Psychosocial effects of participation in rituals of transitional justice: A collective-level analysis and review of the literature of the effects of TRCs and trials on human rights violations in Latin America

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Abstract

This article examines the effects of participation in transitional justice rituals, including, for example, trials and Truth and Reconciliation Commissions. These mechanisms have been designed to confront massive violations of human rights in the context of post-conflict situations and dictatorship. Truth Commissions and trials have instrumental goals of distributive justice, and serve as rituals given their marked symbolic character, helping to achieve reconciliation and the reconstruction of social norms. Evidence from South Africa and Rwanda suggests that participation in trials increases negative emotions and symptoms, and, thus, may not help to heal individual suffering. Moreover, the data from Rwanda and South Africa demonstrates that rituals also increase negative emotional climate, being costly for the society. In contrast, participants in such rituals have evidenced increased empowerment in Guatemala and South Africa, despite conditions of limited justice and reparation. Moreover, the evidence from Rwanda confirms there are some positive consequences: participation in community-based or traditional trials, known locally as Gacaca, improves intergroup relationships, decreases shame in victims, and decreases negative stereotypes and individualization of out-groups. Finally, a collective analysis of 16 Latin America nations found that trials and a successful Truth Commission provoked macrosocial benefits, reinforcing respect for human rights.

Keywords: Rituals, emotional healing, catharsis; emotional climate, macro and micro social effects.

Los efectos psicosociales de los rituales de justicia transicional: un análisis colectivo y una revisión de los estudios sobre los efectos de las Comisiones de Verdad y de los juicios sobre violaciones de los derechos humanos en América Latina

Resumen

Este artículo examina los efectos de la participación en rituales de justicia transicional, como los juicios sobre violaciones de derechos humanos y las Comisiones de Verdad. Estos mecanismos se han desarrollado para afrontar las violaciones masivas de derechos humanos en contextos de superación de conflictos y dictaduras. Los juicios sobre violaciones de derechos humanos y las Comisiones de Verdad tienen objetivos instrumentales de justicia distributiva, aunque son fuertes de carácter simbólico actúan como rituales, ayudando a lograr la reconciliación y la reconstrucción de las normas sociales. Estudios empíricos de África del Sur y Ruanda sugieren que la participación en juicios aumenta las emociones negativas y síntomas, y por ende no ayudan a sanar el sufrimiento individual. Aun más, los resultados de Ruanda y África del Sur muestran que los rituales de justicia transicional también refuerzan un clima emocional negativo, implicando un coste social. En contraste, los participantes en estos rituales aumentan su sensación de control y poder social en Guatemala y África del Sur, pese a que los juicios se dan en condiciones de fuertes limitaciones respecto a la reparación y justicia que se pueden alcanzar. Finalmente, el estudio de Ruanda confirma que estos rituales tienen consecuencias psicosociales positivas: la participación en juicios populares, denominado Gacaca, mejora las relaciones inter-grupo, disminuyen la vergüenza entre las víctimas, debilitan los estereotipos negativos y aumentan una percepción individualizada de los ex-grupo. Finalmente, un análisis colectivo de países de América Latina demuestra que los juicios y las Comisiones de Verdad provienen beneficios macrosociales, reforzando el respeto en la sociedad de los derechos humanos.

Palabras clave: Rituals, cura emocional, catarxis, clima emocional, efectos macro y microsociales.

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Remembering and dealing with past collective crimes is a frequent problem in societies emerging from war or state-sponsored violence. Since 1980, the use of so-called transitional justice rituals (TRCs), including truth commissions, trials, public apologies, and reparations to address past collective violence and trauma, have significantly increased. The mechanisms applied to address human rights abuses when dictatorships evolve towards democracy are referred to as transitional justice processes. The most prominent transitional justice mechanisms are truth commissions and trials. Although these processes are frequently adopted for their instrumental goals, they have important symbolic effects, inducing intense emotional and moral reactions among participants as well as in the broader society. From a Durkheimian perspective (1912), these processes are important for the collectivity, helping to consolidate norms and reinforce social cohesion. In other terms, they have more important social than psychological functions (Martín Beristain, Páez, & González, 2000; Páez, Basabe, Ubillos, & González, 2007).

