NELSON MANDELA
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# MEMORY FOR JUSTICE

A Nelson Mandela Foundation provocation, authored by Chandre Gould and Verne Harris

# INTRODUCTION

Over the nine months between November 2013 and July 2014 the Nelson Mandela Foundation and the GIZ Global Leadership Academy, the latter commissioned by the German Federal Ministry for Economic Cooperation and Development (BMZ), brought together 26 participants from ten countries[1] to engage in a three-part dialogue series on memory work in contexts where oppression, violent conflict or systemic human rights abuses have taken place. The dialogues offered an international forum to discuss the complex personal, collective and professional challenges facing those engaged in reckoning with the past. Through different layers and modes of engagement the process sought to reinvigorate debates about memory work; and offer new approaches, new questions and challenges to existing paradigms.

The participants were activists, analysts and functionaries, with many straddling (over time or at the moment) these somewhat artificial categories. Despite their different national contexts, experiences and professions, many shared the experience of wrestling with structures of power resistant to meaningful societal transformation, with discourses that feel worn out, and with a weariness at personal levels that is the product of long periods of exposure to pain and stress.

About halfway into the process participants felt the need to generate a consensus statement on the objectives of memory work, and the principles for the practice of that work. A draft document (Annexure A) was developed ahead of the final gathering in Berlin in July 2014 and became the focus of intense discussion and debate. Fundamental differences emerged, around the overarching objectives of memory work, the value of transitional justice discourses, and the meaning of terms like ‘justice’, ‘democracy’, ‘truth’ and ‘reconciliation’. As a consequence of these differences, consensus on a final text could not be reached. The document remained in draft form, providing the basis for a further exploration of differences, disagreements and areas of consensus, both in the final meeting and thereafter. Subsequently the South American participants developed a position paper (Annexure B) for consideration. As the process came to an end it became clear that consensus remained elusive. This is reflected, and explored, in the final report on the Mandela Dialogues (Annexure C).

The Nelson Mandela Foundation has benefited greatly from the experience, reflecting long and hard on its own praxis, its mandate from Nelson Mandela, and its positioning within the South African tradition of ‘memory for justice’. The latter emerged in the late 1970s and crystalized in the struggles for liberation during the profoundly damaging 1980s. And it was the call to memory for justice which shaped South Africa’s strategy for reckoning with its oppressive pasts in the 1990s. This document, this provocation, is a summation of lessons learned for the continuing work of memory in a country burdened by its pasts and reaching for a liberatory future. It is hoped that the lessons will find resonance both locally and in other countries carrying similar burdens.

[1] The participants came from Argentina, Bosnia and Herzegovina, Cambodia, Canada, Croatia, Germany, Kenya, Serbia, South Africa and Uruguay.

## MEMORY WORK AND TRANSITIONAL JUSTICE

The term 'memory work' is often used together with or alongside the term 'transitional justice' when speaking about dealing with past human rights violations, injustices, violent conflict or war. While formal transitional justice practices and processes may be considered elements of memory work, they tend to be driven by structures and instruments of the state, are often time-bound and involve formal, often judicial, proceedings. Memory work refers to a broader category of processes, practices and activities that are the responsibility of all sectors of polity and society.

The United Nation Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, described transitional justice thus:

> *"TRANSITIONAL JUSTICE IS NOT THE NAME FOR A DISTINCT FORM OF JUSTICE, BUT OF A STRATEGY FOR ACHIEVING JUSTICE FOR REDRESSING MASSIVE RIGHTS VIOLATIONS IN TIMES OF TRANSITION. REDRESS CANNOT BE ACHIEVED WITHOUT TRUTH, JUSTICE, REPARATIONS AND GUARANTEES OF NON-RECURRENCE."*[2]

