deductive moral stance intended to be impervious to testing and verification/ falsification.

The tension between these different appropriations of Gandhi has been earlier addressed by Weber in his book, *Gandhi, Gandhism and the Gandhians* (2006, 224). What about empirical research to decide which style of conflict resolution is actually more successful? Some laboratory studies argue that taking a tough stance in negotiations ensures success, and that cooperative bargainers who reject violence and coercion are often exploited by others who consider them »suckers«, (Shure et. al. and Deutch in Weber 2006, 162–63). But Braver and Rohrer have done studies that challenge

these conclusions, noting that while exploiters will take advantage of »martyrs,« those who witness their martyrdom will »evoke a high degree of cooperation from a later opponent who observes the martyrdom« (Braver and Rohrer in Weber 2006, 163). Other studies confirm Gandhi's emphasis on trusting opponents, noting that it can become a self-fulfilling prophesy (see Weber 2006, 164).

Enough studies have been done to show that Gandhi's insights are valuable, and while the conflict resolution field is not a monolith of entirely agreeable opinion, there is a significant overlap of insights between it and Gandhi's own »experiments,« such that it can legitimately be argued that any student or practitioner of conflict resolution today would do well to increase their historical and contextual knowledge of the field by studying Gandhi directly.

CONCLUSION

Twenty years have passed since Odera Oruka reflected on the South African situation in 1995. Odera Oruka wrote before South Africa held its Truth and Reconciliation Commission (TRC) proceedings. The TRC process received both praise and blame from many quarters. While some found it cathartic and healing, others felt it didn't address the deep and ongoing social and economic problems facing South Africa.

Kenya has had its own compromise government and its own TRC since Odera Oruka last wrote in 1995. The Truth, Justice and Reconciliation Commission (TJRC) was formed in 2008. It was formed as a national investigation of the post-election violence of 2007, but was intended to cover all election violence from 1963 (the year of Kenya's independence from British rule) up to 2008. It submitted its multi-volume report in 2013. The attacks from December 2007 to February 2008 had been the worst, with a thousand people killed, and 350,000 displaced. Since the commission was formed, there had been much surrounding controversy. Some Kenyans doubted the ability of the government to investigate itself. The Commission's chairperson was thought by many to have been implicated in election violence. At the same time, the International Criminal Court (ICC) was pushing forward with insisting that several Kenyan officials should stand trial for their role in the violence. Some Kenyans think that the ICC should not get involved in the affair, while others think that if Kenyan officials have to go to court, it will lessen their feeling of impunity by escaping prosecution.

It can legitimately be argued that any student or practitioner of conflict resolution today would do well to increase their historical and contextual knowledge of the field by studying Gandhi directly.

The TJRC listened to and recorded 40,000 testimonies. Their goal was reconciliation, although their report itself notes that some of their plans never got off the ground (»TJRC Report Volume 3« 2013, chapter 3, section 13). The report admits that some Kenyans complained that telling their testimony to the commission seemed only to cause the pain of re-living terrible events, and did not seem to some participants to lead to any relief or betterment of their continued suffering (»TJRC Report Volume 3« 2013, chapter 3, section 24). When it came to perpetrators, many of

them were unwilling to apologize. Still, the government has responded by passing laws that outlaw discrimination based on ethnicity, religion, and other factors. The government has tried to promote Kenyan unity while insisting that Kenya is a plural society and government. They have attempted to encourage inter-community dialogue. Many of these approaches are consistent with earlier methods used in Kenya to reconcile people to each other; it's just that now they are being institutionalized on a government level. Clearly, the need for reconciliation in our world remains an important issue. This pursuit of truth, done in a non-violent fashion that does not threaten persons, can lead to real reconciliation drawing on Gandhi's methodology as well as a myriad of African practices. We would do well to learn about and practice these methods of reconciliation. Clearly many parts of the world, including Odera Oruka's own country, could benefit from a deeper study of both Odera Oruka and Gandhi's philosophies.