During the past 30 years, entire countries have been grappling with the difficult job of generating knowledge about as well as the acknowledgment of gross violations of human rights committed by previous regimes. In an attempt to confront these human rights violations, countries have chosen frequently to assemble Truth, Justice and Reparation Commissions, such as the South-African Truth and Reconciliation Commission. As of 2008 there have been more than 35 official truth commissions (TC) established around the world since the 1970s (Hayner, 2001). In recent years others have been convened. As a part of the transitional justice ritual process, many survivors have provided testimony in either private statements or at public hearings. Although the TRC and trials on human rights violations are primarily socio-political processes, some claims have been made about the therapeutic or psychological healing effects of these rituals. Truth commissions are established to obtain an accurate account of events without punishment for the perpetrators, although in recent years some of them (e.g., Peru, Paraguay and Ecuador) have included in their mandates processes which facilitate subsequent litigation of some of the cases investigated by the commissions. In most truth commissions victims testify but perpetrators are not necessarily brought to justice nor do they receive punishment, despite having been called to testify publicly.

Cathartic effects of rituals of transitional justice

Testimony in front of TRCs facilitates victims’ expression of feelings and grievances, as these venues afford an official space where the truth is recognized and previous and ongoing suffering validated. There has been an assumption that testifying in TRCs is a healing experience for survivors, and healing has been a central concept in the literature on reconciliation and in political rhetoric around truth commissions. The assumption is that TRCs can provoke catharsis and psychological healing: the process of giving testimony serves a therapeutic function. Much of what has been published on these processes highlights cases of victims who have forgiven their perpetrators (Hamber & Wilson, 2003). This effect has been linked to the recognition of the victims’ dignity, providing a social framework for individual experiences, and facilitating spaces for the expression of emotions and empathy.

The experience with Truth Commissions and tribunals in various countries, and in South Africa in particular, revealed that participation in such tribunals can have both positive and negative emotional consequences for the individuals involved (see Hayner, 2001). On the one hand, the survivors experience social recognition, pride, relief, and a feeling of completion from having had the opportunity to express their feelings publicly, under oath, in a solemn setting. Overall, these testimonies take the form of private statements. In other contexts, victims and their relatives can participate as the testimonies take place in public settings. Only in a very few cases, such as the South
African TRC, have declarations taken place in the presence of the perpetrators responsible for acts which they themselves or their relatives had suffered (Kanyangara, Rimé, Philippot, & Yzerbit 2007). Although there have been a small number of “miracles of reconciliation” reported by participating victims and perpetrators, some aspects of the national reconciliation process, including, for example, “sunset clauses” which protect police and military officers’ jobs, have fuelled, not healed, the victims’ trauma (Hamber, 2007). Moreover, emotional re-evocation of past dramatic events has frequently elicited among victims unexpected intense emotional reactivation of painful past feelings and, over time, unleashed a state of retraumatization (Kanyangara et al., 2007). The conditions in which testimonies are being given and victims’ expectations of the processes have important effects. First, in truth commissions people should testify with no clear expectation that perpetrators will be brought to justice. Furthermore, the testimony and interview process could have negative effects on the survivors of collective violence and torture because it “re-traumatizes” them when conditions of respect, contention, social support and adjusted expectations are not assured (Martín Beristain, 2008).

A quantitative cross-sectional study on the South African TRC (Kaminer, Stein, Mbanga, & Zungu-dirway, 2001) suggests that participation in the TRC had no significant impact on decreasing symptoms of victims that participated in trials. This study compared three conditions: public testimony, private testimony, and no testimony. The sample included 134 participants, of whom 15.7% gave public testimony, 52.2% gave a statement to a statement-taker, and 32.1% gave neither a statement nor public testimony. The public testimony and statement groups in this sample represent 5% of all statements (public and closed) given to the TRC in the Western Cape. No association was found between TRC exposure and depression or TRC exposure and anxiety disorders amongst the entire sample. The public group seemed to have a substantially lower rate of post-traumatic stress disorder than the other two groups, which were very similar to each other along this dimension. The study’s main conclusion is that there were no significant differences in the rates of depression, PTSD or other anxiety disorders between participants who gave a public testimony, a closed statement, or no testimony at all. Although some individuals may have experienced testifying as either generating or relieving stress, it would appear that, for this sample as a whole, testifying or not testifying to the truth commission did not have a significant effect on psychological health (it had neither a notable therapeutic effect nor a notable counter-therapeutic effect). It is important to note that this study used a non-random sample, is retrospective, not longitudinal, and therefore is limited with respect to both the internal validity and generalizability of the findings.