These pillars of transitional justice, in our view, are all indispensable. However, they do not constitute a universal blueprint. The specifics of place and time determine how they are best implemented. And they must be positioned within a broader and longer term imperative to do the complex and painful work of memory. By invoking the term 'memory work' we recognise the need for social justice beyond the immediate imperative for redress in response to particular events. Memory work is about building a just and sustainable peace, and securing social justice. It requires commitment to a long journey if needs be, it demands a transformation in ways of knowing and doing, and in most cases it requires a restructuring of the state and of the economy to redress inherited inequalities. It is thus a long-term project, reaches beyond the confines of formal transitional justice interventions and often involves the less obvious labours of artists and community storytellers. Everyone in a sense is a 'memory worker', for the calling to do memory work is, arguably, a fundamental human calling. Of course there are the formal practitioners – the archivists, museologists, storytellers, anthropologists, historians, researchers, archaeologists, pathologists, and so on. By 'memory worker' here we mean anyone exploring, engaging and using memory in endeavours to reckon with past human rights violations, injustices, violent conflict or war.

## RECKONING WITH PASTS

International discourses around reckoning with troubled pasts, in our view, are haunted by unproblematised usage of the terms 'justice', 'healing', 'truth' and 'reconciliation'. The latter two are so deeply contested that we believe it best simply to remove them from our enquiry.[3] The former, however, are indispensable. By 'justice' here we mean not 'criminal justice', 'juridical justice', 'prosecution' or 'punishment'. For us 'justice' includes all these narrower meanings but has a broader scope. It is a belief in a just society, a response to those damaged in the past or being damaged in the present, a

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[2] United Nations Office of the High Commissioner for Human Rights, "'Transitional justice is not a 'soft' form of justice,' says new UN Special Rapporteur Pablo de Greiff," *Statements - Display News,* http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12496&LangID=E (accessed May 19, 2014)

[3] The contestation stems from one or a combination of the following: their semantic imprecision, regional variations in the meanings assigned to them, and the degree to which reactionary forces have used them to promote their own interests.

determination to be making a liberatory future. Justice is the call to be working against injustice in all its forms and manifestations. Justice is the call to take responsibility for one's own liberation, as an individual and as an individual-in-society. Justice is the call to be walking Nelson Mandela's long walk to freedom. A walk which, in principle, can never end. A walk towards, and for, a just society. By 'healing' here we do not refer to the repairing of damage or the finding of 'closure', although for many healing doubtless involves both. There can be no blueprint for how people work with their pain and their trauma. Individuals, families and communities find healing in their own way. The challenge is to create the spaces they need in order to find healing. Here we use the term 'healing' to describe the processes whereby those who are traumatised work with their trauma successfully and the processes whereby those who have been violated find ways of narrating and befriending the selves they were before their violation. A society finding healing is one no longer overwhelmed by the burden of its traumatised pasts and no longer afraid to challenge dominant discourses.

How do societies carrying trauma respond to the call of justice and the imperative to find healing? The Mandela Dialogues have identified a range of processes, ranging from 'softer' processes which tend to be longer term (inter-generational) and not dependent on intervention by the state, to 'sharper' processes which tend to be time-bound and reliant on state intervention. These processes are neither discrete (they overlap, seep into one another) nor exhaustive (the Mandela Dialogues are the beginning of a much longer journey and therefore offer only a preliminary analysis). But it is clear from the Dialogues that all of them are necessary. Without prescription. Without formula. Without best-practice timing or weighting. Within the constraints, limitations, and potentialities of their contexts, societies carrying damage from their pasts must negotiate and implement the full range of these processes. Failure to do so condemns societies to the danger of finding neither justice nor healing and to being vulnerable to festering wounds and a recurrence of violation.

