

Institute for International
Law and Justice

**IILJ International Legal Theory Colloquium Spring 2009:
Virtues, Vices, Human Behavior and Democracy in International Law**

Benedict Kingsbury and Joseph Weiler
NYU Law School

Pollack Colloquium Room, Furman Hall 9th Floor, 245 Sullivan Street
Thursdays 4pm-5.50pm

[student seminar also meets separately, Tuesdays 4pm-5.50pm]

Note: speakers' topics listed are indicative of areas, not final titles, and may change

- January 15** - Derek Jinks, University of Texas Law School
Topic: *Humanization and Individualization in the Enforcement of International Humanitarian Law*
- January 22** - Anne van Aaken, University of St Gallen Law School, Switzerland
Topic: *International Investment Law and Rationalist Contract Theory*
- January 29** - Craig Calhoun, NYU Institute for Public Knowledge & President, SSRC
Topic: *The Idea of Emergency: Humanitarian Action and Global (Dis)Order*
- February 5** - Paolo Carozza, Notre Dame Law School and Chair, IACmHR
Topic: *Global Values, Local Virtues – Human Rights, Democratic Self-Governance and International Justice*

- February 12** - **Leigh Payne, Oxford University Sociology (Latin American Societies)**
Topic: *Performances of Power: Paramilitary Confessions in Colombia*

Chapter 1 and Conclusion of Leigh Payne's recent book titled: ***Unsettling Accounts: Neither Truth nor Reconciliation in Confessions of State Violence***

- February 26** - William Miller, University of Michigan Law School
Topic: *Messengers and Intermediaries: Insights from Ancient Law*
- March 5** - Moshe Halbertal, NYU Law School and Hebrew University
Topic: *Pre-Conditions for Forgiveness*
- March 12** - Joseph Weiler, NYU Law School
Topic: *Europe Against Itself: On the Distinction between Values and Virtues (and Vices) in the Construction and Development of European Integration*
- March 26** - Armin von Bogdandy, NYU Law School, Director MPI Heidelberg
Topic: *Problems of International Public Authority*
- April 2** - Pierre Rosanvallon, Collège de France
Topic: *The Metamorphoses of Democratic Legitimacy*
- Tuesday, April 7** - (SPECIAL SESSION, 4:00 pm to 5:50 pm)
Faculty Club, D'Agostino Hall, 110 West 3rd Street
Alexander Somek, University of Iowa
Topic: *Democracy-Enhancing International Law: The Argument for Transnational Effect*
- April 16** - Conference in Honor of Professor Andreas Lowenfeld
(For more information, go to www.iilj.org – all welcome!)
- April 23** - tbc
Topic: *Virtues, Vices, Human Behavior and Democracy in International Law*

Program and papers available at: <http://iilj.org/courses/2009IILJColloquium.asp>

