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JUSTICE IN DIVIDED SOCIETIES
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Work against injustice! As Archbishop Desmond Tutu explained, “[i]f you are neutral in situations of injustice, you have chosen the side of the oppressor.”¹

And yet another wise adage is, Don’t demonize your foes!

“Until we learn that other lives are equally grievable and have an equal demand on us to be grieved—especially the ones that we’ve helped to eliminate—I’m not sure we’ll really be on the way to overcoming the problem of dehumanization.” So commented Professor Judith Butler.² This is especially the case when societies are divided and polarized.

*300th Anniversary University Professor, Harvard University. Thanks to Professor Jennifer Llewellyn and the community at Dalhousie University Schulich School of Law, Ori Aronson, Mac Taylor, and Joe Singer for valuable comments.

- 1 Similarly, Dr. Martin Luther King, Jr., said, “In the end, we will remember not the words of our enemies, but the silence of our friends.” And Nelson Mandela urged, “As long as poverty, injustice and gross inequality persist in our world, none of us can truly rest.”
- 2 See also Christopher B. Kulp, *Demonizing Our Opponents*, Markkula Center for Applied Ethics, 7 ISSUES IN ETHICS (1996), <https://www.scu.edu/government-ethics/resources/demonizing-our-opponents/> (“[D]emonizing our opponents invites a like response, which in turn degrades public discourse. Publicly attack a person’s character, and he will likely attack yours, probably with little concern about the accuracy of his charges. Then you become outraged, and off we go. The result is an escalating spiral of hostility that does more than harm you and your antagonist; it contributes to a climate of public ill will and distrust that magnifies our differences, hardens opposition, and makes productive dialogue immeasurably more difficult.”). Similarly, see work by leadership expert Arthur F. Combs, III, *When You Demonize Others, There Can Be No Peaceful Resolution*, ART COOMBS, <https://artcoombs.com/thoughts/when-you-demonize-others-there-can-be-no-peaceful-resolution> (last visited Mar. 14, 2024) (“Once we begin to dehumanize those on the other side, it’s a savage path leading to hate, contempt, and more violence.”). Congressman Steve Scalise, whose policy positions differ in almost every respect from my preferences, nonetheless put the point well: “[W]hen everybody goes into their separate corners, it’s just real easy to demonize the other side instead of saying, ‘Okay, how can we come together and figure out how to get done what’s important for the country?’” Press Release, Steve Scalise, *Steve Scalise in 60 Minutes Interview: “It’s a Miracle” I Survived* (Oct. 1, 2017), <https://scalise.house.gov/press-release/steve-scalise-60-minutes-interview-its-miracle-i-survived>.

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Work against injustice; don't demonize your enemies. Can both of these views be right? I suggest the answer is yes, and indeed, urgently so. My exploration focuses on finding durable approaches to injustice and deep conflicts. This means being mindful to prevent ongoing cycles of violence while also understanding that the status quo for too many people involves intolerable violence and degradation. It also means making inviolable respect for individuals as political equals and bolstering the architecture securing nonviolent assent amid ongoing disagreements.³ As histories of wars, coups, and collapses of democratic states show, these are tall demands requiring active renewal and struggle in each generation, including struggles over what justice means. Concretely, then, what should "justice" mean for communities that are riven by political divisions, communities confronting traumas from past and present abuses, and societies seeking to emerge from injustice?

The touchstone for this inquiry comes from Dr. Martin Luther King, Jr.'s 1963 "Letter from Birmingham Jail."⁴ Dr. King was held in contempt for disobeying a court order against a peaceful civil rights protest mounted against racial injustice. Eight white, Christian clergymen opposed the civil rights protests and issued a public call urging patience. Dr. King wrote his letter in response while he was locked up, in the era of lynching, in a jail in Birmingham, Alabama. Here are words from Dr. King's now famous response:

Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly.⁵

This statement endures because it makes palpable how justice is and must be about recognizing that all of us are interconnected despite patterns of social division and separation.⁶ Inequality enchains people in hierarchies of advantage and disadvantage, regardless of the individual's position.⁷ And Dr. King presciently praised the nonviolent demonstrators in Birmingham "for their sublime courage, their willingness to suffer and their amazing discipline in the midst of great provocation. One day the South will

3 See Adam Gopnick, *To Fix Democracy, First Figure Out What's Broken*, *NEW YORKER*, Oct. 2, 2023, at 61 (review essay).

4 See Martin L. King, Jr., *Letter from Birmingham Jail* (Apr. 16, 1963), https://www.csuchico.edu/iege/_assets/documents/susi-letter-from-birmingham-jail.pdf.

5 See *id.*

6 As Dr. King explained, it is wrong to use immoral means to achieve moral ends but also wrong "to use moral means to preserve immoral ends." See *id.*

7 See Steven B. Smith, *Hegel on Slavery and Domination*, 46 *REV. METAPHYS.* 97 (Sept. 1992), <https://www.jstor.org/stable/20129294> (exploring dimensions of Hegel's work on the master-slave relationship.).

recognize its real heroes.”⁸ The world has indeed recognized the heroism of the nonviolent civil rights movement participants in stories recounted in schools, during holidays, and at memorial structures, teaching new generations.⁹

Or so it seemed. But in the past few years in the United States, politicians within Florida and some other states have by law restricted instruction by schools or employers that may make some people feel they bear “personal responsibility” for historic wrongdoings because of their race, gender, or national origin. Struggles against inequality and injustice risk erasure.¹⁰ A political scientist in the United States observed, “The surge of ‘anti-woke’ laws, rhetoric, and ordinances reflect the extent to which America’s culture wars have descended to a new level of implied and at times actual menace.”¹¹ Do such laws violate freedoms to speak and to receive information? Court challenges are ongoing.¹² Culture wars may seem a distraction from persistent patterns of injustice. Yet understanding polarization and social divisions is crucial.

I began work on this talk before the recent violence in the Middle East began taking the lives and safety from so many with shocking brutality and indifference to human suffering. The Hamas assaults, killings, and hostage-taking violate human rights and basic decency. It should be possible to declare this fact and at the same time criticize conduct by the Israeli government: to name and condemn human rights violations whether against Israelis or Palestinians. Even saying this, though, could condemn the speaker to the enemy camp by one or both groups. Both Israeli leaders and leaders of Hamas can and do say they are standing up against injustice even as leaders on both sides demonize the opposition.¹³ That conflict exposes terrible divisions between societies—while triggering

8 King, *supra* note 4. For more on the context of the letter, see JONATHAN S. BASS, BLESSED ARE THE PEACEMAKERS: MARTIN LUTHER KING, JR., EIGHT WHITE RELIGIOUS LEADERS, AND THE “LETTER FROM BIRMINGHAM JAIL” (2008); *see also* JONATHAN RIEDER, GOSPEL OF FREEDOM: MARTIN LUTHER KING, JR.’S “LETTER FROM BIRMINGHAM JAIL” (2013). For additional scholarship, see Martha Minow, *Politics and Procedure*, in *THE POLITICS OF LAW* 79 (David Kairys ed., 3d ed. 1998); Randall Kennedy, *The Civil Rights Movement and the Politics of Memory*, AM. PROSPECT (May 12, 2015), <https://prospect.org/justice/civil-rights-movement-politics-memory/>.

9 The actual teaching apparently often has fallen short, whether due to inattention or fear in the face of political developments. Steve Contorno, *DeSantis Says Florida Requires African American History. Advocates Say the State Is Failing That Mandate*, CNN (Feb. 5, 2023), <https://www.cnn.com/2023/02/05/politics/desantis-florida-ap-history/index.html>.

10 See Justin Gamble, *Race Left Out of Rosa Parks Story in Revised Weekly Lesson Text for Florida Schools Highlights Confusion with Florida Law*, CNN (Mar. 22, 2023), <https://www.cnn.com/2023/03/22/us/florida-textbook-race-rosa-parks-reaj/index.html>; *see also* Cassidy Mudd, *Tribal Leader Concerned HB 1775 Affecting How Native History Is Taught in Classroom*, PUB. RADIO TULSA (Aug. 14, 2022), <https://www.publicradiotulsa.org/local-regional/2022-08-14/tribal-leader-concerned-hb-1775-affecting-how-native-history-is-taught-in-classroom>.

11 Kenneth Hicks, “Anti-Woke”—Intolerant, CLAREMORE PROGRESS (Sept. 6, 2023), https://www.claremoreprogress.com/opinion/anti-woke---intolerant/article_8e5e0aae-480e-11ee-be87-474da64121a2.html.

12 See, e.g., *Honeyfund.com, Inc. v. DeSantis*, 622 F. Supp. 3d 1159 (N.D. Fla. 2022).

13 Ensuring safety becomes self-defense becomes preemptive strikes; rules against targeting civilians prompts lodging militia forces within civilian locations to create human shields.

divisions within other, watching communities, including my own university. The upsurge in antisemitic threats and acts echoes an increase in Islamophobia after 9/11. Calls for harm against individuals simply because of their religious identity or heritage not only mistakenly attributes responsibility for actions by government officials but also puts the targeted individuals in a class of people undeserving of basic human respect.¹⁴

Can struggles against injustice avoid the path to violence and destruction? Righteous opposition to injustice can unfortunately be a rationale for acts of violence by people retaliating against what they understand as terrible wrongs. Narratives of resentment can overtake understandings of common humanity. Knowing this risk should lead to redoubled devotion to the principles of respecting the humanity of all and to constructing true and inclusive narratives of the past and visions of the future. Where details about events and harms remain sources of disagreement, evidence can be taken and tested, and narratives broad enough to include contrasting inferences and remaining areas of disagreement can be forged even while moral or legal reckoning remains incomplete. People from different groups must be able to see themselves in the histories that societies uplift and the narratives pointing forward.