The processes are as follows:

- Storytelling acknowledges the power of narrative – a power to work with pain, to acknowledge harm done, to generate energy for healing, to embrace complexity, to hear the voices of those regarded as 'other', to find shared representations of the past and common identities. However, without the precondition of established, verifiable, authenticated facts, storytelling runs the risk of either reinforcing old myths or generating new ones. But with them in place storytelling can become an arena within which a liberatory future can be imagined. In the long-term, we believe, storytelling is the glue fundamental to any hope of cohesion, if not unity.
- Research and investigation are fundamental to an informed implementation of all processes, 'softer' and 'sharper'. It is necessary to the assuming of responsibility before all who have been damaged by oppressive pasts and to any commitment to removing the poison causing the festering deep in societal wounds. It addresses the closed doors labeled 'secret', 'taboo', 'disavowal' and 'lie'. It is dedicated not to the establishment of 'the truth', but rather to the disclosure of all relevant facts. The consequence of a failure to dig deep is continued festering.
- Memorialization provides societies with the symbols and the public education resources that diminish the danger of relevant facts being erased. Instruments range from monuments to new street names, from museums to new school curricula, from anniversary events to new archival institutions, from community-based memory projects to new public holidays. "We will not forget" is an instinct fundamental to taking responsibility before the ghosts of those violated. But it is also an

instinct easily harnessed for the promotion of dominant narratives, the rehearsing of past divisions, and the mobilization of political interests.

- Redress and reparation is essential to the empowerment of those violated – their full participation in the making of a liberatory future is predicated on these processes. The consequence of a failure to implement them is a redrawing of societal patterns inherited from the past. In certain contexts, South Africa for example, a fundamental restructuring of the state and the economy to benefit previously disadvantaged or oppressed sectors of society is unavoidable.
- Punishment of those responsible for violation. This can take the form of lustration and/or prosecution. As hard as it might be, as complex and dangerous as it might seem, the state must ensure a process of punishment for those responsible for past violations. A blanket amnesty for the perpetrators of violation, in our view, can never be justified. Indemnity for crimes against humanity is unthinkable. The consequence is resilient cultures of impunity, lack of accountability, and societal rage. Of course, conditional amnesties are usually unavoidable, agreed to within fraught political and societal contexts. Often amnesty is exercised without use of the term – for instance in limiting the time period for criminal investigation, focusing on 'gross' human rights violations, or limiting investigation to the agents of state terror. The prosecution of individual perpetrators defuses instincts to depict whole societal groups as responsible for violation, something which can fuel the identification of such groups for acts of revenge.

All of these processes require what we are calling 'liberatory memory work'. Justice is unimaginable without it.

# PRACTICE OF LIBERATORY MEMORY WORK

## Contexts and aims

Memory workers cannot avoid being engaged by, imbricated in, and supporting the processes outlined above. Their involvement is fraught with ethical dilemmas, for they are rarely decisionmakers or policymakers. Most often they are minor players, if not footsoldiers, caught up in the contingencies of time, place and prevailing relations of power. Even more fraught, of course, are the contingencies of struggle against oppressive regimes, the waging of war and other forms of violent conflict, and the making of peace. For memory is an instrument of liberation before the end of oppression or conflict. The latter, however, falls outside the ambit of our enquiry. Here we focus on the contingencies of post-oppression and post-conflict.

Our global realities are marked by the use of narratives about the past that serve the interests of a few. In some instances transitional justice is, and has been, used as a means by which to secure a transfer of power between elites. Reckoning with the past may intentionally or unintentionally have destructive outcomes. It may widen the gap between people, spread hatred or prejudice, exploit wounds from the past to instigate violence, or it may support peacebuilding, the healing of wounds, a forgetting of immediate pain and trauma, and a preventing of the recurrence of injustice. The purpose of what we refer to as 'liberatory memory work' is to achieve the latter. It is premised on the need to work with the past, to insist on accountability, to acknowledge and address pain and trauma, and to reveal hidden dimensions of human rights violations - these are key to preventing a recurrence.

The powerful will tend to use memory resources to fulfill the end of remaining powerful. Memory work dominated by particular interests – whether of the state, of the private sector or of civil society – is unavoidably elitist and creates metanarratives that drown out voices that cause discomfort, voices that are marginalized. Liberatory memory work is about troubling such metanarratives and making space for 'other' voices. It may be about dealing with uncomfortable pasts that trouble structures of power, even in a democracy. As such it may be seen to be in opposition to the state, it may be underfunded, and it may be lonely for memory workers. Certainly it will always be complex and painful.