Another important transitional justice related issue is the invocation of traditional justice practices, such as the Rwandan experience of local community-based trials or Gacaca. Gacaca are the village tribunals initiated in 2004 to enhance reconciliation after the 1994 genocide. It is estimated that, in Rwanda, between April and July 1994 around 1,000,000 Tutsis were killed. Additionally, tens of thousands Hutus were killed during the same period for being too moderate and too sympathetic to Tutsis, too wealthy, or political dissidents. A decade later, the state and the economy have been to a large extent rebuilt. In this context, achieving justice and reconciliation represents a particularly critical challenge. Around 130,000 persons accused of participation in the genocide are currently imprisoned and each year more die in prisons than are judged through any judicial processes. To deal with this challenge, a traditional Rwandan community-based conflict resolution system called Gacaca was transformed and adapted for judging most of those accused of participation in the genocide. This “modernized” Gacaca constitutes an unprecedented legal-social experiment in both its size and its scope. Throughout the country, Gacaca tribunals have been composed of persons of integrity elected by the inhabitants of cells, sectors, districts, and provinces.
Prisoners are brought before the tribunal in the community where they allegedly committed a crime. In their presence, survivors and the entire community discuss the alleged acts, providing testimony and counter-testimony. Prisoners who confess before the proceedings and ask for forgiveness can receive important reductions in penalties (Kanyangara et al., 2007).

One qualitative study of the Gacaca included 16 in-depth interviews with women in Rwanda who have testified in the Gacaca. The interviews were designed to learn more about the way testifying in such a public event affects participants' psychological health. The interviewed women described the experience as more re-traumatizing than healing. Traumatisation, ill-health, isolation, and insecurity dominated their lives after their participation in the process. They were being threatened and harassed before, during, and after giving testimony in Gacaca. A large epidemiological study confirmed the negative effects of participation in local tribunals given the fact that the Gacaca participants reported higher traumatic and depression symptoms in comparison with the control group (Bronéus, 2008). The first of several longitudinal studies compared the effects of participation in Gacaca trials (Kanyangara et al., 2007). Fifty survivors of the 1994 genocide in Rwanda and 50 prisoners accused of being responsible of genocidal acts completed four scales 45 days before and 45 days after their participation in the Gacaca trial. The scales assessed negative emotions presently felt with regard to the genocide, perceived emotional climate, negative stereotypes of the out-group, and perceived similarity among out-group members. Participation in Gacaca provoked a reactivation of negative emotions in both groups and also impacted negatively on the perceived emotional climate. The social ritual of Gacaca elicited an emotional communion amongst participants and fostered intense emotional manifestations and re-evocations of the genocide. What is more, emotions of sadness, fear, disgust, and anxiety increased after the Gacaca, especially among survivors. Guilt increased among the prisoners but not among the survivors. In sum, all emotions that were congruent with the group experience – for example, fear is more central to the re-evoked experience of the survivors, and guilt to that of the prisoners – were enhanced by participation in the Gacaca. This is corroborated by the fact that, overall, survivors experienced more fear and anger, while prisoners more guilt.

A second large quasi-experimental study compared Gacaca participants with people who did not participate in the trials. The previously described measures of emotion were administered to victims (N = 200) of the 1994 genocide in Rwanda and prisoners (N = 184) accused of genocidal acts before and after their participation in Truth and Reconciliation Gacaca trials. Control groups of victims (N = 195) and prisoners (N = 176) completed the same measures before and after. The perpetrators and the victims who participated in Gacaca manifested an increase of the negative emotions of fear, sadness, and anxiety. Thus, participation in trials took an affective toll on the people involved. Participation in popular trials or Gacaca increased negative emotions, while no changes were observed for non-participants (Kanyangara, 2008). In conclusion, participation in a transitional justice ritual such as Gacaca clearly has a marked affective cost for both victims and perpetrators. Such findings are entirely in line with the follow-up data collected by Bronéus (2008) on witnesses who participated in Gacaca, and are also consistent with clinical observations which have found that participation in a truth and reconciliation process involves a risk of retraumatization (Hamber, 2007; Hayner, 2001). However, rather than increasing disgust, perpetrators' self-reports after Gacaca reflected a significant decrease, and anger failed to show an increase after participation. These two emotions belong to what Izard (1972) labeled the "hostile triad" (i.e., anger, disgust, and contempt). These results suggest that Gacaca participation did not enhance and may even have reduced perpetrators' aggressive feelings, while increasing guilt and shame. Finally, there was a significant increase in feelings of shame among perpetrators (Kanyangara, 2008). The emotion of shame plays
an important role with regard to social control and one of the functions of trials is to strengthen shamefulness in the accused individuals in order to favor the internalization of social norms among them (Scheff & Retzinger, 1991).

Results also fully support Durkheim’s (1912) view that the emotional reactivation resulting from participants’ reciprocal stimulation can be seen as the core of social rituals. The fact that perpetrators and victims largely experienced similar emotions suggests that the process of mutual emotional stimulation described by Durkheim actually occurred in the Gacacas. However, next to the amplification of negative emotions, there were also less spectacular albeit significant effects which suggest that a social ritual such as the Gacaca also entails constructive emotional consequences. As perpetrators, the ritual resulted in an increase of guilt and shame and a reduction of disgust, both consequences which should favor the internalization of social control among perpetrators.