Restorative justice efforts and cultural initiatives can be vital resources in these efforts. Tools of acknowledgment, repair, rectification, and transformation offer ways to respond to injustice. Such efforts at their best work at the levels of both individuals and social narratives but also may fall short of gaining more than temporary traction. Processes of acknowledgement, such as a truth commission or community creation of a public memorial, may help build new narratives for individuals, communities, and nations even when they do not by themselves produce concrete political and economic change or prevent backlash and resistance. It is possible to learn from experiences across time, across communities, and across nations how anticipating headwinds can be an important element of the work addressing social division and historic injustice. Also important is work constructing concrete actions that strengthen the institutions making durable change. Can all of this be done while resisting the temptation to demonize opponents?

I. POLARIZATION AND SOCIAL DIVISIONS

Over and over, in societies around the globe, oppression and violence both reflect and perpetuate lines of difference, isolating individuals and groups from recognizing the pain of others. Inevitably, an observer reflects a particular context. Mine is that of the United

14 See Betsy Klein, *Biden Concerned over Rising Antisemitism as Administration Takes Action*, CNN (Oct. 30, 2023), <https://www.cnn.com/2023/10/30/politics/biden-administration-college-campuses-antisemitism/index.html>; see also Elizabeth Wolfe & Artemis Moshtagian, *Authorities Investigating Online Threats of Violence Against Jewish Students at Cornell University, School's President Says*, CNN (Oct. 30, 2023), <https://www.cnn.com/2023/10/29/us/cornell-university-antisemitic-threats-online-investigation/index.html>; *7 Ways Some Anti-Israel Protests Have Spread Antisemitism*, AM. JEWISH COMM. (Oct. 21, 2023), <https://www.ajc.org/news/7-ways-some-anti-israel-protests-have-spread-antisemitism> (analyzing emerging protests).

States in late October, 2023, but I am working to be attentive to developments in Canada and elsewhere. Strikingly, people surveyed from societies across advanced economies report perceiving greater social divisions now than they did before the pandemic.¹⁵ In the United States, the belief that we are divided is perhaps one of the few things that Americans currently have in common.¹⁶ Half of Americans report they prefer their country to be composed primarily of people with roots in Western Europe, and the other half disagree with that view.¹⁷ Political polarization occurs when people's views on political issues diverge toward extremes, hollow out the center, and build on societal differences. Some politicians amplify white grievances.

Meantime, a majority of African American parents perceive persistent racism and police violence as “big problems.”¹⁸ Anti-Asian and anti-immigrant sentiments are prime concerns for others. American Jews perceive heightened anti-Semitism and risks of violence.¹⁹ American Muslims face religious discrimination and have increased rates of suicide attempts.²⁰ And conflicts between religious free exercise and equal treatment of

15 Kat Devlin et al., *People in Advanced Economies Say Their Society Is More Divided Than Before the Pandemic*, PEW RSCH. CTR. (June 23, 2021), <https://www.pewresearch.org/global/2021/06/23/people-in-advanced-economies-say-their-society-is-more-divided-than-before-pandemic/>.

16 See Martha Minow, *Can Americans Forgive One Another?*, PROJECT SYNDICATE (Dec. 21, 2020), <https://www.project-syndicate.org/commentary/what-a-politically-divided-america-should-prioritize-by-martha-minow-2020-12>; see also Martha Minow, *Restorative Justice and Anti-Racism*, 22 NEVADA L.J. 1157 (2022), <https://scholars.law.unlv.edu/nlj/vol22/iss3/12>; Martha Minow Urges Us to “Resist Tyranny and Revenge,” LEO BAECK INST. (Nov. 26, 2019), <https://www.lbi.org/news/leo-baeck-medal-martha-minow/>.

17 See PRRI Staff, *Competing Visions of America: An Evolving Identity or a Culture Under Attack? Findings from the 2021 American Values Survey*, PRRI (Nov. 1, 2021), <https://www.prii.org/research/competing-visions-of-america-an-evolving-identity-or-a-culture-under-attack/>; Daniel Kreiss et al., *The Anti-Critical Race Theory Movement Will Profoundly Affect Public Education*, SCI. AM. (Nov. 10, 2021), <https://www.scientificamerican.com/article/the-anti-critical-race-theory-movement-will-profoundly-affect-public-education/>.

18 Kiana Cox & Khadijah Edwards, *Black Americans Have a Clear Vision for Reducing Racism but Little Hope It Will Happen*, PEW RSCH. CTR. (Aug. 30, 2022), <https://www.pewresearch.org/race-ethnicity/2022/08/30/black-americans-have-a-clear-vision-for-reducing-racism-but-little-hope-it-will-happen/>.

19 Isaac Arnsdorf & Michelle Bornstein, *Overt U.S. Antisemitism Returns with Trump, Kanye West: “Something Is Different,”* WASH. POST (Oct. 27, 2022, 8:13 AM), <https://www.washingtonpost.com/religion/2022/10/27/antisemitism-kanye-trump-adidas-jews>.

20 Farah Pandith, *Farah Pandith on the Success and Sorrow of American Muslims*, ECONOMIST (Sept. 10, 2021), <https://www.economist.com/by-invitation/2021/09/10/farah-pandith-on-the-success-and-sorrow-of-american-muslims> (“American Muslims suffer. Reported hate incidents increased after 9/11 and remain high. Recent research in *JAMA Psychiatry* outlines how their mental health has deteriorated over the years, with high rates of suicide attempts. They feel under surveillance at work, mosques and in daily life. Dozens of charities exist to help Muslims get support for mental health, discrimination and hate, and knowledge of their legal rights. These new efforts came about because of the growing need to support American Muslims. The emotional and psychological experience of living as a Muslim in America is difficult. Living with the feeling that you don’t belong to the country that you call home and that you love is painful.”).

individuals regardless of gender identity or sexual orientation are mounting in workplaces, healthcare policies, and schools.²¹ A recent poll shows white Evangelical Christians reporting greater fears than any other group about what they perceive as threats to American culture.²² Many people in poor and predominantly white rural communities report feeling abandoned, disrespected, and resentful.²³ National divisions and distrust accompany collective amnesia about past collective amnesia and growing inequalities. People in different and opposing groups fear that their ways of life, their beliefs, or their very existence is at stake. In formal political settings—such as the United States Congress—disagreement within groups rival conflicts between groups and even threatens to spill over to physical violence.²⁴ As a Norwegian social scientist recently noted, “It is dire for democracy if honest disagreement deteriorates into shouting matches of distrust.”²⁵

Current social divisions and distrust around the globe have many sources, including deliberate designs by unscrupulous leaders and social media. Politicians in Hungary, Poland, Venezuela, the Philippines, and Turkey appeal to the fears and hatreds of masses of people—at the expense of minorities, truth, reason, and fundamental values of equality, tolerance, and the rule of law.²⁶ The problem is not a handful of demagogues. Every age produces them. The problem is the discontent of millions of people facing economic instability, climate insecurity, mass migrations, technological change, cultural shifts around gender and race—vulnerable people willing to embrace the politics of fear and blame. And social media companies contribute to fear and division by amplifying extreme

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- 21 See *Peterson v. Hewlett-Packard*, 358 F.3d 599 (9th Cir. 2004) (ruling against the employer). Thoughtful efforts to navigate these conflicting commitments include ANDREW KOPPELMAN, *GAY RIGHTS VS. RELIGIOUS LIBERTY?: THE UNNECESSARY CONFLICT* (2020); Chai Feldblum, *Moral Conflicts and Conflicts of Liberty*, in *SAME-SEX MARRIAGE AND RELIGIOUS LIBERTY: EMERGING CONFLICTS* (2008); Andrew Koppelman, *Response to the Symposium on Gay Rights vs. Religious Liberty*, BALKINIZATION (July 25, 2020), <https://balkin.blogspot.com/2020/07/response-to-symposium-on-gay-rights-vs.html>; Nomi Stolzenberg, *Can We All Get Along? A Tribute and a Question*, BALKINIZATION (Aug. 4, 2022), <https://balkin.blogspot.com/2022/08/can-we-all-get-along-tribute-and.html>.
- 22 *Understanding the Causes and Consequences of White Evangelical Fear*, NPR (Nov. 19, 2021, 10:00 AM), <https://www.wesa.fm/2021-11-19/understanding-the-causes-and-consequences-of-white-evangelical-fear>.
- 23 KATHERINE J. CRAMER, *THE POLITICS OF RESENTMENT: RURAL CONSCIOUSNESS IN WISCONSIN AND THE RISE OF SCOTT WALKER* (2016); ROBERT WUTHNOW, *THE LEFT BEHIND: DECLINE AND RAGE IN RURAL AMERICA* (2018).
- 24 See Timothy Bella & Lateshia Beachum, ‘Sit Down!’ ‘No, You Sit Down!’ Democrat’s Speech Nearly Triggers Fistfight on House Floor, WASH. POST (Jan 7, 2021), <https://www.washingtonpost.com/nation/2021/01/07/congress-fistfight/>. Violence on the floor of the Congress occurred more than once before the Civil War. See Becky Little, *Violence in Congress Before the Civil War: From Canings and Stabbings to Murder*, HIST. CHANNEL (July 24, 2019), <https://www.history.com/news/charles-sumner-caning-cilley-duel-congressional-violence>.
- 25 STEIN RINGEN, *HOW DEMOCRACIES LIVE: POWER, STATECRAFT, AND FREEDOM IN MODERN SOCIETIES* 147 (2022).
- 26 For an earlier statement of these issues, see *Martha Minow Urges Us to Resist*, *supra* note 16.

and outrage-producing content in pursuit of “engagement” and ad revenues.²⁷ Misinformation and disinformation circulate freely on social media.²⁸ Even Canada cannot escape these forces, although reports of polarization in the country may be artifacts of media hype.²⁹