»The point was not to win, but to proceed in the struggle so as to lay the best basis possible for post-conflict life«

Johan Galtung

As we conclude this cross cultural study of two philosopher-activists, Odera Oruka and Mohandas Gandhi, we see a myriad of comparisons and compatibility between the two of them. Certainly Gandhi would agree with Odera Oruka's insistence on the abolition of practices of punishment, and with Odera Oruka's insistence on removing the negative conditions in the community that make crime more likely. In the passage on »means and ends« in his 1909 book, *Hind Swaraj*, Gandhi insisted that he would not attempt to have arrested and jailed a person who would break into his house and steal his things. Instead, he would investigate into the motives of the thief, whom Gandhi presumed would be motivated by poverty and unemployment, and Gandhi would forgive the thief, and help the thief to become employed, removing the conditions for the crime (see Gandhi 2001b, 134–138). This is a perfect example of what Odera Oruka insisted should be the practice in Africa.

Odera Oruka was against the death penalty, arguing that it was ethically unjustifiable and against African traditions. Gandhi also argued against the death penalty, and even asked that the British Chancellor to spare the life of Bhagat Singh (an independence fighter who had dropped a bomb in the Central Legislative Assembly in Delhi, in 1929) out of rejection of the death penalty (Datta 2008). Odera Oruka also agreed with key Gandhian statements that violence escalates and begets more violence, and he advocated nonviolent methods for Africa. Both Odera Oruka and Gandhi advocated care for the bodies of the poor and for ensuring that they had an adequate source of funds for their bodily needs. In his work on environmental ethics, Odera Oruka agreed that animals and nature are sacred.

The ways in which the two disagreed are in the overall picture quite small, but nevertheless important. Odera Oruka said that he could embrace a position of monism understood as »we are all one« meaning we are all related, but he then stipulated that he meant it in a scientific sense of interdependence, not a quasi-religious sense. Gandhi no doubt has a deeper commitment to metaphysical

monism than does Odera Oruka; Parinda calls Gandhi's view »spiritual monism« (Verma and Gandhi 1970, 29–30; 114). But both metaphysical views can still practically result in a commitment to respect and care for others.

More important to our topic has been to notice that Odera Oruka wanted to retain practices of adversarial philosophizing, and he was convinced that psychological and intellectual confrontation was a good thing. We needed to turn to Gandhi to find further development of a conviction that a nonviolent person must care for his or her opponent, respect various standpoints, try to understand opponents' rationales, use trust-inducing mechanisms, help the opponent to save face, leave something for the enemy, and deliver justice to the other party. Gandhi did not want to win at the expense of others. In this way he intended to change the focus from »winning« in a narrow sense to the larger and longer unit of focus, that is, to think ahead to try to create a sound basis for post-conflict life, and to experiment with new forms of social life. Perhaps if it were explained to him by Gandhi, Odera Oruka could be won over to this approach. But so far, Gandhi had articulated these concerns at a greater length than did Odera Oruka. Still, it is important to note that Odera Oruka agreed with Gandhi regarding the importance of compromise, and he approved of the use of compromise to save lives in South Africa, bringing apartheid to an end through negotiation.

When it comes to whether the two thinkers lived the philosophies they articulated, we can see that in both cases, they lived up to a difficult saying of Gandhi's. Gandhi insisted that peacemakers had to go to the dangerous areas of town, and care for rescuing people from danger and reconciling enemies more than they might care for their own safety. Both Gandhi and Odera Oruka had such commitment to their work. Odera Oruka was committed to staying in Kenya and working to improve the situation there, whatever might be the danger to himself. This paper hopes to have shown how these two thinkers share much in common. Odera Oruka's works should be more widely understood as compatible with Gandhi's ethical views in many ways.

»Conflict resolution in the Gandhian sense does not come about primarily through confrontation of views, dialogue, bargaining, and compromise, but through experimentation with new forms of social life.«

Johan Galtung

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