The impact of the fight against impunity on the recovery of serious human rights violations’ survivors

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“Justice heals”:
• International campaign against impunity
• Worldwide Network of more than 60 Human Rights groups and activists
• Project initiated and coordinated by the „Medical Care Service for Refugees Bochum“
The center offers support to survivors from torture, war crimes and other severe human rights violations:

a) psychotherapy  
b) social work  
c) legal support  
d) Human Rights activities

Psychotherapeutic experience:

- Several cases in which ongoing impunity in the country of origin affected negatively the therapeutic process
- We recognized impunity to be an important factor in continuing the traumatic process or causing re-traumatization
- In several case studies we documented that traumatized refugees suffer from persisting impunity in their home countries.
- Case studies include survivors of serious human rights violations from Chile, Argentina, former Yugoslavia and Turkey
Scientific research:

- 2001 Medical Care Service for Refugees started to investigate on the influence of impunity on survivors’ mental health

- From 2004 to 2007: scientific research study on impunity and mental health covering the experiences from 13 countries

  - Schmolze, Rauchfuss (2007) included: Argentine, Cambodia, Chile, East Timor, El Salvador, Ex-Yugoslavia, Guatemala, Paraguay, Peru, Rwanda, Sierra Leone, South Africa and Uruguay

  - Further research on: Algeria, Colombia, Germany, Greece, Honduras, Indonesia, Iraq, Liberia, Morocco, Mexico, Russian Federation, Spain and Turkey

Political intervention:

Establishing a worldwide network of information exchange and international cooperation in the fight against impunity

Here: Presentation of the outcomes of our research work
1. What do we mean, when talking about impunity?

- Impunity is not only the absence of legal justice
- Impunity is a social phenomenon affecting society as a whole
- Impunity keeps alive the atmosphere of repression
- Impunity denies the access to truth
- Impunity continues the historical interpretation of the repressors
- Impunity keeps perpetrators free from prosecution
- Impunity denies acknowledgement and reparation for victims and survivors

Measures against impunity include:

- Truth Finding
- Politics of Memory
- Legal Justice
- Integral Reparation
- Never Again

2. What is our concept of trauma?

- Trauma is not only the result from a single act of atrocity
- Trauma is a process of different sequences (Keilson 1979)

- Trauma is not only an individual process
- Trauma is a social and political process that affects society as a whole
- Psychosocial trauma can only be understood within a specific cultural and political context
- Man made disaster interrelates individual and society in a traumatic process (Martin-Baró 1996, Reprint)

- There is no ‘post-trauma’ and no PTSD
- The ‘Socio-political Traumatic Process’ is a continuum and depends on developments within society
- Survivors need acknowledgement from surrounding society (Becker 2006)
3. How does impunity influence the traumatic process?

a) Survivors from man made disasters:

- Apart of the well known symptoms of trauma, survivors show an elevated mental vulnerability caused by impunity.
- Mental health problems resulting from traumatic experiences can persist or be reactivated by certain events.

b) Family members of forcibly disappeared people

- Family members of forcibly disappeared suffer from an incomplete mourning due to the uncertain fate of their beloved ones.
- The ongoing search for the whereabouts of the forcibly disappeared under an atmosphere of impunity puts family members under a high risk for retraumatization.

3a. How does impunity influence survivors?

Experiences from therapy centers:

- CINTRAS und ILAS (Chile)
- EATIP (Argentina)
- SER-SOC (Uruguay)
- Khulumani Support Group (South Africa)

- Perpetuation of exclusion from society
- Continuation of social stigmata
- Lack of acknowledgement by society
- Continuous loss of trust in legal justice
- Permanency of degradation and humiliation
- Indignation, distrust, anger, rage and aggression
- Powerlessness, lack of self-confidence and self-determination
- Ongoing latent or open threat
- Barrier for overcoming traumatic experiences
- Reactivation of traumatic memories by present repression

V. International Psychological Trauma Symposium: “Digging Up Wounds Healing Wounds”, 7-9 December 2007, Istanbul

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3b. How does impunity influence family members of forcibly disappeared?