Domination, division, and oppression operate in part through ideas permeating cultures and beliefs held by individuals, regardless of actual facts. Drawing distinctions between groups is apparently deeply ingrained in humans.³⁰ But who is identified as “us” versus “them” reflects varying contexts, arguments, and ideas, not immutable realities.³¹ Ideas about racial or gender hierarchy rest on notions of race and gender despite their lack of scientific validity—and such ideas and practices persist regardless of reality.³² Ideas, often deeply flawed, about religions, disabilities, and other differences inform people’s fears and beliefs. Narratives about identity and history become part of people’s consciousness from children’s exposure to adults’ explanations, from formal education, and from social settings and cultural practices. Beliefs resistant to factual refutation operate as ideologies.³³ Societies are often organized economically and politically to reflect and reinforce beliefs

27 *Measuring the “Polarization Footprint” of Social Media*, CHANGEMAKERS (May 18, 2023), <https://www.changemakers.com/en/stories/why-social-media-amplifies-extreme-views-and-how-stop-it>. See Jon Russell, *YouTube Bans “Hateful” Videos from Making Money via Its Advertising Network*, TECHCRUNCH (June 1, 2017), <https://techcrunch.com/2017/06/01/youtube-bans-hateful-videos-from-making-money-via-its-advertising-network/>. Concerns about failures to enforce the policy fully remain. See, e.g., *YouTube Does Not Enforce Its Own Policies and Punishes Without Logic*, REDDIT (June 8, 2022), https://www.reddit.com/r/youtube/comments/v8u6p3/youtube_does_not_enforce_its_own_policies_and/. The issues are global. *Delhi City Lawmakers Summon Facebook India Chief over February Riots*, REUTERS (Feb. 12, 2020), <https://www.reuters.com/article/business/delhi-city-lawmakers-summon-facebook-india-chief-over-february-riots-idUSKBN2630N5/>.

28 Jennifer Kavanagh & Michael D. Rich, *Truth Decay: An Initial Exploration of the Diminishing Role of Facts and Analysis in American Public Life*, RAND (2019), https://www.rand.org/pubs/research_reports/RR2314.html.

29 See, e.g., Hugh Ragan & Pierre Salieve, *We’re Divided, But Are Canadians Really More Polarized?*, POL’Y OPTIONS POLITIQUES (Oct. 20, 2022), <https://policyoptions.irpp.org/magazines/october-2022/polarization-representation-canada/>.

30 YASCHA MOUNK, *THE IDENTITY TRAP: A STORY OF IDEAS AND POWER IN OUR TIME* 13 (2023).

31 *Id.*; see also GEORGE LAKOFF, *WOMEN, FIRE, AND DANGEROUS THINGS: WHAT CATEGORIES REVEAL ABOUT THE MIND* (1987); JOSHUA L. MILLER & ANN MARIE GARRON, *RACISM IN THE UNITED STATES* (2017), Tracy E. Ore, *The Social Construction of Difference and Inequality: Race, Class, Gender, and Sexuality* (2022); Arash Emamzadeh, *The Psychology of “Us-vs-Them,”* PSYCH. TODAY (Aug. 9, 2019), <https://www.psychologytoday.com/us/blog/finding-new-home/201908/the-psychology-us-vs-them>; Ian Hacking, *Making Up People*, in RECONSTRUCTING INDIVIDUALISM: AUTONOMY, INDIVIDUALITY AND SELF IN WESTERN THOUGHT 222, 228–29 (1986).

32 See Christopher McCammon, *Domination*, THE STANFORD ENCYCLOPEDIA OF PHILOSOPHY (Edward N. Zalta ed., Winter 2018), <https://plato.stanford.edu/archives/win2018/entries/domination/>; Lisa Andermann, *Culture and the Social Construction of Gender: Mapping the Intersection with Mental Health*, 22 INT’L REV. PSYCHIATRY 501 (2010), <https://pubmed.ncbi.nlm.nih.gov/21047162/>; Megan Gannon, *Race Is a Social Construct, Scientists Argue*, SCI. AM. (Feb. 5, 2016), <https://www.scientificamerican.com/article/race-is-a-social-construct-scientists-argue/>.

33 Leor Zmigrod, *A Psychology of Ideology: Unpacking the Psychological Structure of Ideological Thinking*, 17 PERSPS. ON PSYCH. SCI. 1072 (2022), doi:10.1177/17456916211044140.

around group identities. Power maintaining such organization can operate overtly or subtly.³⁴

Conscious and implicit attitudes in people's minds and also in institutional patterns entrench cleavages and prejudices.³⁵ Scholars for decades have documented the relationships between patterns of violence and oppression along lines of difference in racial, ethnic, religious, or gender identities adopted or reflected in institutions and attitudes.³⁶ Genocide, ethnic cleansing, brutal separation of parents and children, appropriation of land and resources, exclusion from opportunities, mass incarceration, and daily degradations affect people of disadvantaged groups dramatically more than others.

Every country has social conflicts, and social divisions are as ancient as human societies. "History shows us we need labels to help define our place. For hundreds of years, people have categorized others as less so they could feel like more."³⁷ These constructed differences can become targets of brutality and violence. They can bolster assertions of superiority or entitlement, with lines of difference used to justify mass atrocities, slavery, conquest, colonization, genocide, and apartheid. Centuries of human history are laden with their stories and legacies. We all know that such horrors, sadly, are not new.

What is new is the growing use since World War II of the language of rights rather than misfortune. Legal responses to atrocities can take the form of treaties, constitutional reforms, statutory changes, criminal trials, truth and reconciliation commissions, and reparations. Each can hold promise, but each can also fall victim to indifference or, worse, to backlash.³⁸ Law enforcement can anchor commitment to justice and human rights, but it too can be abused. Moreover, even admirable pursuits of justice can generate backlash, in turn fueling cycles of violence and violations of human rights and dignity.

34 MARY R. JACKMAN, *THE VELVET GLOVE: PATERNALISM AND CONFLICT IN GENDER, CLASS, AND RACE RELATIONS* 63–64 (1994).

35 See Mahzarin R. Banaji et al., *Systemic Racism: Individuals and Interactions, Institutions and Society*, 6 *COGNITIVE RSCH.: PRINCIPLES & IMPLICATIONS* 82 (2021), <https://doi.org/10.1186/s41235-021-00349-3>.

36 See JONATHAN GLOVER, *ISRAELIS AND PALESTINIANS: FROM THE CYCLE OF VIOLENCE TO THE CONVERSATION OF MANKIND* 94–97 (2024); Evan S. Lieberman & Prerna Singh, *The Institutional Origins of Ethnic Violence*, 45 *COMPAR. POL.* 1 (2012), <https://www.jstor.org/stable/41714169>; ALAN NGARI & DENYS REVA, *INST. FOR SEC. STUD., HOW ETHNIC AND RELIGIOUS DISCRIMINATION DRIVE VIOLENT EXTREMISM* (Sept. 2017), <https://community-democracies.org/app/uploads/2018/06/aitwr-4-1.pdf>.

37 SEJAL BADANI, *THE STORYTELLER'S SECRET* (2018). The character goes on to say, "Color, gender, class, religion, physical handicaps, sexual orientation, and pedigree are just a few ways in which one group is divided from another. For every person who stands superior, another must be inferior. But what does it say of us as a human race when we push others down for our own needs?"

38 See Sonya Singh, *California Faces Backlash as It Weighs Historic Reparations for Black Residents*, *GUARDIAN* (July 11, 2023, 7:00 AM EDT), <https://www.theguardian.com/us-news/2023/jul/11/california-historic-reparations-black-residents>.

II. VICTIM NARRATIVES, BACKLASH, UNFINISHED WORK, AND DIFFICULTIES OF CHANGE

Responses to injustice and mass violence often take the form of more violence. However understandable a response to harm, revenge means more are harmed. Narratives of victimhood play a key role in entrenching justifications for power, oppression, and backlash against responses to injustice. In the 1870s, many Southern towns and farms lay devastated after the U.S. Civil War. The national government enacted the “Reconstruction” constitutional amendments, affording to Blacks the same rights to citizenship, suffrage, and protection under the law as those enjoyed by whites. Many white Southerners by 1873 called for “Redemption”—the return of white supremacy and the removal of rights for Blacks—and used the often murderous violence of the Ku Klux Klan, the White League, and mobs to terrorize Southern Blacks. Historian W.E.B. DuBois later described the period as one where “[t]he slave went free; stood a brief moment in the sun; then moved back again toward slavery.”³⁹ Resurgence of white supremacist rhetoric and organizations produced violence in Charlottesville, Virginia, in 2017 and contributed to the January 6, 2021, assault on the U.S. Capitol.

Popular culture sources in South Africa have recently projected unfounded claims of “white genocide” related to the murders of white farmers in South Africa.⁴⁰ South Africa’s President Cyril Ramaphosa has warned against igniting “the tinderbox of race hatred” and urged recognizing the acts of violence as crimes deserving prosecution rather than talking about them in terms that could strengthen perceptions that whites are still the privileged group.⁴¹ Debates over land reform and worker mistreatment continue to expose the legacies of racialized differences in power and resources.⁴²

39 *Reconstruction vs. Redemption*, NAT’L ENDOWMENT FOR THE HUMANS. (Feb. 11, 2014), <https://www.neh.gov/news/reconstruction-vs-redemption> (quoting W.E.B. duBois); see HENRY LOUIS GATES, JR., *STONY THE ROAD: RECONSTRUCTION, WHITE SUPREMACY, AND THE RISE OF JIM CROW* (2019); James M. McPherson, *Redemption or Counterrevolution? The South in the 1870s*, 13 REVS. AM. HIST. 545 (1985), <https://doi.org/10.2307/2702586> (review of GEORGE C. RABLE, *BUT THERE WAS NO PEACE: THE ROLE OF VIOLENCE IN THE POLITICS OF RECONSTRUCTION* (1984) and MICHAEL PERMAN, *THE ROAD TO REDEMPTION: SOUTHERN POLITICS, 1869–1879* (1984)).

