

In Search of Remorse: Confessions by Perpetrators of Past State Violence

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Introduction

I have been working on the political uses of public confessions by perpetrators of past state authoritarian violence in a number of different transitional justice situations: international trials in Nuremberg and in the International Criminal Tribunal for Yugoslavia (ICTY); local trials in Argentina and Chile; community justice in the Rwandan *gacaca* courts; truth commissions in South Africa and Chile; and blanket amnesty in Brazil. This research forms part of a larger book project on *Unsettling Accounts*, the political uses of perpetrators' confessions in transitional justice.

In this paper I focus on the relationship between confessions, particularly remorseful confessions, and reconciliation.¹ The connection functions theoretically like this: perpetrators of violence admit to what they did and apologize for it. In so doing, they advance the truth about the past, accountability for those crimes, and acknowledgment. This allows for both individual and societal reconciliation. Individuals can only begin the mourning and grieving process after they know the truth about what happened. Perpetrators' confessions also confirm individual victims' accounts, accounts previously discredited by authoritarian regime supporters as lies and ideological vendettas. On the society level, when those who committed political violence admit to it, they make it nearly impossible for regime supporters to claim that the violence did not occur. By participating in the transition process, confessions provide perpetrators of violence with a role to play in building a new society.

Some recent transitional justice mechanisms have embodied this relationship between confessions and reconciliation. The South African Truth and Reconciliation Commission (TRC), for example, provided perpetrators of apartheid era violence with amnesty in exchange for their confession. Similarly, the recent *gacaca* courts in Rwanda give perpetrators charged with genocide an opportunity to reduce their prison sentence in exchange for their confession and community service.

International trials, including both the Nuremberg Tribunal and the ICTY and ICTR, include some references to the role of reconciliation the trials would play in Germany, the former Yugoslavia, and Rwanda. By compiling a record of past violations, in part through perpetrators' testimonies, these trials will contribute to establishing the truth about the violent past and condemning war crimes.

My research tests these claims empirically. It finds that perpetrators' confessions on their own do not often advance truth, accountability, or acknowledgment. The theoretical literature and the transitional justice arrangements anticipate remorseful confessions. But perpetrators speak about their past without necessarily admitting wrong-doing. They view their past as heroic, worthy of glory rather than condemnation. They admit to their role in the security apparatus but remain silent or deny participation in, or even knowledge of, political violence. They claim to have forgotten details that might expose past political violence. Or they lie, or invent stories, that obscure the truth about the violent past and their role in it.

Today I will focus only on remorseful confessions that would appear to advance the search for truth, acknowledgment, and accountability. This paper will show, however, that even remorseful confessions encounter severe limitations in that pursuit. These limitations emerge from the confessions themselves, the perpetrators who make them, their timing and staging, and how audiences respond to them. Some of these audiences have found the means to overcome the limitations of remorseful confessions and mobilized around them to advance the project of truth, accountability, and acknowledgment.

Remorseful texts

Perpetrators rarely make remorseful confessions. Even when they do, their expression of remorse is often undermined by the language of justifications and excuses, and claims of victimhood.

The case of Argentine naval officer Adolfo Scilingo provides an example. Scilingo confessed to having participated in "death flights" during Argentina's Dirty War (1976-1983). He explained that he had taken drugged, but living, political prisoners on a flight and pushed them out of the plane to their death in the River Plate (Rio de la Plata). He believed he had "disappeared" 30 political prisoners on the two death flights that he took.

Scilingo's confession created a sensation in Argentina and around the world. He was the first perpetrator to admit to human rights violations in the Dirty War and to explain the location of the so-called "disappeared" in Argentina, political prisoners who never returned from the military regime's clandestine prisons.