• uncertain loss without parting opportunity
• incomplete mourning (no burial / missing grave)
• permanent search for the whereabouts of the missing and circumstances of disappearances
• special target of disinformation and systematic lies by the state
• no opportunity to accept the loss of the beloved ones
• acceptance means betrayal
• sometimes even reparation is considered as betrayal
• psychotic situation in between denial and acceptance
• triggered by deals such as: receive information and grant impunity in exchange
• self-accusation for not having been able to protect or to find the missing relative
• frustration, distrust, anger, rage
• exclusion from society
• social descent

Impunity after the conflict continues and deepens the traumatic process


4. Effect of Truth Commissions?

Worldwide more than 30 attempts to heal the wounds of the past by establishing truth commissions:

• Argentine 1983-1984
• South Africa 1995-2000
• Guatemala 1997-1999
• Peru 2001-2003

Idea: access to truth and construction of a ‘historical truth’ might lead to reconciliation in the aftermath of trauma

Results:
• sometimes able to define a historical truth
• incomplete individual truth finding especially in disappearance cases
• recommendations for justice and reparation
• inability to overcome the legal protection of the perpetrators assured by impunity laws
• missing integral reparation
• harsh critics from survivors and family members of victims

Truth Commissions alone have not the promised therapeutic effect
5. Are there any proves that justice might heal?

UN-International and hybrid courts and tribunals:

- Nürnberg Trials 1945-1949
- International Criminal Tribunal for the former Yugoslavia (ICTY) 1994-2010
- International Criminal Tribunal for Rwanda (ICTR) 1997-2010
- Serious Crimes Investigation Unit East Timor (SCIU) 2000-2005
- International Criminal Court in The Hague (ICC) from 2002
- Special Court for Sierra Leone (SCSL) 2002-2008
- Extraordinary Chambers in the Courts of Cambodia (ECCC) 2007-

International Trials:

- Argentine, Belgium, Chile, France, Germany, Italy, Senegal, Spain, Sweden

Notable national trials:

- Argentine, Bolivia, Bosnia, Chile, East Timor, Ethiopia, Germany, Greece, Iraq, Paraguay, Peru, Rwanda, South Africa, Uruguay

In total the number of legal trials worldwide is few in comparison to the number of perpetrators.
Extraterritorial UN-Tribunals could not break with the situation of impunity inside the countries.
Highly motivated survivors, who participated as witnesses, came back home from The Hague disappointed and sometimes threatened (Stover 2003).
Courts in other countries often had to work under restrictions of the local criminal law or had difficulties in having the perpetrators extradited.
Most of the sentences in national trials were quite low or the perpetrators could soon profit from pardons and amnesty laws.
Trials as e.g. in Ethiopia and Iraq did not fulfill the demands of a democratic rule of law.

For a long time the widespread global character of impunity was complete. Therefore there can be only little evidence about a positive impact of justice on mental health.
Only during the recent years changes are arising, especially in Argentine, Chile, Peru and Uruguay.
What we know:

Few examples, in particular from Latin America and South Africa show, that justice can have a healing impact on those who suffer from trauma.

a) The Pinochet arrest and later
b) The breakdown of impunity in Argentine
c) Uruguayan lawyers overcome amnesty laws

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a) The Pinochet arrest 1998 and later
• not arrest on October 16, but House of Lords decision of November 25 confirming Pinochet’s crimes were not covered by his presidential immunity had a catalytically effect
• the former untouchable had been touched
• atmosphere of silence broke and people started to take side in the Pinochet case
• survivors didn’t hide any longer
• lots of survivors and family members of victims talked for the first time about their traumatic experiences

• survivors who had returned from exile after 1989 tried to hide their past during the first years
• beginning with the trial against the former Chief of the secret police Manuel Contreras in 1995 and expanding from late 1998 they readopted their personal history and talked openly of being Ex-political prisoners
• hundreds of them filed lawsuits against Pinochet and other military officers for torture and disappearances despite the amnesty law
• the “Pinochet Effect” immediately spread to the neighbouring countries
b) The breakdown of impunity in Argentina

- During dictatorship and after return to formal democracy Mothers of Plaza de Mayo developed a “Sense of coherence” (Antonovsky 1997) by:
  - collective search for their children and grandchildren (understanding)
  - overcome isolation and fear – take up struggle (regain activity)
  - Fight against impunity and political demands for a different society (sense of life) (Preitler 2006)
- Until 2006 the Mothers consequently denied any cooperation with government and repeated demanding the “return with life”
- Mothers denied exhumation, official acts of memory and reparation
- Continuous and often frustrating attempts to bring perpetrators to court