40 Hannelie Marx Knoetze, *Romanticising the “Boer”: Narratives of White Victimhood in South African Popular Culture*, 36 J. LITERARY STUD. 48 (2020), doi:10.1080/02564718.2020.1822601. For similar observations, see PETER J. LEITHART, *CLASHING VICTIMOCRACIES*, FIRST THINGS (Nov. 2018), <https://www.firstthings.com/web-exclusives/2018/11/clashing-victimocracies>. See also Adeoye O. Akinola, *Farm Attacks or ‘White Genocide’?: Interrogating the Unresolved Land Question in South Africa*, ACCORD (Jan. 19, 2021), <https://www.accord.org.za/ajcr-issues/farm-attacks-or-white-genocide-interrogating-the-unresolved-land-question-in-south-africa/>.

41 *South African President Says Farm Attacks Not ‘Racially Motivated,’* AL JAZEERA (Oct. 12, 2020), <https://www.aljazeera.com/news/2020/10/12/s-africa-president-says-farm-attacks-not-racially-motivated>.

42 Stephen Devereux, *Violations of Farm Workers’ Labour Rights in Post-Apartheid South Africa*, 37 DEV. S. AFR. 382 (2020), <https://doi.org/10.1080/0376835X.2019.1609909>.

Sometimes, backlash stems from ignorance about the past. Ariel Dorfman, Chilean writer and human rights activist, recently warned about the effect of forgetting past oppression, once surmounted, because it can return. In an essay entitled “I Watched a Democracy Die. I Don’t Want to Do It Again,”⁴³ Dorfman reminds readers:

[F]rom 1973 to 1990, more than 40,000 people were subjected [under the regime of President Augusto Pinochet] to physical and psychological torture. Hundreds of thousands of Chileans—political opponents, independent critics or innocent civilians suspected of having links to them—were jailed, murdered, persecuted or exiled. . . . There has been some progress since then in creating a national consensus that the atrocities of the dictatorship must never again—nunca más—be tolerated. But today Chile’s radical right and more than a third of Chileans have expressed approval of the Pinochet regime.⁴⁴

Indeed, the percentage of Chileans who say that the military was right to carry out the coup increased from 16% in 2013 to 36% in 2023.⁴⁵ Chile today is very politically divided. Those divisions include disagreements over how to remember the past, with old narratives and newer ones circulating in a climate of economic dissatisfaction.

These episodes illustrate some of the dynamics of backlash. Backlash is a strong, vehement rejection of change. Advances in women’s legal and social equality have met with movements restricting women’s reproductive choice in the United States, censorship in China, and exclusions from schooling and employment in Afghanistan.⁴⁶ Backlash against court orders to end racial segregation of public schools is an example from the United States.⁴⁷ Here in Canada, a recent survey reports that 53% of young women polled fear so much for their safety when they speak up against harassment, trolling, bullying, and physical violence that most are deterred from doing so.⁴⁸

43 Ariel Dorfman, *I Watched a Democracy Die. I Don’t Want to Do It Again*, COUNTERPUNCH (Sept. 13, 2023), <https://www.counterpunch.org/2023/09/13/i-watched-a-democracy-die-i-dont-want-to-do-it-again/> (describing the brutality of the Pinochet regime in Chile and the country’s contemporary memory of it).

44 *Id.*; see also Ariel Dorfman, *Defending Allende*, N.Y. REV. BOOKS (Sept. 21, 2023), <https://www.nybooks.com/articles/2023/09/21/defending-allende-ariel-dorfman/>.

45 Robert L. Funk, *50 Years Later: He Haunts Us Still*, AMERICAS Q. (Aug. 17, 2023), <https://www.americasquarterly.org/article/fifty-years-later-he-haunts-us-still/>.

46 Susanné Seong-Eun Bergsten & Song Ah Lee, *The Global Backlash Against Women’s Rights*, HUM. RTS. WATCH (Mar. 7, 2023), <https://www.hrw.org/news/2023/03/07/global-backlash-against-womens-rights>; see SUSAN FALUDI, *BACKLASH: THE UNDECLARED WAR AGAINST AMERICAN WOMEN* (1991); Robert Post & Reva Siegel, *Roe Rage: Democratic Constitutionalism and Backlash*, 42 HARV. C.R.-C.L. L. REV. 373 (2007).

47 Michael J. Klarman, *How Brown Changed Race Relations: The Backlash Thesis*, 81 J. AM. HIST. 81 (1994), <https://doi.org/10.2307/2080994>.

48 Kylie Adair, *More Young Girls Are Fearing for Their Safety as They Engage in Activism*, BROADVIEW (Oct. 12, 2023), <https://broadview.org/girl-activists-fear-safety/> (reporting on and linking to ANGUS REID GROUP, *VIEWS FOR CHANGE: A STUDY OF ACTIVISM AMONG YOUNG WOMEN IN CANADA* (2023)).

I certainly do not assign blame for backlash against those who have fought for long-denied rights. Nonetheless, there are warnings from these familiar dynamics, warnings about how losers can lash back and perhaps even believe themselves to be acting justly against what they perceive as their own victimization. Victories for those who have historically been marginalized can have sharply negative unintended consequences, exposing longstanding conflicts and power imbalances. When embedded in dynamics of violence and hierarchy, even solace can perpetuate and escalate pain.

Author Alice Munro captures this problem exquisitely in her short story “Royal Beatings.”⁴⁹ The story reveals a repeated family dynamic. The stepdaughter triggers anger in her stepmother, and both of them know the cycle that will follow: the stepmother calls the father to physically discipline his daughter. After giving her a look filled “with hatred and pleasure,”⁵⁰ he lashes her with his belt and then his hands, and the beating continues long after she shrieks and cries. Yet the daughter knows she is the victim, and she knows that is her role. Later the stepmother comes, as always, to comfort the daughter with a tray of food to eat in bed.⁵¹

Violence in a household is not the same, of course, as societal oppression. But for those caught in dynamics of violence, the interactions of behavior, emotion, and familiar narratives hold some similarities to patterns played out on bigger stages and over longer time periods.⁵² In the context of family violence, there are no easy answers. This was underscored for me when I discussed Alice Munro’s story with a group of judges in a program using works of literature to help judges reflect on family violence problems.⁵³ The judges were learning how to implement a new law authorizing judicial civil protection orders at the request of someone experiencing violence in the home. They immediately recognized the repeated pattern of violence in Munro’s story. The judges acknowledged that all three participants apparently knew each time what had happened and what would happen. One judge memorably commented: “You know, when a family like this comes to court, I never know whether the court is breaking the pattern or simply becoming another participant in it.”⁵⁴ That judge worried that the court’s processes could be manipulated as another

49 See Alice Munro, *Royal Beatings*, in R.V. CASSILL, *THE NORTON ANTHOLOGY OF SHORT FICTION* 473 (W.W. Norton & Co. 2d ed. 1981).

50 *Id.* at 486.

51 *Id.* at 487–89. For a glimpse into Munro’s own family tensions, see SHEILA MUNRO, *LIVES OF MOTHERS & DAUGHTERS: GROWING UP WITH ALICE MUNRO* (2008).

52 Tragically, societal violence can lay grounds for family violence, and people who have experienced family violence may in turn contribute to societal violence. See MARTHA MINOW, *BREAKING THE CYCLES OF HATRED: MEMORY, LAW, AND REPAIR* (Nancy L. Rosenblum ed., 2003), <https://doi.org/10.1515/9781400825387>.

53 I discussed this in the Humanities and the Professions: Doing Justice Program held at Brandeis University. See also Martha Minow, *Words and the Door to the Land of Change: Law, Language, and Family Violence*, 43 *VAND. L. R.* 1665, 1689–1695 (1990), <https://scholarship.law.vanderbilt.edu/vlr/vol43/iss6/2>.

54 See Minow, *supra* note 53, at 1694 n.146.

weapon caught up in the parties' struggles. Would the assertion of judicial power, backed by the threat of state coercion, perpetuate rather than alter the patterns of abuse? In a similar vein, opponents of the death penalty in the United States warn that state violence can engender more violence.⁵⁵ Even lawful and warranted assertions of power can continue rather than end violence.

III. GENERATING NARRATIVES AND CHANGE THROUGH TRUTH AND RESTORATIVE JUSTICE

Adversarial responses to harms can accelerate rather than alter the slide from criticism to dehumanization.⁵⁶ This is a big reason for my interest in restorative justice. Truth-seeking efforts such as truth commissions and restorative justice efforts differ from adversarial adjudication. The focus on collaborative truth-seeking and construction of constructive steps for change—building relationships of respect among people coming at the problems from very different places—holds potential for breaking cycles of violence.

Sometimes, gathering and sharing facts broadly can change public understandings and intervene in dynamics of violence and suppression. Absence of common understandings of events, including what harms were created, by whom and to whom, is a by-product and at times a goal of oppression. In some instances, a common understanding is elusive, and instead inquiries must be framed to include disputes over events. On other occasions, breaking silences and overcoming suppression is central and catalytic. An inspiring example comes from Brazil, where first a secret fact-finding effort and then a public commission have inspired truth commissions around the globe as mechanisms for generating findings and altering prevailing silence about the past.⁵⁷

Between 1964 and 1973, the Brazilian military regime subverted democracy, suspending legal rights, and tortured, killed, or “disappeared” thousands of people who engaged in resistance. As the economy and then the political situation changed, in 1979 the military agreed to an amnesty agreement, protecting officials involved in the violent and repressive

55 John Bessler, *America's Death Penalty: Just Another Form of Violence*, 82 KAPPA PHI F. 13 (Winter 2002); see also *The Case Against the Death Penalty*, ACLU (Dec. 11, 2012), <https://www.aclu.org/documents/case-against-death-penalty#:~:text=The%20vast%20preponderance%20of%20the,non%2Ddeath%2Dpenalty%20states>; Bernice A. King, *King's Daughter Says Death Penalty Perpetuates Cycles of Violence*, DEATH PENALTY INFO. CTR. (Jan. 21, 2014), <https://deathpenaltyinfo.org/news/kings-daughter-says-death-penalty-perpetuates-cycle-of-violence>.