The increase in negative emotions among participants of transitional justice rituals confirms that some measures are needed to prevent retraumatization. Staub, Pearlman & Miller (2003) have suggested that, in addition to the need to clarify and adjust expectations, participants need to be prepared for the testimony in the Gacaca to reduce surprise, and also witnesses need to be encouraged to bring someone with them as social support, and to share with others what they have heard and seen. Finally, a fair procedural context that respects victims, recognizes their claims and their dignity, acknowledges truth, and, at least symbolically, affords them reparations can help in avoiding excessively long processes, extensive confrontation with perpetrators, repetitive witnessing, and retraumatization (Martín Beristain, 2008).

**Positive empowerment effects of transitional rituals**

It may be also argued that the perceived absence of justice (i.e., punishment of perpetrators) and reparation (lack of compensation for survivors) in the South African TRC and Gacaca processes, which brought about protests from many survivors, may have been a barrier to emotional recovery. More importantly, the lack of change in the socio-economic situation of the survivors may create anger and scepticism that are displaced onto the TRC and Gacaca. However, partial evidence suggests that participation in trials that implies limited justice and reparation empowers some survivors, a finding that was confirmed in a study of Mayan direct and indirect victims of a massacre in Xaman in Guatemala (Lykes, Cabrera, & Martín Beristain, 2007). Active participation in trials and rituals of transitional justice can enhance perceived control and self-esteem. The testimony and interview process can have positive effects of empowerment on survivors. The Lykes et al. (2007) study focused on the case of a Maya community that had suffered a massacre at the hands of the army and wanted to obtain justice for the violations of their human rights. However, this proved to be difficult because of the policy of impunity that was maintained during the post-conflict transition by the Guatemalan government and military. Participant observation revealed how the massacre had created an emotional climate of fear and sadness, how people coped with it, and how it evolved over time. The emotional climate of fear and the symptoms of post traumatic stress appeared to have been most intense immediately after the massacre because of the shock and the emergency situation that was created. This reaction took a toll on both individuals and the community but was gradually reduced over the first year. During the trial (three years after the massacre), government lawyers and judges sought to hold the victims responsible for the massacre, blaming them for their vindictive attitude. Some direct and indirect victims participated as witnesses in a trial against members of the Guatemalan army that killed 11 members of Xaman community after the end of civil war.
The participation of victims and affected community members in the trial was evaluated by means of structured interviews. The interviews included measures of coping, of emotional reactions, and of basic social beliefs such as a sense of justice, control, and meaningfulness. The negative experience of participation in the trial was associated with re-experiencing fear, anxiety, stress, and depression. However, active coping and social sharing in order to understand the events that had occurred were found to be helpful in constructing a positive interpretation of the events and in stressing the community’s struggle against impunity in Guatemala. The trial participants reported less fear of army retaliation, higher expectations of justice, more positive appraisal of social mobilization and higher perception of injustice, more agreement with the positive effects of social sharing, and higher social cohesion (that is, they agreed more with the statement “Community was united, supported trial”) in comparison with non-participants. Participation in the trials, even in the negative context of perpetrator impunity, still reinforced victims’ group cohesion and social identity as Maya Indians. Participants reported higher levels of adaptive coping and higher support of collective mobilization than non-participant survivors (Lykes et al., 2007). In the same vein, participant victims in the South African TRC reported higher levels of political trust and efficacy than non-participant victims (Gibson, 2004). Comparing responses of the general South African population and the participant and non-participant victims, Backer (2005) concludes:

Another pattern that is evident in these comparisons is that the victims who participated in the TRC process tend to exhibit a greater level of political trust than does the general public. The differences are generally modest… this finding offers suggestive evidence that the TRC process may have contributed to the development of support for and faith in important aspects of the political system. Most notably, confidence among participating victims in the Constitutional Court is quite high. At the very least, the data do not indicate that their level of political trust is lower than it might have been in the absence of the TRC, using the general public as a benchmark of expectations. The same cannot necessarily be said about non-participating victims, who generally exhibit attitudes that are both distrusting and lower than either of the other samples.” (Backer, 2005, pp. 39)

We can conclude that participation in transitional justice rituals has positive effects on self-efficacy and esteem. However, these studies show limitations because of their cross-sectional design. As Backer posits: “Again, what remains unclear is whether these patterns are a direct by-product of the TRC, or instead the manifestation of a pre-existing disengagement or cynicism that could also explain why certain victims opted not to participate in this process” (Backer, 2005, pp. 39). Nevertheless, the longitudinal study by Kanyangara et al. (2008) also supports the positive causal effects of rituals on self-esteem. This study showed that shame decreases among victims after Gacaca, while no change is observed among control victims (Kanyangara, 2008). Shame decline among victims suggests that, in spite of an increase in fear and sadness, participation in rituals helps victims to restore their dignity. Clearly, in spite of the limitations of this procedure, this longitudinal evidence on the decrease of shame supports the idea that transitional justice rituals contribute to improving the image and restoring some dignity among victims.