Scilingo expressed his apology and he tried to explain his actions. His explanation, however, raised questions about his degree of remorse. He referred to his support for the military regime's war. He stated, "I did what I did because I was absolutely and totally in agreement" with the war against Communism.² Victims and survivors of the so-called Dirty War rejected Scilingo's remorse because of his support for the war. Human rights leader Carlotto refused to meet with Scilingo, stating: "One does not sit at the same table with an ex-repressor who does not repent and only confesses his crimes, like Scilingo. ... still saying that the illegal repression was really a war."³

Scilingo later regretted his expression of support for the regime. He acknowledged that he had failed to purge the military regime's language and way of thinking from his own confession, a lexicon and perspective he had acquired during his military training. His confession, particularly

as a result of sharp questions from his interviewer, a left-wing journalist who miraculously avoided dying on one of Scilingo's death flights, forced Scilingo to view the regime, its violence, and his role in it, from the perspective of a victim or survivor. The language he used changed over time. In his early encounters with Verbitsky, he had defended the regime's strategies: "No Navy officer participated in kidnapping, torture, and clandestine eliminations. The entire Navy participated in detentions, interrogations, and the elimination of subversives, which could have been done by various methods."⁴

Scilingo's quote illustrates how perpetrators create "vital lies," euphemisms and stories that diminish their role in violence.⁵ Many of these vital lies come directly from the security forces' socialization and manner of convincing the rank and file to carry out acts of violence under the guise of legitimate warfare. Perpetrators recount these lies to live with themselves and their acts and to continue to commit violence in the name of patriotic duty.

Possessing the right emotional register to express remorse may also impede perpetrators' confessions from resonating with victims and survivors. "Super Spy" Craig Williamson, a member of the South African intelligence force that carried out cross-border political assassinations, for example, likened his realization that he had killed the small child of one of his targets (a child he had known) to being hit by a "bucket of cold water."⁶ His audience expected a more profound response to such a tragedy.

The emotional shallowness of perpetrators also emerges when they try, as they often do, to portray themselves as victims of violence. Apartheid policeman Jeffrey Benzien, who admitted to torturing political prisoners through suffocation, considered himself a victim when he mentioned the threats he and his family faced:

Since my son was in Sub B, he was a little boy of six years old, my daughter was in standard 5, I think she was about 12, for weeks my children could not play in the normal ambit of other children. Because of my work with the Security Branch, they had to travel under police escort to school, they could not play on the playground with the other children. They had to be put in the principal's office all the time, under guard.

My house windows had to be barricaded with cupboards. Every night a wet blanket had to be put in the bath, available where my younger children could get hold of that in the case of grenade attacks. You are surely aware that I was transferred as the Station Commander at Stanford because not only were my nerves shot, my wife threatened divorce if I did not get out of Cape Town.

That was after the African Youth League threatened to have demonstrations on my front lawn. Yes, ... I did terrible things, I did terrible things to members of the ANC, but as God as my witness, believe me, I have also suffered. I may not call myself a victim of apartheid, but yes Sir, I have also been a victim.⁷

Perpetrators' inability to remember also undermines their remorse. Benzien used 34 different

phrases in his TRC amnesty hearing to claim he did not remember details of the torture he used. Scilingo could not remember his victims. In some cases, too many years have passed for perpetrators to remember details. At other times, perpetrators never possessed the information victims and survivors seek. In the case of Scilingo, for example, he only saw his victims on the day he took them on the death flight. He did not know them or their names. Families of the disappeared showed him photographic images of the young and healthy individuals that may have been on his flights, but none of the images matched his vague recollections of the tortured and emaciated individuals he had thrown from the plane. Perpetrators may also “forget” certain details to protect fellow officers. They may speak about their own acts but remain loyal to their commanders and fellow officers through silence or amnesia. Perpetrators also protect themselves by failing to remember, or remembering events in ways that reflect favorably on themselves.