56 See Steven Arrigg Koh, *Cancel Culture and Criminal Justice*, 74 HASTINGS L.J. (2022), <https://ssrn.com/abstract=4294887> (comparing cancel culture practices and criminal adjudication as systems that blame rather than promote social reintegration).

57 See Ashley Quarcoo & Medina Husakovic, *Racial Reckoning in the United States: Expanding and Innovating on the Global Transitional Justice Experience*, CARNEGIE ENDOWMENT FOR PEACE (2021), <https://carnegieendowment.org/2021/10/26/racial-reckoning-in-united-states-expanding-and-innovating-on-global-transitional-justice-experience-pub-85638>.

military regime from any prosecution for human rights violations committed before that time. The deal combined amnesty for political prisoners and gradual return to civilian leadership and a new constitution. But amnesty meant no legal accountability—and a serious danger of suppression of the facts about what happened. To uncover information about torture practiced by the state’s repressive apparatus, a private investigation, undertaken with the support of the Catholic archbishop of Sao Paulo and the World Council of Churches, secretly gathered materials and produced in 1985 a massive report documenting political murders and acts of torture—and it became an unexpected bestselling book in the country.⁵⁸ Eventually, demands for public accountability produced a National Commission on the Disappeared, which thoroughly documented human rights violations through personal accounts of abduction, torture, and death and analysis of the systematic organization of state repression of suspected dissidents.⁵⁹ This truth-telling process became a model for South Africa as leaders from the anti-apartheid movement pursued a peaceful transition from that oppressive regime.

South Africa’s Truth and Reconciliation Commission (TRC) collected and amplified 20,000 statements from victims and survivors, and the facts gathered from amnesty applications from people who committed crimes and human rights violations informed the five-volume report. The report shows how massive assaults on individuals, families, and humanity could come to pass and makes clear that every part of society bears some responsibility for the past and for the future.⁶⁰ The commission’s work brought many facts to light, helped thousands of victims feel heard and acknowledged, and assisted the transition to peaceful democracy. A public opinion survey ten years after the TRC found compelling evidence that its work contributed to reconciliation within the country.⁶¹ That survey and other accounts underscore that after the TRC, South Africans reported widespread understanding of the wrongness of apartheid as a crime against humanity.⁶²

58 MARTHA MINOW, *BETWEEN VENGEANCE AND FORGIVENESS: FACING HISTORY AFTER GENOCIDE AND MASS VIOLENCE* 54–55 (1998); see also Marcelo Schneider, *35 Years of “Brasil: Nunca Mais,”* WORLD COUNCIL OF CHURCHES (2020), <https://www.oikoumene.org/blog/35-years-of-brasil-nunca-mais>.

59 *NUNCA MAS: THE REPORT OF THE ARGENTINE NATIONAL COMMISSION ON THE DISAPPEARED* (1986). Despite the powerful detailing of military abuses in Brazil, civilian control of the military has recently diminished, largely invisibly to the public. See Karabekir Akkoyunlu & José Antonio Lima, *Brazil’s Stealth Military Intervention*, 14 J. POL. LATIN AM. 31 (2022), doi:10.1177/1866802X211039860.

60 David Marchese, *What Can America Learn from South Africa About National Healing*, N.Y. TIMES (Dec. 14, 2020), <https://www.nytimes.com/interactive/2020/12/14/magazine/pumla-gobodo-madikizela-interview.html> (interview with Professor Pumla Gobodo-Madikizela); see also Martha Minow, *Justice Beyond Punishment*, WASH. POST C01 (Nov. 1, 1998), <https://www.washingtonpost.com/archive/opinions/1998/11/01/justice-beyond-punishment/f0f1470b-48c3-4643-9e03-737ab6c78f5e/>.

61 James L. Gibson, *The Truth About Truth and Reconciliation in South Africa*, 26 INT’L POL. SCI. REV. 341 (2005), <https://www.jstor.org/stable/30039021>.

62 *Id.* at 353.

Albie Sachs, South African anti-apartheid freedom fighter who ultimately became a justice on the post-apartheid Constitutional Court, has explained how the South African Commission succeeded. First, he noted how the truth-telling activities offered an emotional settlement for those who had suffered under apartheid; second, the Commission afforded no space for denial of the truth and instead incentivized perpetrators to confess; and third, it converted the information it acquired into official acknowledgment by the State and, at least symbolically, society.⁶³

The TRC was imperfect and did not fulfill many hopes held out for it. A dominant criticism addressed its failure to hold institutions, including courts and corporations, accountable. Subsequent governments failed to implement the commission's recommendations or to hold high governmental officials responsible for ordering or countenancing torture and violence, very few prosecutions, and suspended sentences for individuals who did not seek amnesty.⁶⁴ The major failure to address, much less redress, the political and economic structures embedding apartheid practices in ongoing South African practices of power and markets exposes profound limitations of the effort.⁶⁵ Now, with more than a quarter of a century having passed, the many people in the generations born after the TRC concluded did not experience the process. Many younger Black South Africans in particular have responded to structural economic injustice with resistance and even violence.⁶⁶ During 2022, victims of the apartheid regime in protest slept outside the nation's Constitutional Court as part of a campaign for enforcing promised but never-received reparations.⁶⁷ A recent book reports that many white South Africans are fearful of going out

63 *Retrospection and Reflection: Albie Sachs on South Africa's Truth and Reconciliation Commission*, TANG PRIZE (Apr. 14, 2021), https://www.tang-prize.org/en/media_detail.php?id=1569.

64 See AFTER THE TRC: REFLECTIONS ON TRUTH AND RECONCILIATION (Wilmot James & Linda Van De Vijver eds., 2001); Desmond Tutu, *Truth and Reconciliation Commission: Challenges and Limitations*, in ENCYCLOPEDIA BRITANNICA (2023), <https://www.britannica.com/topic/Truth-and-Reconciliation-Commission-South-Africa/Challenges-and-limitations>; see also Marchese, *supra* note 60.

65 See Tutu, *supra* note 64; see also Marchese, *supra* note 60.

66 Professor Gobodo-Madikizela observed that "this generation of people born after apartheid is not experiencing the future that was imagined. As a result, they are rising up." Marchese, *supra* note 60. She also contrasted the hope across the nation when Nelson Mandela was president and the failures in leadership—including corruption and abuses—thereafter.

67 Kimberly Mutandiro, *Protesters Sleeping Outside Constitutional Court, Demand Apartheid Reparations*, NEWS24 (Nov. 15, 2022), <https://www.news24.com/news24/southafrica/news/protesters-sleeping-outside-constitutional-court-demand-apartheid-reparations-20221115>; Daniel Steyn, *South Africa: Nearly R2 Billion for Apartheid Reparations Is Unspent*, NAT'L AFR.-AM. REPARATIONS COMM'N (Dec. 14, 2022), <https://reparationscomm.org/reparations-news/south-africa-nearly-r2-billion-for-apartheid-reparations-is-unspent/>.

in public; many have not accepted a world where Black people move ahead and whites are not superior.⁶⁸

The TRC did not and probably could not have prevented many problems, including corruption, violence, and racialized inequality that persist in the country. Yet the TRC did play a role in the peaceful transition from apartheid. It enabled over 20,000 people to share their experiences, attain some recognition of their suffering, and contribute to a public narrative breaking official silence about the past.⁶⁹ Even if the TRC efforts did not secure a pervasive culture of stability, equality, and human rights, studies show that communities in South Africa with greater exposure to the TRC through media have lower levels of violence than other communities.⁷⁰ That it did not transform the society should not obscure its apparent success in establishing a baseline of generally acknowledged facts about the apartheid era that reflect the creation of open and public spaces of dialogue.⁷¹ Although some criticize the TRC process for allowing nation-building or colonial attitudes to dominate, the TRC offered benefits to individuals and the society as a whole. The effort to build a shared narrative of the past drew upon and integrated the voices of many people and contributed to fulfilling the aspiration of building a bridge to a peaceful, democratic, inclusive society.⁷² This landmark exemplar of restorative justice could prompt sentimentality about forgiveness but instead should inspire continuing work to build political culture and realities of action in line with affirmed values.⁷³

Restorative justice mechanisms promote truth telling by individuals who have survived abuses and atrocities. By promoting encounters and cooperative meetings among those

68 See Marchese, *supra* note 60 (quoting Professor Gobodo-Madikizela); Sisonke Msimang, *No Justice. No Peace.*, FOREIGN POL'Y (Nov. 27, 2022), <https://foreignpolicy.com/2022/11/27/south-africa-trc-reitz-ufs-jansen-race-justice-reconciliation/>.

69 See Laura McLeod, *Reconciliation Through Restorative Justice*, BEYOND INTRACTABILITY (Spring 2015), <https://www.beyondintractability.org/library/reconciliation-through-restorative-justice-analyzing-south-africas-truth-and-reconciliation>.

70 THOMAS GAUTIER ET AL., NATION BUILDING IN POST-CONFLICT SETTINGS: EVIDENCE FROM SOUTH AFRICA, WIDER Working Paper Series 2023/70 (June 2023), <https://www.wider.unu.edu/sites/default/files/Publications/Working-paper/PDF/wp2023-70-nation-building-in-post-conflict-settings.pdf>.

71 Sandra Young, *Narrative and Healing in the Hearings of the South African Truth and Reconciliation Commission*, 27 BIOGRAPHY 145, 159 (2004), <https://www.jstor.org/stable/23540433>. The TRC also contributed to greater recognition of value in different kinds of truth, including forensic, personal narratives, dialogue, and healing truths. ROBERT N. KRAFT, *Uncovering Truth: Confronting Perpetrators and Victims*, in VIOLENT ACCOUNTS: UNDERSTANDING THE PSYCHOLOGY OF PERPETRATORS THROUGH SOUTH AFRICA'S TRUTH AND RECONCILIATION COMMISSION (2014) (available only at NYU Press Scholarship Online, Mar. 2016), <https://doi.org/10.18574/nyu/9781479821600.003.0005>.