Positive micro-social effects of transitional rituals

According to Durkheim’s hypothesis and empirical research, participation in rituals after a collective trauma should also increase positive emotional climate and social cohesion. As regards the negative emotional climate, it may well prevail, given the reactivation of the negative memories of extreme intergroup conflicts entailed by transitional justice rituals like Gacaca (Martín Beristain et al., 2000). Kanyangara et al. (2007) found that both the victims and the perpetrators perceived the social climate as more negative after than before Gacaca, but significantly so only for victims.
As a positive emotional climate involves the members’ perception of such feelings as hope, solidarity, confidence, trust and like, it was expected that the climate would be perceived as more positive after the Gacaca than before, following a Durkheimian approach to rituals. Kanyangara et al.’s (2007) results were more nuanced in this regard. Among participating victims, positive climate was rated as higher than among their controls before Gacaca. This effect very probably resulted from the hopes and positive expectations which characterized participating victims in the period immediately preceding the trial. Their positive perception of the climate decreased after the trial but, nevertheless, remained higher than among victims in the control group. Thus, anticipating a popular trial was associated to a positive social climate in victims and their positive expectation exceeded what the experience actually provided (Staub et al., 2003). Yet, the fact that, after the trial, victims who participated continued to have a more positive perception of the social climate than those in the control group suggests that their hopes did not entirely vanish with the trial.

Among perpetrators, an effect in the opposite direction occurred as they perceived the climate as less positive than their controls before Gacaca. It makes sense that, from their perspective, anticipating the trial entailed effects opposite to those manifested among the victims. After the Gacaca, the perception of positive emotions in the social climate was markedly increased among perpetrators who participated whereas no effect was found for them in regard to negative climate (Kanyangara et al., 2007).

Participation in the trials reinforced the negative emotional climate among victims, probably because confrontation with the perpetrators very likely triggered past traumas and provoked an increase in negative socio–emotional experiences among them. In contrast, no effect emerged for the perception of negative climate in the case of perpetrators. As we have reported above, after the Gacaca the perception of positive emotions in the social climate increased markedly among perpetrators who participated. Thus, the fact that the positive climate was initially perceived as lower among perpetrators who took part in the trials than among their control group suggests that those trials entailed a collective emotional cost. However, by the end of the trial, the cost seemed to be much lighter for the perpetrators than for the victims. This is consistent with other studies which found that active perpetrators evidenced a more positive attitude toward transitional rituals and intergroup forgiving, especially when they did not receive hard punishment – as was the case in Gacaca trials (Kanyangara et al., 2007; Staub et al., 2003). As we saw above, participation in the trials reinforced the negative emotional climate among the victims. Such findings fit those provided by surveys which showed that other instances of transitional justice such as South African TRC generally reinforced respondents’ perception of negative emotional climate. To illustrate, two thirds of respondents in a national South African poll considered that the revelations of TRC had made people angrier and had rendered intergroup relationships more complex than they were beforehand (Gibson, 2004).

What is more, these results also suggest that transitional justice rituals per se have limited effects on the emotional side of reconciliation. Teaching individuals involved in the genocide about its causes and characteristics to help foster understanding, explaining modal traumatic symptoms in order to normalize them, instructing the population about psychological healing and fulfilling needs or about sharing emotions in an empathic context appear to be necessary conditions to overcome the personal and collective emotional effects of gross violations of human rights and to support reconciliation – as has been confirmed by the educational and experiential interventions in Rwanda carried out by Staub, Pearlman, Gubin, and Hagengimana (2005). After participation in a three-week focused intervention of six sessions, the treatment group showed a decline in trauma symptoms and exhibited a more positive orientation toward the other group two months after the treatment, while those in a traditional support group and a control group reported increased symptoms. Re-exposure to past
events and social support did not help to overcome emotional distress suggesting that a more psycho-educational and empathic intervention is needed. However, there is evidence that transitional justice rituals had positive intergroup effects, as we will discuss. Kanyangara's longitudinal and quasi-experimental studies showed that while participation in Gacaca trials increased negative climate perception in victims, it had positive effects on social cohesion. To the extent that prisoners were pleading guilty, thereby recognizing the status of their victims, and because many feelings were publicly expressed, thereby rendering out-group members more human, Gacaca rituals enhanced social cohesion. Positive climate increased among perpetrators, while social identification with the in-group, negative stereotypes and perceived out-group homogeneity decreased in both victims and perpetrators (Kanyangara et al., 2007). In other words, participation in Gacaca trials had positive consequences for intergroup perception, that is, provoked reductions of stereotypical perceptions of survivors and prisoners toward each other.