Fear of violent or legal reprisals can silence perpetrators and prevent them from disclosing the truth about the past. Scilingo was picked up, blindfolded, taken to a remote location on the edges of Buenos Aires, where unknown assailants carved into his cheeks and forehead the initials of the three journalists to whom he had confessed. They warned that if he continued to speak out, they would kill him. He and his family received death threats, including “we’ll take you on a flight.” Despite his amnesty for human rights violations (under the Due Obedience Law), democratically elected President Carlos Menem threw Scilingo in jail on trumped up charges of fraud. After leaving jail he agreed to testify for Spanish Judge Baltasar Garzon’s investigation into the Argentine military’s human rights violations. Shortly after he arrived in Madrid, he was arrested and remains under house arrest.

Justifications, excuses, euphemisms, vital lies, and victimhood permeate most remorseful confessions and erode their sincerity, their contribution to truth, acknowledgment, and accountability. Instead of accepting guilt for their actions, they try to blame others, deny their roles, or excuse themselves. Instead of acknowledging victims’ and survivors’ testimonies, they try to justify their actions, often blaming the victims by demonizing the enemy and supporting the “war.”

Remorseful Perpetrators

Perpetrators who have undergone dramatic changes in their lives often overcome the language barriers to producing a remorseful confession. A high number of remorseful perpetrators have undergone a religious conversion, recovery from alcohol or drug abuse, or other forms of therapy that have often helped them develop the language of remorse. These events in their lives also create a clear break with their pasts. They can distinguish the person who committed atrocities from the remorseful person they have become. Scilingo was born again and a recovering alcoholic and drug addict before he made his confession.

But even in these cases, perpetrators face a credibility problem. Audiences view remorseful perpetrators skeptically. They doubt that individuals capable of committing atrocities possess enough humanity to feel remorse for their acts.

Some perpetrators overcome this credibility problem. Kimani Peter Mogoai provides one

example. Mogoai was an *askari*, or a member of the ANC army captured and tortured by the apartheid police and allowed to live only in exchange for his service as a political assassin for the apartheid police. Mogoai gave one of the single most effective remorseful pleas:

I have taken this opportunity to speak the truth and to express my torturing regrets about the wasted years and my shame about a mean and petty past. . . . I regard myself today as a disgrace to my mother, my family, and my relatives, my friends and the families of the Pebco Three and the nation as such. It is with my deepest remorse that I ask for forgiveness. I say it now here today as I could not have done so in the early days for obvious reasons. I thank you.⁸

In addition to his effective narrative, Mogoai's audience had to recognize that he had little choice in his decision to kill. Most of his audience could relate to his dilemma and could not be certain that they would have made a different choice in his circumstances.

Mogoai's motivations for committing the atrocities, in other words, helped him convince his audience of his sincere remorse. Because Scilingo and the white apartheid police came from middle-class families, they had many other career options. They did not have to become killers for the authoritarian regimes. They did not have to worry about sacrificing their lives by leaving the forces. That they remained in their positions and continued to torture or kill undermined their subsequent remorse.

Instrumental remorse

Their confessions, like their participation in the repressive apparatus, also seemed instrumental. Transitional justice arrangements have offered perpetrators some incentives to come forward and tell their story. The South African TRC provided amnesty in exchange for confession. Even then, those who came forward included perpetrators who suspected that they might be investigated for political violence or those who were already serving prison sentences. Remorseful confessions, in that context, offered the possibility of amnesty and freedom. When perpetrators face trials, they have used their confessions for plea bargaining or witness protection programs to receive amnesty or a reduced sentence.

Because of the rewards perpetrators receive for their confessions, their audiences doubt their sincerity. These confessions, moreover, offer victims and survivors too little too late. Nomonde Calata, the widow of a black liberation leader killed in the Craddock 4 incident, summarized her view of the tardy confession made by her husband's killer: "He was waiting for the right time to come out so that he can get forgiveness. From me? Yet he had let me suffer for so long with these children of mine. I can't forget Mr. Taylor. I can't forget anyone. I can't forgive them."⁹