72 For criticism of the TRC for maintaining a colonial approach, see Ronald Suresh Roberts, *How 'Transitional Justice' Colonized South Africa's TRC*, MOD. LANGUAGES OPEN 34 (2020), doi:10.3828/mlo.v0i0.318.

73 See Msimang, *supra* note 68.

harmed, those causing harm, and other willing stakeholders, restorative methods focus on truthful human communications about what happened and explore potential consequences and responses. Restorative justice aspires to provide not only responses to past harms but transformation of individuals' minds, relationships, and communities. Changed understandings of past and future are so often key to remedying deeper injustices and preventing future harms.⁷⁴ As Professor Jennifer Llewellyn has powerfully explained, restorative processes hold potential for a transformative agenda, especially if the process builds personal understandings and shared unity of purpose for change.⁷⁵ The reconciling and transformative work led at places like the Restorative Research, Innovation, and Education Lab offer insights and change for people in local and global settings.⁷⁶

How affirming to see the Committee of Ministers of the Council of Europe issue in 2018 a formal recommendation for the twenty-eight European Union countries to incorporate restorative justice into their criminal legal systems.⁷⁷ The United Nations Office on Drugs and Crime endorses restorative justice, which it defines as “an evolving response to crime that respects the dignity and equality of each person, builds understanding, and promotes social harmony through the healing of victims, offenders and communities.”⁷⁸ In the context of current-day allegations of a crime, restorative justice processes pursue

74 Influential theorist Howard Zehr explains restorative justice as “a process to involve, to the extent possible, those who have a stake in the specific offence to collectively identify and address harms, needs and obligations in order to heal and put things as right as possible.” HOWARD ZEHR, *THE LITTLE BOOK OF RESTORATIVE JUSTICE* 40 (2002). See also John Braithwaite, *Restorative Justice and De-Professionalization*, 13 *THE GOOD SOCIETY* 28 (2004), <https://doi.org/10.1353/gso.2004.0023> (“Because crime hurts, justice should heal.”).

75 Jennifer J. Llewellyn, *Transforming Restorative Justice*, 4 *INT’L J. RESTORATIVE JUST.* 374 (2021), <https://doi.org/10.5553/TIJRJ.000096>; see also *THE RESTORATIVE INQUIRY: THE NOVA SCOTIA HOME FOR COLORED CHILDREN, JOURNEY TO LIGHT: A DIFFERENT WAY FORWARD* 4 (2019) (describing facilitative process designed to build relationships, learn, and take action to catalyze change).

76 See *Research, Innovation, and Education*, DALHOUSIE UNIV. RESTORATIVE LAB, <https://restorativelab.ca/>.

77 COUNCIL OF EUROPE, RECOMMENDATION CM/REC(2018)8 OF THE COMMITTEE OF MINISTERS TO MEMBER STATES CONCERNING RESTORATIVE JUSTICE IN CRIMINAL MATTERS (adopted by the Committee of Ministers on 3 October 2018 at the 1326th meeting of the Ministers’ Deputies), <https://www.cep-probation.org/wp-content/uploads/2018/10/Recommendation-CM-Rec-2018-of-the-Committee-of-Ministers-to-member-States-concerning-restorative-justice-in-criminal-matters-.pdf>.

78 See Economic and Social Council Resolution 2002/12, preamble, <https://www.un.org/en/ecosoc/docs/2002/resolution%202002-12.pdf> (discussing Council of Europe and other bodies addressing restorative justice). In 2018, the Committee of Ministers of the Council of Europe issued a formal recommendation for the twenty-eight European Union countries to incorporate restorative justice into their criminal legal systems. See KATHERINE BECKETT & MARTINA KARTMAN, *VIOLENCE, MASS INCARCERATION AND RESTORATIVE JUSTICE: PROMISING POSSIBILITIES* (June 20, 2016), https://jsis.washington.edu/humanrights/wp-content/uploads/sites/22/2017/02/Restorative_Justice_Report_Beckett_Kartman_2016.pdf; Lucy Lang, *Restorative Justice in Action: A Man Killed Another Man, Then He Sat in a Circle with His Victim’s Family*, N.Y. *DAILY NEWS* (Dec. 8, 2019), <https://www.nydailynews.com/opinion/ny-oped-restorative-justice-in-action-20191208-46mwgyqlsrechmsvnxjyhkaxou-story.html>.

collaboration and forward-looking efforts rather than retributive punishment.⁷⁹ Despite gaps between the ideals and the actual impact of restorative efforts, rigorous studies show promising results in reducing crime.⁸⁰

Restorative methods are spreading widely in response to crime or infraction of school rules and also as a means for addressing mass atrocities, post-war recovery, or legacies of colonization.⁸¹ Restorative processes focus on establishing a common narrative about what happened, built on the participation of victims and survivors, with related changes in political and educational institutions.⁸² Many of the programs have focused on prospects for reintegrating youth in post-conflict settings.⁸³ Although researchers raise criticisms and expose considerable distance between the ideals and the practical implementation of restorative justice,⁸⁴ its aspiration and methods are especially encouraging because they operate at the multiple levels of individuals, groups, and institutions, devising shared narratives and concrete plans for a future that does not ignore or repeat past harms.⁸⁵

79 See Martha Minow, *Do Alternative Justice Mechanisms Deserve Recognition in International Criminal Law?: Truth Commissions, Amnesties, and Complementarity at the International Criminal Court*, 60 HARV. INT'L L.J. 1, 21 (2019), <https://ssrn.com/abstract=3359900>; see also Martha Minow, *Restorative Justice and Anti-Racism*, 22 NEV. L.J. 1158 (2022), <https://scholars.law.unlv.edu/nlj/vol22/iss3/12> (comparing restorative processes and anti-racism efforts).

80 See MARGARITA ZERNOVA, *RESTORATIVE JUSTICE, IDEALS AND REALITIES* (2008); Jane Bolitho, *Restorative Justice: The Ideals and Realities of Conferencing for Young People*, 20 CRITICAL CRIMINOLOGY 61 (2012); see also EUR. F. FOR RESTORATIVE JUST., *EFFECTIVENESS OF RESTORATIVE JUSTICE PRACTICES: AN OVERVIEW OF EMPIRICAL RESEARCH ON RESTORATIVE JUSTICE PRACTICES IN EUROPE* (2017), <https://www.euforumrj.org/sites/default/files/2019-11/a.2.7.-effectiveness-of-restorative-justice-practices-2017-efrj.pdf> (Europe and New Zealand).

81 Thalia González, *The Legalization of Restorative Justice: A Fifty-State Empirical Analysis*, 2019 UTAH L. REV. 1027, <https://dc.law.utah.edu/ulr/vol2019/iss5/3> (spreading across the fifty states in the United States); see also EUR. F. FOR RESTORATIVE JUST., *supra* note 80 (reviewing evidence from Europe and New Zealand). Canada has reported high levels of victim satisfaction but limited evidence regarding recidivism. See *The Effects of Restorative Justice Programming: A Review of the Empirical*, GOV'T OF CAN. DEP'T OF JUST., (2022), https://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr00_16/p3.html; see also Jeff Latimer et al., *The Effectiveness of Restorative Justice Practices: A Meta-Analysis*, 85 PRISON J. 127 (2005), <https://doi.org/10.1177/0032885505276969>; Adriaan Lanni, *Taking Restorative Justice Seriously*, 69 BUFF. L. REV. 635 (2021), <https://digitalcommons.law.buffalo.edu/buffalolawreview/vol69/iss3/2>.

82 Isabela De los Rios Hernández, *"Enough Already!": The Challenges of Restorative Justice in War Crimes*, HARV. INT'L L. REV. (Aug. 31, 2023), <https://hir.harvard.edu/enough-already-the-challenges-of-restorative-justice-in-war-crimes/> (focusing on gap between ideals and implementation in restorative processes in Bosnia/Herzegovina and Colombia).

83 See, e.g., Laura Stovel & Marta Valiñas, *Restorative Justice After Mass Violence: Opportunities and Risks for Children and Youth* (Innocenti Working Paper No. 2010-15, 2010), https://www.researchgate.net/publication/46473541_Restorative_justice_after_mass_violence_opportunities_and_risks_for_children_and_youth; see also MARTHA MINOW, *WHEN SHOULD LAW FORGIVE?* (2019).

84 Stovel & Valiñas, *supra* note 83.

85 See SARAH MADDISON, *CONFLICT TRANSFORMATION AND RECONCILIATION: MULTI-LEVEL CHALLENGES IN DEEPLY DIVIDED SOCIETIES* (2017). Comparing processes in South Africa, Northern Ireland, Australia, and Guatemala, Maddison concluded that restorative efforts in divided societies involve open-ended processes with ongoing attention to reconciliation at the personal, societal, and institutional levels.

IV. CULTURAL INTERVENTIONS AND NARRATIVE BUILDING

Cultural practices, including arts and education, can play valuable roles by affecting the understandings of individuals and communities about social divisions and historic injustices. Rituals, arts, and processes of remembrance and repair and meaning making in response to atrocities have deep roots in cultural practices with histories so lengthy that their beginnings are no longer known.⁸⁶ Commemorative activities afford chances for reflection by people with direct ties to terrible events, opportunities for learning by people without such ties, and, potentially, alteration of the conduct of individuals and groups. An arresting study of German elections over seven cycles finds that exposure to memorials commemorating victims and survivors of Nazi persecution are associated with reduction of support for far-right political parties.⁸⁷ The memorial used in the study is called Stolpersteine (“stumbling stones”): embedded in sidewalks and streets across the city of Berlin, the memorial commemorates victims and survivors of Nazi persecution in front of their last freely chosen place of residence. These stumbling stone memorials spread by 2018 to 1,100 locations in seventeen European cities.⁸⁸

Compelling recent work has been led by a brilliant and superbly effective lawyer and law professor, Bryan Stevenson, who founded and leads the Equal Justice Initiative, a human rights organization in Montgomery, Alabama. Its successful legal challenges have worked to eliminate excessive and unfair sentencing, expose abuses of people during incarceration, aid children treated as if they were adults by criminal systems within the United States, and secure the release of over 140 wrongly condemned prisoners sentenced to death.