Globally, evidence supports the positive micro-social effects of this type of transitional justice mechanisms in which confrontation with perpetrators takes place in a communitarian setting and in a cultural context in which the transitional justice mechanisms and traditional leaders play an important role. Participation in this kind of ritual empowers survivors, who report higher self-efficacy. In the same vein, participation in Gacaca reinforces positive intergroup perceptions. We can conclude that transitional rituals, which are supposed to involve victim-perpetrator confrontation in a reconciliation scenario, have positive micro-social effects. We will turn now to macro-social effects of TRCs and trials.

Positive macro-social effects: A collective level study

Truth commissions are temporary organisms set up to investigate a past history of violations of human rights in a country including violations by the army, government forces, or armed opposition forces (Hayner, 2001). Their common aims are: identification of previous abuses, public acknowledgment of the existence and characteristics of abuses, and perpetrators' accountability without criminal punishment. Truth commissions may serve long-term societal goals such as prevention of cycles of revenge and prevention of new crimes of war and collective violence. In some cases, trials on violation of human rights have pursued those responsible for past collective violence. Trials of human rights abuses, like the Nuremberg and Tokyo tribunals, or trials against officials responsible for mass disappearances in Latin America, are other forms of transitional justice that are used to overcome negative past events. Trials are supposed to reinforce the rule of law, including the accountability of holders of government, army, police and armed political factions, and the respect of political rights. By this token, trials could contribute to reduce future human rights violations (Sikkink & Booth-Walling, 2007).

Several authors have argued that the benefits of the TRC have been immense and that because of the TRCs “there is no turning back” (Hamber, 2007; Hayner, 2001). Studies based on university students that evaluate the TRC process, show that these rituals are perceived to have more positive effects at the macro-social or national level, reinforcing cohesion and reconciliation, than at the interpersonal or personal level (Lillie & Janoff-Bulman, 2007). In this study Lillie and Janoff-Bulman describe the experience of the South African TRC to university students of human rights. They ask them to evaluate the perceived effects of this transitional justice experience. They frame the question in three different conditions: a) a micro-social condition: “From the perspective of the victims and families the TRC has had negative or positive effects”; b) a macro-social condition: “From the perspective of the South African society TRC has had negative or positive effects”; and, c) a control condition with no clear frame:
"How negative/positive was the TRC?". Results show that the TRC was perceived as having more macro-social than micro-social effects. These results provide some limited support for the hypothesis that TRCs have made a larger contribution to reconciliation and healing at the macro level than at the interpersonal level. In contrast, some authors have argued that the positive macro-social effects of transitional justice rituals have been overestimated and that these mechanisms do not have broader social effects. Moreover, some authors argue that human rights trials can exacerbate conflict and can undermine efforts to consolidate and develop democracy (Brahm, 2004; Sikkink & Booth-Walling, 2006). In the empirical study reported below we will examine the actual, not only the perceived, positive macro-social effects of TRC and trials.

**Overview**

To test the hypothesis that truth commissions and trials have a positive macro-social impact, including, for example, the prevention of collective violence, and reinforce norms of justice and human rights values, we conducted a collective level analysis of the effects of the TRC and the trials on the decrease of human rights violation in Latin America, combining the data from Sikkink & Booth-Walling’s (2006) and Brahm’s (2004) studies using the nation as the unit of analysis. We compared national mean level measures of respect for human rights before and after trials and TRCs.

**Method**

**Sample**

The sample included 16 Latin American countries that adopted truth commission and trial procedures and experienced a transition from a dictatorship towards democracy in the 1980s and 1990s (see Table I for the list of nations). We performed a secondary data analysis based on public available measures of human rights, trials, and TRCs.

**Variables and measures**

*Measure of respect for Human rights:* The main “dependent” measure was a Political Terror Measure (PTS) score, based on Amnesty International and other reports. The PTS is a quantitative measure from 1 to 5, with a higher score meaning more violations, and a score of 5 indicating extreme human rights violations, including summary executions, disappearances, torture and political imprisonment. Change was the difference between the average of PTS five years and 10 years after the first trials or before and after the transition. Usually pre-trials or pre-transition scores are based on the years 1980-1985. It was not possible to use an average of the PTS for ten years before the trials because the PTS measure is only available from 1980. Post-trials or post-transition scores are usually based on the years 1986-96 or 1990-2000. In the majority of cases the first trial on human rights was performed after or close to the transition from dictatorship to democracy. In all cases baseline scores reflect the situation during the dictatorship, civil war, or intense conflict (Sikkink & Booth-Walling, 2006).