Even without institutional rewards for their confessions, perpetrators who sought out the media faced skepticism from victims and survivors. In the context of the due obedience law, Scilingo looked like someone who had nothing to gain, and potentially his life to lose, by telling his story. Rumors circulated (never confirmed), however, that Scilingo had signed a contract with Hollywood for the rights to his story. As a result, Scilingo set off a chain reaction of Argentine

perpetrators seeking media outlets for their own fifteen minutes of fame and some pocket change. Perpetrators began peddling their stories and “archives” to local and international journalists, leading Marguerite Feitlowitz to refer to “the Scilingo effect.”¹⁰

Mogoai avoided this criticism. Within post-apartheid South Africa, it took bravery for a black man to admit to betraying his movement and becoming a killer for the apartheid police, even if he had done so only to protect his life. Impimpis, or informers and suspected informers who had worked for the apartheid apparatus, had faced necklacings and other forms of violent reprisals. Few other perpetrators could claim the same sacrifice in making their confession. Apartheid policeman Brian Mitchell promised to dedicate himself to rebuilding the Trust Feed community that he had destroyed when he bombed a prayer vigil, mistaking it for a political meeting. Other perpetrators in South Africa have promised to remove land mines in Southern Africa as their penance for killing during the apartheid regime. After betraying their comrades in socialist movements in Chile and becoming paid members of Pinochet’s secret police, Luz Arce and Marcia Merino made their confessions and worked closely with the human rights community to document the regime’s atrocities and its chain of command. While grudgingly appreciated, these acts of atonement rarely compensate for the damage these perpetrators created. But no act of atonement really can.

Audiences

Perpetrators of violence face not one, but several audiences, each with different political objectives. Those perpetrators who decide to speak out, for example, face audiences that wish to silence them. These logically include supporters of the authoritarian regimes who wish to censor the information about human rights violations that remorseful confessions provide. Within this audience are those groups who want to deny past violence and those who try to resurrect the old justifications of the authoritarian regime, and its glory, by suppressing remorseful confessions.

Democratic governments often try to silence remorseful confessions, or any other perpetrators’ confessions. They fear the resurgence of polarizing conflict over the past that perpetrators’ public confessions might generate. They also hope to avoid any criticism of their own failure to investigate and prosecute the human rights violations that perpetrators disclose.

But among those who hope to silence perpetrators’ remorseful confessions are members of the human rights community who reject perpetrators’ control over the truth-telling process. One of the most articulate versions of this viewpoint comes from South African poet, writer, and radio broadcaster, Sandile Dikeni:

The Europeans love it [confessions from white perpetrators]. It pushes the moral high-ground back to the white people, forces me to accept that they’re not entirely bad. They feel sorry, man! We’ll kill you if you don’t forgive. They’ll hug you to death, and you don’t have an option. And I hate it!¹¹

Martin Abregú, the former director of the Argentine human rights organization CELS (Center for Legal and Social Studies) echoed this feeling when he complained after Scilingo’s confession

that “once again, essential questions of public life are being settled by a military chief and that, in a country like Argentina, is serious.”¹²

Two sets of audiences, in contrast, seek remorseful confessions. Both audiences mine the often limited expressions of remorse made by perpetrators to find truth, acknowledgment, and accountability. One group, which I refer to as the healing and reconciliation audience, seeks the possibility of forgiveness as a way for individuals and societies to heal from the violent past and move on. Archbishop Desmond Tutu represents this audience in his frequent calls for perpetrators to express their remorse at the TRC. His famous encounter with Winnie Madikizela Mandela illustrates his efforts to reconcile the nation through remorse and forgiveness.

Desmond Tutu: There are people out there who want to embrace you. ... I still embrace you because I love you and I love you very deeply. There are many out there who would have wanted to do so, if you were able to bring yourself to say: “Something went wrong.” And to say: “I’m sorry. I’m sorry for my part in what went wrong.” I beg you! I beg you! I beg you! Please! You are a great person and you don’t know how your greatness would be enhanced if you had to say: “Sorry. Things went wrong. Forgive me.” I beg you!