The aim of liberatory memory work is to release societies from cycles of violence, prejudice and hatred and instead to create vibrant and conscious societies that strive to achieve a just balance of individual and collective rights. Ultimately this work is about building a just and inclusive future that transforms the norms, attitudes and ideals which informed oppression and/or conflictual pasts. Liberatory memory work is about making a liberatory future.

## Principles

- Liberatory memory work responds fundamentally to the call of justice.
- It supports the full range of processes designed to create spaces for healing and the prevention of 're-occurrence'.
- It acknowledges that it can never be neutral, impartial or non-partisan and discloses its biases, presuppositions and assumptions.
- It strives to create spaces safe enough for the unsayable to be said and where those who do not even want to see each other can begin to listen to one another's stories. In other words, it is dedicated to establishing the conditions for a fundamental hospitality to what is considered 'other'.
- It resists any attempt to impose metanarratives. Instead it deliberately opens space for sub-narratives and counter-narratives.
- It troubles endeavours to simply replicate prevailing relations of power.
- It honours lives lost or damaged.
- It names 'perpetrators' and 'victims' while resisting the temptation to use these labels without problematization. Its overarching objective is systemic change.
- It is aware of the dimensions of power at play in the role of 'victim' - this includes the danger of 're-victimizing' those who choose or are assigned such labels; and the danger inherent in the creation of a collectivity of 'righteous victims' who may act with impunity to replicate harms of the past.
- It strives to create a shared future for the descendants of 'victims' and 'perpetrators'.
- It enables people to take responsibility for violations done in their name and to take responsibility for the 'other', the stranger, the one condemned to a predetermined role.
- It requires many different disciplines and skills. It should involve people from different sectors of society and should not be owned by 'heroes' and 'victims'/'survivors' only. It is the whole society that may benefit or suffer from the outcomes of memory work.
- It aims to provide the foundation for sustainable cross-generational action that leads to societal change and transformation.

## Timing and cross-generational action

There is no formula for a successful reckoning with the past. And it could take time for a particular society to work out the way that will work best for it (usually related to political realities, the history of the country/region, the form of the transition, the performance of the new leaders, international involvement, the strength of activism, the availability of social networks, among many other factors). So a pause before formal interventions might be unavoidable. The price that must be paid for delay is borne primarily by those who suffered most in the past. It is also possible to initiate formal interventions too quickly. Again, a price must be paid for rushing.

All generations have responsibilities to the ones that precede and succeed them. But the generations that come immediately after one that has been directly affected by past oppression or violent conflict has a particular responsibility for building a just society as a guarantee of non-recurrence. They also face an imperative to acknowledge what happened in the past, in all its complexity. In most contexts this burden is heavy. Finding ways to engage constructively with future generations without making the past too heavy a burden for them is an essential component of liberatory memory work. Reckoning with the past for future generations is complex and requires creativity, sensitivity and recognition of the inter-generational transfer of trauma.

## Self-care

How do memory workers keep going when the weight of responsibility seems so great and the work is so lonely? How do we retain emotional openness and continue to work from the heart in face of both the coldness of a bureaucratic response to human suffering and the immensity of pain? How do we overcome the constant sense of not doing or achieving enough? How do we deal with the disappointments that result from political and other constraints?

Answers to these questions, unavoidably, are subjective and personal. They challenge every memory worker. Keeping the senses open, allowing closeness to pain and suffering, without getting stuck there, is a necessary and inevitable part of being a liberatory memory worker. Consequently memory workers require self-care, consciousness of the effect of vicarious trauma, and the support that comes from solidarity. The labour of artists, counsellors and storytellers are a significant potential resource.

**ULTIMATELY LIBERATORY MEMORY WORK IS ABOUT BUILDING A JUST FUTURE.**