*Measure of trials.* The number of years during which the trials on human rights endured was used as an index of the intensity of transitional justice. It is important to be aware that years of trial is a limited index of the intensity of struggle for human rights. For example, impunity is greater in Guatemala and Paraguay than in Chile and Argentina, but these nations have similar scores on this index. In the case of El Salvador, only one trial has occurred, with negative results, yet the index of 4 years of trial is a very limited reflection of this reality (Brahm, 2004; Sikkink-Booth & Walling, 2006).
Measure of performance and existence of TRC. Good performance by a TRC means that the commission was successful (not disbanded), afforded private or public hearings that allowed victims to express grievances, and was able to edit a report, recognizing the truth of human rights violations and validating victim’s suffering. Quality of performance of TRC was measured using an ordinal scale: 1 = No TRC, 2 = limited TRC, disbanded; 3 = TRC, not disbanded and edited report (Brahm, 2004; Sikkink & Booth-Walling, 2006).

Data for Grenada and Uruguay were not available. Sikkink & Booth-Walling (2006) did not include Colombia in his data. Colombia shows a higher level of human right violations, suffering from decades of political violence, but is a formal parliamentary democracy.

Results

Table I includes each nation’s descriptive data related to TRC participation and system transition, average scores comparing four types of situations: nations with trials and relatively successful Truth Commissions (mean improvement in human rights 1.13), nations with trials and unsuccessful Truth Commissions (mean improvement in human rights 0.37), nations with trials but without Truth Commissions (mean improvement in human rights 0.08), and nations with no trials nor Truth Commissions (mean improvement -0.40).

Every nation that adopted a truth commission also applied trials, but two nations used only trials and not TRC – Brazil and Guyana (see Table I). Non-parametric Rho correlations were performed between years of trial duration, quality and existence of TRC and improvement in human rights. There is a strong correlation between the difference of pre- or baseline minus actual score of PTS and the number of the nations’ trial years. Years of trial duration show a $\rho_{16} = .51, p < .03$, with change score or improvement in human rights. Quality of performance of TRC (1 = No TRC, 2 = limited TRC, disbanded; 3 = TRC, not disbanded and edited report) correlated positively with improvement in human rights ($\rho_{16} = .54, p < .02$), and accompanied an increase of more than 1 point on the 5-point PTS scale (see Table I).

Discussion

In comparing human rights situations before and after trials, or before and after transitions to democracy, also taking into account the quality of truth commissions, we found that years of trial and truth commission performance were associated in 16 Latin American countries to significant improvements in the political situation (Sikkink & Booth-Walling, 2007). As the previously cited authors argue, it is very likely that much of the improvement in human rights is due to the transition to democracy rather than to the effect of trials and truth commissions. This is difficult to test because only one country did not suffer dictatorship (Venezuela) and only two transitional nations, Brazil and Guyana, did not carry out trials. All of the 14 nations that held trials went through the processes of democratization. However, transitional nations that held more trials had a higher average improvement in human rights than nations that had fewer or no trials at all. The nations that held more years of trials were are also more likely to have a TRC than the countries which held no or fewer trials. The nations which had both truth commissions and trials had a better score that those which only conducted trials. These results, together with the case of Brazil, suggest that the level and the quality of transitional justice rituals have some independent positive macro-social effect, separate from the transition to democracy. In fact, Brazil, the most important transitional country without trials and a TRC in Latin America, experienced a greater decline in human rights than any other transitional nation in the region. Guyana shows a flat line: no important change before and after transition to democracy – Guyana had
<table>
<thead>
<tr>
<th>Country</th>
<th>Transition to democracy</th>
<th>Date TRC</th>
<th>Time covered</th>
<th>Outcome</th>
<th>Trials years</th>
<th>Pre PTS score (Date 1st trial)</th>
<th>Post PTS</th>
<th>Change score</th>
<th>Nations</th>
<th>With TRC</th>
<th>Public Reports</th>
<th>And Trials</th>
<th></th>
</tr>
</thead>
</table>

**Average Change**: 1.13

<table>
<thead>
<tr>
<th>Country</th>
<th>Transition to democracy</th>
<th>Date TRC</th>
<th>Time covered</th>
<th>Outcome</th>
<th>Trials years</th>
<th>Pre PTS score (Date 1st trial)</th>
<th>Post PTS</th>
<th>Change score</th>
<th>Nations</th>
<th>With disbanded TRC</th>
<th>Public Reports</th>
<th>And Trials</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>7.- Paraguay</td>
<td>1993</td>
<td>2005 - 08</td>
<td>1954 - 2004</td>
<td>Published recently</td>
<td>12</td>
<td>3.2 (1989)</td>
<td>2.6</td>
<td>0.6</td>
<td></td>
<td>No report Disbanded</td>
<td></td>
<td></td>
<td></td>
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</table>