Winnie Madikizela-Mandela: I am saying it is true. Things went horribly wrong. For that, I am deeply sorry.¹³

Many victims and survivors also embraced the idea promoted by Tutu, as did the psychological and medical communities that encouraged victims and survivors to forgive in order to release themselves from the continued harm, anger, and power that perpetrators hold over them. Victims and perpetrators engaged in formal and informal “forgiveness encounters” within and outside the TRC, for example. Although religious leaders and therapeutic experts contended that forgiveness did not depend on perpetrators’ remorse, victims and survivors found it very difficult to forgive when they neither knew the identity of perpetrators or when perpetrators offered no apologies for their acts. This confrontation between Dawie Ackerman and the young liberation comrades who stormed a church and killed his wife illustrates how eager many victims sought remorse, and accepted even a lip-synced version:

Dawie Ackerman: May I ask the applicants to turn around and to face me? This is the first opportunity that we’ve had to look at each other in the eye. I want to ask Mr. Makoma who actually entered the church. My wife was sitting right at the door where you came in. She was wearing a long blue coat. Can you remember if you shot her?

Khaya Makoma: I do remember that I fired some shots. But I couldn’t identify [anyone]. I don’t know whom did I shoot or not, but my gun pointed at the people...

Dawie Ackerman: It is important for me to know if it is possible. As much as it is important for your people who suffered to know who killed. I don’t know why it is so important for me, it... it just is...

...I would like to hear from each one of you, as you look me in the face, that you are sorry for what you've done. That you regret it and that you want to be personally reconciled.

Amnesty Applicant: We are sorry for what we have done. Although people died during that struggle, we didn't do that out of our own will. It's the situation that we were living under. We are asking from you, please do forgive us.

Dawie Ackerman: I want you to know that I forgive you unconditionally.

One criticism of the TRC is that it pressures victims and survivors to forgive their perpetrators. Not only did they have to endure the past violence and its psychological, physical, and financial impact on their present and future lives, they faced criticism when they could not rise above their anger and pain to forgive those individuals who caused it. The TRC model demonstrated the limits of understanding how individuals and societies could move on when forgiveness proved impossible.

A separate group, which I call the *nunca más* or deterrence group, mobilize around confessions as a catalyst for remembering the violent past to avoid repeating it. For this group, remorse did not matter. As Ana Careaga, an Argentine political prisoner who was tortured and whose mother disappeared while searching for her, stated: "Remorse is irrelevant." This group seeks truth, accountability, and acknowledgment from perpetrators' confessions to condemn the violent past and avoid repeating it. This group aimed to use confessions to remind new generations of the past, to extract information that might be used to bring perpetrators to justice, and to fight impunity through legal cases and restorative justice projects. Emilio Mignone perhaps best represented this group when he stated about Scilingo:

I would not demand it [justice]. In the first place, because I do not believe that his confession should be used against him because he is helping us out. His declaration is useful. It shows that those who are responsible are those in the top command. It makes a painful contribution. I believe in remorse in human beings and I believe that this helps because even if his testimony cannot bring justice, it can bring a moral sanction. In the second place, I wouldn't demand justice because it would be useless. It would end in his absolution since Scilingo is protected by the due obedience law. But, in addition, there is another factor: we need to encourage others to tell their stories, that ten, twenty officials like Scilingo overwhelm the Navy with their declarations and that the institution has to reconsider its position.¹⁴

In addition, this community used Scilingo's testimony about the death flights to make the Rio de la Plata a symbol of past repression. When an important human rights activist died in 2002, her friends and colleagues gathered at the river's edge to scatter her ashes. The mother of disappeared children, she hoped to join them in the river where they may have met their fate. By mobilizing around Scilingo's confession, the human rights community transformed his confession about the river as a powerful political symbol of the terrible past that should never repeat. Creating a "Memory Park" on the river locates a site in which human rights movements can continue to remind future generations of the danger of forgetting and repeating the past.