- 2000: partial crackdown of impunity in Poblete case
- 2003: Nestor Kirchner entered presidency
- Kirchner Government abolished impunity laws
- more then 1,000 cases had to be reopened and hundreds of perpetrators were taken into custody
- From 2004 Mothers in fact started to accept memorials
- From 2006 Mothers slightly started to cooperate with the Kirchner government

• first identification of the remains of an Uruguayan forcibly disappeared in early 2006 (30 years after disappearance)
• At the day of the burial, March 14, the High Court decided to put former dictator Bordaberry under trial
• catalytically effects on Uruguayan survivors and family members (20 % of the population)
• 10 % of the inhabitants of Montevideo were present at the burial
• several disappearances have been made public for the first time
• several court cases have been opened
• survivors, who had never talked about their traumatic experiences to their children, started to tell their stories to their grandchildren

c) Uruguayan lawyers overcome amnesty laws
6. Is only justice able to heal the wounds?

- Legal justice is a necessary but not the one and only step to heal the wounds of the past.

7. Which factors can contribute to the stabilization of survivors?

- Sustainable recovery of individual and society needs:
  - Truth
  - Memory
  - Justice
  - Reparation
  - Never again

➢ Truth finding:
  - allows to speak out the unspeakable
  - socializes individual grief and pain
  - helps to receive information on the fate of the forcibly disappeared
  - changes the discourse within society
  - contributes to social rehabilitation

➢ provides part of the necessary acknowledgement by society
➢ prepares the construction of a collective memory
Creating a collective memory:

- Public access to archives
- Historical scientific publications
- School books
- Narrative history
- Literature
- Fine Arts
- Exhibitions
- Memorials
- Museums
- Street names
- Signs, indications and explanations at locations of importance
- Wall paintings
- Music
- Theatre
- Movies and documentaries
- Newspaper background articles

Legal justice:

- Criminal Justice needs to hold perpetrators responsible for crimes
- Reestablish the rule of law and trust in institutions of society
- Destroy propagandistic moral values of dictatorship and conflict
- Redefine who is perpetrator and who is victim
- Rebuilt a common sense of ethical values within society
- Destroy image of untouchable and omnipotent repressors
- Allow survivors the acceptance of reparation
- Empowerment of survivors from serious human rights violations
- Survivors who bring their cases to court leave victim roles and take part in construction of future.

- They regain self-confidence and self-determination by taking responsibility and playing an active role in society
- Years after the traumatic experiences they have the opportunity to overcome powerlessness and hold perpetrators responsible
- Due to the risk of retraumatization in court, psychological support for witnesses is inevitable
- This way the approach to the traumatic memories can contribute to integrate the traumatic experiences in survivors' biographies
- Survivors who are not willing to participate actively in court cases, can profit from the chances in public discourse and change of public perception
- Acknowledgement for survivors and relatives of forcibly disappeared raises
Rehabilitation and integral reparation:

Survivors, relatives and descendants of victims are entitled to compensation.

- Claims for compensation must be granted without time limits.
- Reparation schemes must be designed in an integral way and, besides the necessity of material compensation, must lead to a comprehensive psychosocial, political and cultural rehabilitation and reintegration into social life.
- Reparation payments must not lead to an interruption of legal proceedings, to the annulment of investigation cases or to the suspension of the right to demand criminal prosecution.

Never Again:

- There is a high risk, that the traumatic experiences might reoccur if there was no Truth finding, no Legal justice and if there hasn’t been established a culture of memory which keeps the past awake and future generations alerted.

  - Analyze roots of conflict and history escalation
  - Derive Measures for prevention

Institutional reforms that help to prevent a comeback of atrocities:

- Military reforms
- Strengthening democratic structures
- Developing a non-violent practice of conflict resolution
- Strengthening the independence of jurisdiction
- Dissolving social injustice
- Developing an open and democratic culture within society
- Implementation of international law
As long as there is no justice in the aftermath of conflicts the fight against impunity is not only a necessary moral struggle for human rights, but also a basic need for the sustainable recovery of survivors.
Bochum Declaration

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http://www.gerechtigkeit-heilt.de/kongress/dokumentation/resolution_engl.html
http://www.gerechtigkeit-heilt.de/kongress/dokumentation/resolution_tuerkisch.html

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