86 Cinder Hypki with Rhonda S. Cooper & Louise Knight, *Memorial Ritual and Art: A Case Study and Exploration of Potential for Healing*, CMTY. ARTS J. (Fall 2011), <https://www.mica.edu/research/hurwitz-center/community-arts-journal/memorial-ritual-and-art-a-case-study-and-exploration-of-the-potential-for-healing/>; Martha Minow, *The Work of Re-Membering: After Genocide and Mass Atrocity* 23 *FORDHAM INT'L L.J.* 429 (1999), <https://ir.lawnet.fordham.edu/ilj/vol23/iss2/9/>; Lisa M. Moore, (Re) *Covering the Past, Remembering Trauma: The Politics of Commemoration at Sites of Atrocity*, 20 *J. PUB. & INT'L AFFS.* (2009).

87 Oguzhan Turkoglu et al., *Commemorating Local Victims of Past Atrocities and Far-Right Support over Time*, 120 *PROC. NAT'L ACAD. SCI.*, e2221158120 (July 3, 2023), doi:10.1073/pnas.2221158120. PMID: 37399412; PMCID: PMC10334769.

88 *Stopersteine: Stumbling into History*, GERMAN MISSION IN THE U.S. (Jan. 17, 2018), <https://www.germany.info/us-en/welcome/03-Jewish-Life-Germany/-/1308424>. A project of the artist Gunter Demnig, the work commemorates people who were persecuted by the Nazis between 1933 and 1945. STOPERSTEINE IN BERLIN, <https://www.stolpersteine-berlin.de/en>. For a personal account of visiting some of the locations, see Charleen Smith-Riedel, “*Stumbling Stones*” in *Europe: A Daughter’s Journey to the Smallest of Holocaust Memorials*, SMITHSONIAN CTR. FOR FOLK LIFE & CULTURAL HERITAGE (Jan. 27, 2022), <https://folklife.si.edu/magazine/stumbling-stones-holocaust-memorials>.

Despite these legal successes, a few years ago, Professor Stevenson reached the conclusion that until national narratives about race change, the problems he and his team challenge in litigation will persist. He explained recently:

The politics of fear and anger, in my judgment, that's a threat to a democratic society, because when you allow yourself to be governed by fear or governed by anger, you will tolerate things you shouldn't tolerate. You will accept things you shouldn't accept.⁸⁹

It was a narrative choice, he observed, to treat drug addiction as a crime rather than as an illness.⁹⁰ And it was a narrative choice to use the label “superpredators” to apply to children who allegedly fail to show remorse for violent crimes—a choice prompting many state legislatures to lower to fourteen the age for prosecuting individuals as adults.⁹¹

Professor Stevenson set about to change narratives around race, around guilt and innocence, around crime and punishment, and around what should be remembered about slavery, lynching, racial segregation, and their ongoing connections to mass incarceration and racial bias. Recognizing the potential power of arts, museums, and memorials, Professor Stevenson and his Equal Justice Institute team have created⁹² the National Memorial for Peace and Justice commemorating 4,400 Black individuals killed in the United States by lynching between 1877 and 1950.⁹³ Visitors walk up a hill to encounter first a few and eventually eight hundred large steel blocks, one for each county where a racial lynching took place. Each block is etched with the names of victims of lynching. As the visitors walk through the memorial, “the orientation of the hanging monuments changes from eye level to overhead, evoking the way many lynching victims were hanged, often in public spaces.”⁹⁴ Noting specific dates and the places where the lynchings occurred, these monuments commemorate the individuals whose names and lives have been neglected or suppressed.

Nearby, on a site where enslaved people were forced to work at a cotton warehouse, is the accompanying museum. It combines first-person narratives offered in holographic

89 See *For Newly Named University Professor Bryan Stevenson, Confronting America's Troubled History with Race is the Path to Justice*, NYU L. NEWS (Feb. 21, 2013), <https://www.law.nyu.edu/news/bryan-stevenson-university-professor-lecture>.

90 *Id.*

91 *Id.*

92 See, e.g., Equal Justice Institute, <https://eji.org/about/>; @keithellison, X (Mar. 11, 2024, 1:56 PM) (“To overcome racial injustice, we must confront our history.”).

93 See *The National Memorial for Peace and Justice*, EQUAL JUST. INST., <https://legacysites.eji.org/about/memorial/>.

94 Debbie Elliott, *New Lynching Memorial Is a Space to Talk About All That Anguish*, NPR (April 26, 2018), <https://www.npr.org/2018/04/26/604271871/new-lynching-memorial-is-a-space-to-talk-about-all-of-that-anguish>.

films of actors reading actual testimony by formerly enslaved individuals with interactive exhibits presenting data, history, and artistic works detailing slavery and its legacies in the United States. Those legacies include Jim Crow laws imposing segregation and subordination of African Americans, vigilante killings and terrorizing violence of African Americans, and mass incarceration.⁹⁵ The initiative has also sparked efforts by local communities to reckon with the racial violence in their past and to change understandings and practices.⁹⁶ Since its opening in 2018, the Memorial and Museum have drawn more than a million visitors from around the world.⁹⁷ Popular and academic writings reflect on the memorial and museum; their presence has significantly boosted the economy of Montgomery, Alabama, and stimulated new work by artists and educators.⁹⁸ A major purpose of these initiatives is to overcome the suppression or forgetting of knowledge about slavery and lynching—and to share a narrative about the nation’s past that can support a transformative future.

V. CONCRETENESS AND LONG HAUL

Restorative and cultural narrative-building efforts that mobilize facts, education, and experiences can offer means for transformation of people and their communities, with a focus on peace and raising new generations to live with productivity and hope.⁹⁹ “Transformative justice” addresses situations of either no prior relationships to restore or ones so riven by unfairness or oppression that starting anew is the only way to seek justice.

Necessary for “transformative justice” are not only narrative-building but also concrete actions.

95 See *The National Memorial for Peace and Justice*, *supra* note 93; *The Legacy Museum*, EQUAL JUST. INST., <https://legacysites.eji.org/about/museum/>.

96 A learning center hosts conferences and educational sessions; a monument sculpture park honoring African Americans who won their freedom and Indigenous People who once occupied the land is in the works. See *The National Memorial for Peace and Justice*, *supra* note 93; *The Legacy Museum*, *supra* note 95.

97 See sources cited in note 95, *supra*.

98 See, e.g., Noelle Trent, *Review: The National Memorial for Peace and Justice*, by Bryan Stevenson: *The National Memorial for Peace and Justice*, 41 PUB. HISTORIAN 133 (2019), <https://doi.org/10.1525/tph.2019.41.1.133>; Allyson Hobbs & Nell Freudenberger, *A Visit to Montgomery’s Legacy Museum*, NEW YORKER (July 17, 2018), <https://www.newyorker.com/culture/personal-history/a-visit-to-montgomerys-legacy-museum>. For a reflective essay and photographic essay, see Derek Alderman & Joshua Inwood, *Memory-Work in Montgomery, Alabama*, FOCUS ON GEOGRAPHY (2021), <https://www.focusongeography.org/publications/photoessays/alderman/index.html>; see also Glover, *supra* note 36, at 142–45 (discussing film and poetry that address narratives propelling and perhaps altering cycles of conflict).

99 ERIN DALY & JEREMY SARKIN, RECONCILIATION IN DIVIDED SOCIETIES: FINDING COMMON GROUND (2007).

How can societies overcome structural, political, and economic forms of disadvantages, biases, barriers to opportunity, and oppression? To break out of existing patterns, change must work at multiple levels. These include interactions between individuals: working to treat one another with respect, even when they sharply disagree or perceive one another as threats. Work at this level is essential for building trusting relationships and movements for change. But transformative efforts must work at levels beyond interpersonal communication. Another level involves the social narratives absorbed in the minds of individuals and groups, narratives that have assigned blame and causation in ways that entrap people in biases, in a sense of personal hopelessness, or in feelings of inefficacy. And renovating existing institutions is needed because their rules and practices so often encode ideas and attitudes that get in the way of according people respect or addressing ongoing harms.

Institutional and cultural practices must ensure genuine norms of respect for individuals. It requires hard work to build relationships founded in respect for the dignity of each person. Democracies from ancient Athens to the present have tried to summon respectful treatment of other participants even in the midst of disagreements so that other participants in the project of self-government are not treated as enemies.¹⁰⁰ Philosopher Margaret Walker described the goal in terms of “morally adequate relations” that give people confidence “that they share some basic standards for the treatment of each other [and] are able to trust each other to abide by those standards” or acknowledge fault if not.¹⁰¹ This means that people are justified in their hope that unacceptable treatment will not prevail and victims will not be abandoned in their reliance on the shared commitment.¹⁰² People with repeated experiences contradicting these expectations understandably are wary and distrustful. Only demonstrated practices warranting trust will gain trust. And respect for individual dignity means resisting temptations to dehumanize any individual or group or to deny them respect simply because of their race, gender, or identity, or even because they say disagreeable things.¹⁰³ Emotional self-management as well as norms of respect demand learning when and how to step back from disagreements and to prevent hostility from spiraling out of control. When dealing with large groups and societies as a whole, laws and norms must be continually revised and renewed to channel disagreements

100 See Kulp, *supra* note 2.

101 Margaret Walker, *Restorative Justice and Reparations*, 37 J. SOC. PHIL. 377 (2006).

102 *Id.*

103 “Restorative Justice is respect. Respect for all, even those who are different from us; even those who seem to be our enemies. Respect reminds us of our interconnectedness, but also of our differences. Respect insists we balance concerns for all parties. If we pursue justice as respect, we will do justice restoratively.” See ZEHR, *supra* note 74; see also BROOK MANVILLE & JOSIAH OBER, *THE CIVIC BARGAIN: HOW DEMOCRACY SURVIVES* 11–52 (2023).

away from violence to deepen respect for each person and to effect reforms required to make that respect visible and real.