Conclusions

Institutional arrangements that encourage confessions, like the TRC and the *gacaca*, face serious challenges in generating the kinds of perpetrators' accounts that will satisfy the demand for truth, acknowledgment, and accountability. Such institutional arrangements depend on perpetrators' remorse, a rare form of confession and one complicated by perpetrators' identity and language, institutional rewards, and audiences' skepticism.

All is not lost by building transitional justice institutions that encourage perpetrators to come forward and tell their stories. While the ideal form of remorseful confession is only rarely produced in these institutional arrangements, audiences can take advantage of highly imperfect confessions to advance the search for truth, accountability, and acknowledgment.

Audiences oriented toward individual healing and reconciliation and deterrence will pull truths about past events out of even these imperfect confessions: what happened, when, and who was involved. These are the details that individuals and societies need in order to begin their own grieving and mourning processes, to have their own stories of violence confirmed, and to understand the past and condemn it. Audiences can use confessions by the perpetrators of past violence to remind societies to remain vigilant against future violations of human rights. These memories form part of retributive justice projects and restorative justice projects, to fight against impunity. For these audiences, reconciliation depends less on perpetrators' remorse and more deeply on societal understanding of truth, acknowledgment, and accountability. Confessions alone will not produce this kind of reconciliation; but audience mobilization around them can.

Notes

¹ I use the term reconciliation without complete conviction that this is the appropriate word or even the appropriate struggle for dealing with the past. Its definition of overcoming conflict: bringing again into friendly relations; causing a person to accept something not desired; or settling a quarrel (*The Oxford Dictionary of English Etymology*, Oxford: Oxford University Press, 1966; *The New Shorter Oxford English Dictionary*, Oxford: Clarendon Press, 1993; *The Random House Dictionary of the English Language*, New York: Random House, 1987), arguably works against the notion of remembering to not repeat. For this reason, members of the human rights community in Latin America, for example, often reject the notion of reconciliation. They believe that the strategy to overcome conflict about the promotes silence and forgetting. The human rights community demands vigilance against forgetting and struggles against impunity as a way to deter future violations. This community in Latin America prefers the notion of coexistence (*convivencia*), or living together without political violence, to notions of reconciliation which they would define as living together without conflict.

² Interview with Adolfo Scilingo on television program *Hora Clave*, March 1995.

³ "Por una nueva CONADEP," *Página 12*, 22 March 1995.

⁴ Horacio Verbitsky, *The Flight: Confessions of an Argentine Dirty Warrior*, trans. Esther Allen (New York: The New Press, 1996), 35-36

⁵ Daniel Goleman, *Vital Lies, Simple Truths: On the Psychology of Self Deception* (New York: Simon and Schuster, 1985).

⁶ Stephané Bothma, "Child's death is spy's 'biggest regret,'" *Business Day* 15 Sept. 1998.

⁷ Amnesty Committee hearing for Jeffrey Benzien, Truth and Reconciliation Commission, Cape Town, 14 July 1997, 34.

⁸ SABC radio broadcast. Mogoai had been involved in the abduction and murder of three Port Elizabeth Black Civic Organization (Pebco) leaders, Siphon Hashe, Qaqawuli Godolozu and Champion Galela at a deserted farmhouse near Craddock in 1985. In 1999 the amnesty committee granted Mogoai amnesty.

⁹ "I can't forgive them," SABC radio broadcast.

¹⁰ Marguerite Feitlowitz, *A Lexicon of Terror* (NY: Oxford University Press, 1998).

¹¹ Mark Gevisser, "Sandile Dikeni, poet and radio broadcaster: A voice of truth and dissent," *The Weekly Mail and Guardian*, 26 July 1996.

¹² Martin Abregú quoted in *Página 12*, March 18, 1995, p.2 and reprinted in Feitlowitz (*ibid.*, 224).

¹³ SABC radio broadcast. "I beg you," Portraits of Truth, <http://www.sabctruth.co.za/portraits.htm>

¹⁴ Andrea Rodriguez, "Que haya otros que cuenten," *Página 12*, 5 March 1995.