CHAPTER ONE

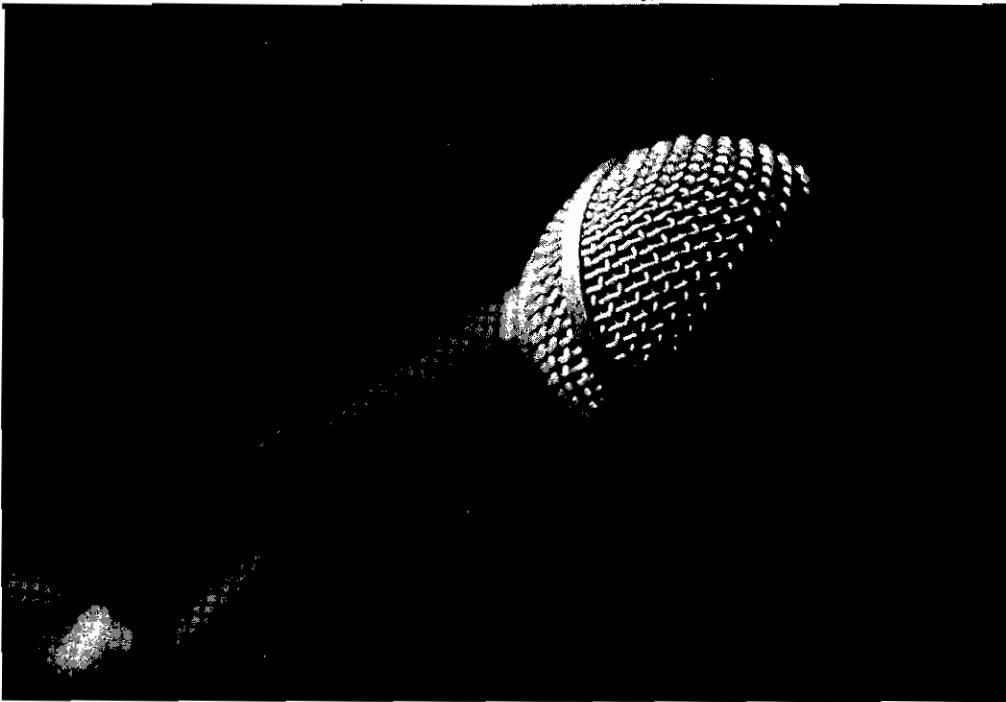
CONFESSIOANAL PERFORMANCE
CONFESSIOANAL PERFORMANCE

If one good deed in all my life I did,
I do repent it from my very soul.

—William Shakespeare, *Titus Andronicus*, 5.3.189–90

THE VILLAINOUS CHARACTER Aaron's confession to committing evil deeds in Shakespeare's *Titus Andronicus* represents a public confession by a perpetrator in a dramatic performance. This is not, however, the kind of performance real-life perpetrators make. Whereas Aaron admits to doing harm and smugly gloats about it, Murray Edelman notes, with an unintended insult to Shakespeare, "Only in bad novels and comic books do characters knowingly do evil and boast of it. In life, people rationalize their actions in moral terms."¹

Real-life rationalizations, however, are no less dramatic than fictional boasting. Perpetrators' confessions are more than mere political talk: they not only *say* something, they *do* something.² They interpret the past. And through that interpretation they advance a political project for democracy. The political meaning behind the confession



Perpetrators' confessions are more than mere political talk.
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generates conflict as others—victims and survivors—challenge perpetrators' interpretations. The ensuing political drama transcends personal stakes in the past and shapes the meaning of the past for contemporary political life.

DYNAMICS OF THE CONFESSIONAL PERFORMANCE

The metaphor of performance is not new to the social sciences. Dramaturgical analyses often emphasize “what performance is taking place or what meaning is being portrayed to an audience and how the elements that make up the performance contribute to that meaning.”³ They focus on “people and groups within the society who have access to resources and who use these resources to invoke and manipulate meaning.”⁴ The specific characteristics of a performance—scene, act, agent, agency, and purpose—provide a set of categories for organizing observations.⁵ Such analyses, however, limit their approach to everyday occurrences by social actors largely unconscious of acting or playing on a political stage.⁶ In a confessional performance, by contrast, a social actor deliberately takes a public stage in a political drama that suspends “normal everyday role playing” and “interrupt [s] the flow of social life.”⁷ Moreover, in addition to the actor and acting, script, and stage, certain theatrical elements—specifically, audiences and timing—produce meaning out of confessional performances.⁸

Perpetrators as Actors; Acting as Perpetrators. Who are perpetrators and why are so many people fascinated by them? Because they are novel, mystifying, or deviant, they intrigue audiences. Audiences perhaps unconsciously believe that they can protect themselves if they know more about perpetrators. Or perhaps audiences find perpetrators' power alluring. Perpetrators, after all, “do” violence; victims are “done to.”⁹ Observers of the South African Truth and Reconciliation Commission reflected on the media's emphasis on perpetrators: “The same kind of intensity of reporting is not afforded to victims/survivors, unless they have high-profile images themselves,” and even then the media considers newsworthy only the “sensational brutality” that victims have faced.¹⁰ The South African dramaturgist Jane Taylor further notes: “What makes the stories of the perpetrators so compelling is, in part, that they are agents: they act upon others. All of the psychological structures of desire, power, greed, fear, identification

are invoked in these accounts. Milton's classic dilemma in *Paradise Lost* was that Satan became the hero of the narrative, because of the inherent interest in his character. A similar effect was evident in the coverage of the stories of [South African perpetrators] de Kock, Coetzee and Mamasela."¹¹