**Average Change**: 0.37
<table>
<thead>
<tr>
<th>Nations</th>
<th>Year</th>
<th>With Trials but No Truth</th>
<th>No</th>
<th>PTS 1992</th>
<th>PTS 1995</th>
<th>Average Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>11.- Honduras</td>
<td>1982</td>
<td>No</td>
<td>Yes 1992</td>
<td>3.2</td>
<td>2.7</td>
<td>0.5</td>
</tr>
<tr>
<td>12.- Mexico</td>
<td>Full of PRI monopoly</td>
<td>No of government 1995</td>
<td>Yes 1992</td>
<td>3.24</td>
<td>-0.2</td>
<td></td>
</tr>
<tr>
<td>13.- Nicaragua</td>
<td>1990</td>
<td>No</td>
<td>Yes 1992</td>
<td>2.7</td>
<td>0.3</td>
<td></td>
</tr>
<tr>
<td>14.- Venezuela</td>
<td>No dictatorship</td>
<td>No</td>
<td>Yes 1991</td>
<td>3.5</td>
<td>-0.3</td>
<td></td>
</tr>
<tr>
<td><strong>Average Change</strong></td>
<td></td>
<td></td>
<td></td>
<td>0.075</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Nations With No Trials and No Truth Commis.</th>
<th>Year</th>
<th>PTS 1995</th>
<th>Average Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>15.- Brazil</td>
<td>1985</td>
<td>3.2*</td>
<td>-0.9</td>
</tr>
<tr>
<td></td>
<td>1985</td>
<td></td>
<td></td>
</tr>
<tr>
<td>16.- Guyana</td>
<td>No</td>
<td>2.0*</td>
<td>0.1</td>
</tr>
<tr>
<td><strong>Average Change</strong></td>
<td></td>
<td></td>
<td>-0.4</td>
</tr>
</tbody>
</table>

* In these cases pre PTS are based on years before Transition years and post PTS are based on years after Transition
**Data based on Bhram (2004) and Sikkink & Boot Walling (2006)
Psychosocial effects of participation in rituals of transitional justice / C. Martín-Beristain et al.

A stable and strong human rights record. The case of Brazil suggests that the transition to democracy does not guarantee an improvement in human rights. Overall, it should be taken into account that a lot of the above mentioned experiences took place in the context of impunity and political struggles for the recognition of human rights violations, with different political and historical factors affecting results. In Argentina the TRC report had a significant impact and was a bestseller at a national level, whereas in other cases, such as El Salvador, the report was not even published and its impact was scarce due to the amnesty which was conceded five days after its publication.

Of course, it is plausible that there is a distal factor affecting the improvements in human rights reported here rather than trials or truth commissions. These might include the existence of a strong political movement or a willingness in the political elite to hold perpetrators accountable for past human rights violations. It is not clear how to separate out the political will to hold trials and TRCs from the effects of rituals themselves. However, the political context and will for accountability were very variable among nations and even between historical periods. TRCs were performed with strong political opposition in some cases and with some consensus in others – but in all cases there was a strong political conflict between perpetrators and victims. We can conclude that a part of the human rights improvement comes from TRCs and trials, regardless of the level of political will for accountability, and this positive macro-social effect is not explained only by the transition to democracy – at least in the case of Latin America (see also Sikkink & Booth-Walling, 2007, for a similar conclusion).

General Conclusions

With respect to the question of the effects of rituals of transitional justice, we can conclude that participation in trials and TRCs increases negative emotions and symptoms, and, thus, we cannot confirm that giving testimony helps in healing individual suffering. This means that rituals are costly for the individual and should be prepared carefully clarifying and adjusting expectations and goals, preparing participants for their testimonies, and providing social support and recognition. However, even in limited conditions, participation in transitional justice rituals has been found to have the positive effects of empowering people and restoring dignity. These rituals also increase negative emotional climate, and, through this, can fuel conflict more than support harmony. This means that rituals are also costly for participating societies and should be prepared carefully, even when they have positive consequences. As regards these positive outcomes, social cohesion is perceived to be reinforced and participation in rituals such as the popular trials or Gacaca in Rwanda improve intergroup relationships, decrease negative stereotypes and the individualization of the out-group. Finally, at least in the case of Latin America, in which the majority of truth commissions to date have taken place, trials and a successful truth commission reinforce respect for human rights. These results suggest that perceived macro-social benefits of transitional justice rituals are real.

References