A spirit of humility and openness to learning is an important element here—even for those who have righteous indignation about their own suffering or injustices done to others. This is the advice of the late U.S. Supreme Court Justice Ruth Bader Ginsburg, reflecting on what it takes for people to build a society of justice, liberty, and equality.¹⁰⁴ She quoted the nineteenth-century French observer of early America, Alexis de Tocqueville, who wrote, “The greatness of America lies not in being more enlightened than any other nation, *but rather in her ability to repair her faults.*”¹⁰⁵ Disagreements will be inevitable; the question is whether they can occur with civility and respect, which require genuine openness. Decent and smart people can profoundly disagree with one another. They—we—can even on occasion persuade one another. A lawyer named David Singleton who used to direct the Ohio Justice & Policy Center once explained to me and our students that the people he had initially written off as political opponents became critical allies in a movement to reform the criminal laws in Ohio.¹⁰⁶ Today’s adversary could become an ally another day, but prospects for that possibility dim when disagreement leads to banishment.

Arguments and empathic bridge-building are complementary tools, each tackling what the other cannot reach. While researching a comparison of current restorative justice and anti-racist efforts, I learned that Fania Davis, a leader of the U.S. restorative justice movement, has a sister who is the well-known political activist and professor Angela Davis.¹⁰⁷ The work of each sister complements the work of the other. They each find value in personally and professionally focusing on repair while waging the long war against injustice. In a dialogue with her sister about restorative justice, Angela Davis observed: “[N]ow we’re thinking deeply about the connection between interior life and what happens in the social

104 Carnegie Corp. of Am., *Remarks of Supreme Court Justice Ruth Bader Ginsburg at the New-York Historical Society, April 10, 2018* (May 8, 2018), <https://www.carnegie.org/our-work/article/remarks-supreme-court-justice-ruth-bader-ginsburg-new-york-historical-society/>.

105 *Id.*

106 David Singleton shared his experiences during orientation programs at Harvard Law School in 2012. See HLS News Staff, *Finding Common Ground* (Jan. 1, 2010), <https://hls.harvard.edu/today/finding-common-ground/>.

107 See Sarah van Gelder, *The Radical Work of Healing: Fania and Angela Davis on a New Kind of Civil Rights Activism*, YES MAG. (Feb. 19, 2016), <https://yesmagazine.org/issue/life-after-oil/2016/02/19/the-radical-work-of-healing-fania-and-angela-davis-on-a-new-kind-of-civil-rights-activism>. Angela Davis once was on the Federal Bureau of Investigation’s “ten most wanted” list and charged with violent crimes; she was exonerated and returned to her post as a professor and public intellectual. Nelsa George, *Angela Davis*, N.Y. TIMES (Oct. 19, 2020), <https://www.nytimes.coim/interactive/2020/10/19/t-magazine/angela-davis.html>; see also Fania Davis, *Begin a Countrywide Truth and Reconciliation Process in Ferguson*, CAPTIMES (Jan. 11, 2015), https://captimes.com/news/opinion/column/fania-davis-begin-a-countrywide-truth-and-reconciliation-process-in-ferguson/article_49221669-15f2-599b-a6bd-4eea318df78d.html.

world. Even those who are fighting against state violence often incorporate impulses that are based on state violence in their relations with other people.”¹⁰⁸

Focusing only on the interpersonal will not be sufficient. As admirable as it was, the South African TRC failed to address the socioeconomic dimensions of apartheid, and that contributes to failures to change those structures in the post-apartheid world.¹⁰⁹ Restorative and transformative processes can do better, especially when they engage not only those who have direct and immediate relationships to the harms but also others in the society. Recognizing how we are part of concentric circles—each, as Dr. King emphasized, connected with one another—can motivate involvement by business owners, clergy, community leaders, educators, artists, and political officials.

What, concretely, would justice entail for communities divided politically, ignoring or dealing with past traumas, riven by violent conflicts? Altering conditions of injustice for the long term requires support from many people. To build that support, tools from restorative justice and cultural interventions to build interpersonal trust and truthful narratives, acknowledgment and social healing efforts, practice in respectful listening and disputing, and mobilization of people with capacities to make durable changes in laws, institutions, and practices can help. So, too, can lessons from history and learning from others grappling with issues both similar and different. Crucial, over time, is designing and strengthening opportunities for integration in public spheres, including schools and workplaces, so that people can come to know and recognize the humanity in people unlike themselves.

I am not an optimistic person, but I am a hopeful one. Hope is renewed for me when meeting with inspiring people who work for peace and change. One such individual is Pádraig O’Malley, an international peacemaker from Ireland.¹¹⁰ In 2009, he organized the Forum for Cities in Transition as a network of people from eleven countries across Europe, the Middle East, and Africa; the cities include Nicosia in Cyprus and Belfast in Northern Ireland. He built the Forum’s approach based on his thirty years in conflict resolution efforts around the globe. His strategy is to bring together people from divided cities in nations torn by ethnic, religious, and national divisions. He recruited former

108 See van Gelder, *supra* note 107 (quoting Angela Davis).

109 See Quarcoo & Husakovic, *supra* note 57, at 180–83. These authors argued that the modest redistribution plan adopted by the post-apartheid government in 1996 “compounded apartheid-era inequalities and commercialized basic services, like water and electricity. From 1995 to 2005, unemployment and income inequality in South Africa increased.”

110 A film about O’Malley, *The Peacemaker*, came out in 2016. His books include *The Uncivil Wars: Ireland Today* (1983, 1990, 1997), *Biting at the Grave: The Irish Hunger Strikes and the Politics of Despair* (1990), *The Point of No Return: The Politics of South Africa on Election Day April 1994* (published by the National Democratic Institute for International Affairs), *Shades of Difference: Mac Maharaj and the Struggle for South Africa* (2007), and *The Two-State Delusion: Israel and Palestine—A Tale of Two Narratives* (2015).

antagonists from each community—often people who had been involved in violence but who had set violence aside and worked on resolving differences. He explained that the Forum’s “guiding principle is that one divided society is in the best position to help another.”¹¹¹ I was lucky enough to participate in some of the convenings and to see people who previously had been truly at war with one another come together and share their experiences with others coming from conflictual settings. I listened to the delegations from Beirut, Lebanon; Nicosia, Cyprus; and a city in Northern Ireland alternatively called Derry or Londonderry (or simply “slash city” for the slash between the two names of a place whose residents cannot even agree on its name), all of which were focused on offering guidance and support to others in the thick of conflicts. Although one conversation almost came to blows over soccer teams, the delegations joined together former enemies who all brought a sense of urgency to sharing what they had learned and recognizing that what they thought was their unique suffering resembled patterns elsewhere. They learned not to demonize others and to work tirelessly for justice—at the same time.

Demonizing others “strips away the humanity of other groups of people and threatens to unleash the darkest aspects of human nature,” remarked human rights activist Salil Shetty.¹¹² Even when motivated by righteousness against injustice, demonizing others opens passions that can destroy and shame that spurs new rounds of dehumanizing violence. Resisting that path while mobilizing against injustice can be a real emotional and intellectual challenge. Yet failing to rise to that challenge risks descending into demonizing others and propelling inequality and hatred.

My hope is that we can learn from patterns of division and polarization to anticipate backlash, to mobilize restorative and transformative practices and cultural creativity, and to build durable activities and institutions to advance justice and to strengthen fair and peaceful dealing despite ongoing disagreements. By durable, I do not mean unchanging. To the contrary, durable activities and institutions addressing profound patterns of inequality and legacies of violence must be designed to anticipate disrepair and to support change.

My closing thought begins with a confession: I am a fan of *Star Trek: The Next Generation*, the franchise that grew from a small audience cult television show to a global media franchise exploring twenty-third- and twenty-fourth-century space travelers with allegories to contemporary dilemmas. In one 1993 episode of *Star Trek*, competing groups race across planets to find scattered pieces of a prized relic from a prior civilization. A

111 *About Us*, F. FOR CITIES IN TRANSITION, <https://citiesintransition.net/welcome/about-us/> (last visited Mar. 22, 2024).

112 See Press Release, “Politics of Demonization’ Breeding Division and Fear,” AMNESTY INT’L (Feb. 22, 2017), <https://www.amnesty.org/en/latest/press-release/2017/02/amnesty-international-annual-report-201617/> (quoting Salil Shetty, former secretary general, Amnesty International).

team composed of members from different societies collaborate to locate the first piece, then the second, and finally the third piece in separate locations. Then, suddenly, one of the team members assembles the pieces and turns on the others, announcing that the pieces, once assembled, make a powerful weapon. Our hero—Captain Picard, who is conveniently also an archaeologist—orders his team to drop their weapons and clear their minds of aggressive thoughts. He explains that he was able to read the symbols on the device and discern that it amplifies anger, but peace defeats its power.¹¹³ Metaphorically, this tale underscores how tamping down even understandable fury is key to building enough peace to proceed with the work of building better days.

A character in a more recent *Star Trek* spin-off says, “The past is written, but the future is left for us to write.”¹¹⁴ One way or another, *we* will write the future. My hope is that we will learn not to amplify hate—even of our enemies, even if reasonable—so justice will have a chance to prevail.

113 See *Stone of Gol*, MEMORY ALPHA, https://memory-alpha.fandom.com/wiki/Stone_of_Gol (describing the device and episode where Captain Jean-Luc Picard deciphers the symbols and figures out how to withstand an attack from the weapon).

114 *Star Trek: Picard: Episode 8* (Michael Chabon, show runner and writer); see also *Star Trek: Picard: Season 2, Episode 2* (“If we want to save the future, then we have to repair the past.”).