Perpetrators themselves rarely find the characterization appealing. They do not, like Shakespeare's Aaron, embrace the role of the evildoer. Even when they boast about their violent past, they do not accept the implied criminality behind the "perpetrator" label, which they resist for its indelible imprint. A former British Loyalist combatant, for example, preferred language that acknowledged the possibility of changing attitudes and behavior: "I used to be a peace-breaker," he stated. "Now I'm a peace-maker."¹² A recent sociological study refers to Brazilian police torturers as "violence workers," which emphasizes the institutionalized creation of perpetrators, rather than innate and immutable individual characteristics.¹³ For those who have committed authoritarian state violence, the role of perpetrator is neither neutral nor alluring.¹⁴

Public attention may result from fictional and news accounts that depict perpetrators as extraordinarily evil, sadistic, and psychopathic. By contrast, most academic studies consider perpetrators of authoritarian violence normal. The psychologist Dan Bar-On, for example, claims that only 5 percent of Nazi perpetrators could be labeled psychopaths. The remaining 95 percent were motivated to commit atrocities as a result of a particular type of training, socialization, ideology, and power structure. The obedience experiments conducted by Stanley Milgram at Yale University in 1961-1962 concluded that most individuals obey authority, even when ordered to inflict harm on individuals without reasonable cause. Philip Zimbardo's 1971 prison experiments and a 2002 study of Brazilian torturers conducted by Martha K. Huggins, Mika Haritos-Fatouros, and Zimbardo claim that environments that authorize and reward individuals for violent acts breed violent perpetrators. John L. Sullivan, James Piereson, and George E. Marcus found that under the right set of circumstances nearly everyone is susceptible to acting violently against individuals who belong to a group they hate. Nonetheless, the media seek explanations that differentiate perpetrators from "the rest of us": abusive or repressive homes or deep psychological afflictions.¹⁵

Misguided assumptions about perpetrators' psyches run so deep

that even those who know better are susceptible to such prejudices. The journalist Tina Rosenberg, for example, wrote, "I did not want to think that many of the violent are 'people like us': so civilized, so educated, so cultured."¹⁶ The journalist Jann Turner fashioned herself a "Jodie Foster staring down the restrained psychotic form of a South African Hannibal Lecter" when she interviewed an apartheid assassin.¹⁷ I recall vividly the way my own heart beat on the way to my first interview with a perpetrator, assuming that some slip up on my part would make me one more victim of his violence.

Perpetrators, therefore, use social fronts to overcome this image when they take the public stage. Erving Goffman defines *personal front* as "expressive equipment, the items that we most intimately identify with the performer himself and that we naturally expect will follow the performer wherever he goes."¹⁸ He includes among its features insignia of office or rank, clothing, sex, age, racial characteristics, size, appearance, posture, speech patterns, facial expressions, manner, and body language. Perpetrators can thus engage in "the whole theatrical array of gestures, demeanors, costumes, props, and stage devices" to "impress or bamboozle an audience."¹⁹ They make and remake their image; their front is "constantly constructed, negotiated, reformed, fashioned, and organized . . . , a pragmatic piecing-together of pre-existing scraps of material recalling . . . 'bricolage.'"²⁰ These fronts are not cut from whole cloth, but derived from existing and socially acceptable roles. Sometimes perpetrators adopt a front unconsciously and sincerely, believing that it represents their "truer self," the self they would like to be or believe they are.²¹ Alternatively, they may deliberately and cynically construct an appropriate front, either alone or in consultation with their colleagues, family members, or lawyers. These cynical fronts provide a pragmatic "means to other ends," but a perpetrator may also derive "a kind of gleeful spiritual aggression from the fact that he can toy at will with something his audience must take seriously."²²

Perpetrators use other techniques, in addition to social fronts, to diminish negative images associated with their past. Through "doubling," for example, perpetrators present alternative selves and lives.²³ Their social lives appear incompatible with common images of perpetrators, as they portray themselves to be morally upright and religious, good neighbors, and good citizens, doting parents, loving and faithful partners, generous and caring friends. Their work lives appear

beyond reproach: they are dedicated, loyal, and efficient employees, willing to go the extra mile, and obedient to authority. In political life, they exhibit patriotism, duty to the nation, and a willingness to make personal sacrifices. Doubling diminishes the negative characteristics associated with perpetrators.

A "born again" narrative device presents a similar opportunity. In these cases, perpetrators admit to past wrongdoing, but consider themselves reformed and, as such, unassailable. Religious rebirth allows individuals to trade their sinful pasts for saintly presents. Recovering alcoholics and drug addicts among perpetrators use a similar trope. They explain their earlier acts as resulting from intoxication and as incompatible with their new, sober selves.

Primo Levi's notion of the "gray zone" points to how perpetrators reverse roles and identify themselves as victims. They recount or demonstrate the physical or psychological effects of their violence on their lives: drug or alcohol addiction, insomnia, anxiety, depression, or other scars of a tormented past. They suggest that they cannot be held responsible for the violent acts they committed when they were also victimized by those acts.

"To agree to perform is to agree to take a chance"; despite elaborate fronts and narrative devices, perpetrators do not always succeed in convincing their audiences of their "normality."²⁴ They may lack effective acting or narrative skills. Too much contradiction or too many incompatibilities in their performance may render it incoherent to the audience. While they can alter certain personal characteristics (e.g., clothing or hairstyles), other attributes can indelibly mark them as perpetrators (e.g., background, build, movement and carriage, accent and word choice, facial expressions or emotions). Inappropriate performances, as Goffman notes, can derail perpetrators' objectives: "To be awkward or unkempt, to talk or move wrongly, is to be a dangerous giant, a destroyer of worlds. As every psychotic and comic ought to know, any accurately improper move can poke through the thin sleeve of immediate reality."²⁵

Contentious coexistence demands performances by political actors, but it understands that such performances shift across time, stages, and in response to audiences. Those shifts indicate political adjustments made through interaction with other elements in democratic society. Subtle changes in the performance may reveal an understanding and sensitivity to political events, institutions, or actors.

Similarly, those parts of the performance replayed or remembered publicly demonstrate how political meaning changes over time and in conjunction with theatrical and political elements.

Confessional Scripts. Adapting Ndebele's elegant formulation, I argue that confessional scripts allow perpetrators to reinvent their past through narrative.²⁶ Perpetrators do not recount their past as it occurred at the time, nor do they necessarily possess "a claim to truth or accuracy." The stories they tell may be made up, consciously or unconsciously, to fit a particular political moment or personal need.²⁷ They may even contradict the common understanding of confession as an acknowledgment of guilt or wrongdoing. Perpetrators' accounts, or reinventions, of their past include remorse, heroism, denial, sadism, silence, fiction and lies, amnesia, and betrayal.

Audiences often perceive confessional reinventions as deliberate manipulations that minimize guilt, rather than acknowledge it. And sometimes they are. At other times, however, confessions simply reflect the creative process of trying to piece together the past with partial and selective memory. Memory is imperfect and unreliable, as is well known among psychologists, historians, legal professionals, and law-enforcement agents. Perpetrators and nonperpetrators alike tell "vital lies" about their past, sometimes deliberately and sometimes unconsciously creating stories that add meaning and coherence to their lives.²⁸ In their confessions, perpetrators describe how they remember their past, or how they want it to be remembered, reconstructing their pasts through narrative.

Creating vital lies involves several processes. Perpetrators employ, for example, "salvage operations," the conscious or unconscious choice to retain certain parts of the remembered past and to jettison others that do not fit "present-day discourses and desires."²⁹ The present political context acts as a filter, molding and modifying memory "to fit into the understanding and expectations of the society in which it is presented."³⁰ Salvage operations filter and select facts, seeing only what is convenient to see and transforming memory fragments into a coherent and consistent story.

To fill in memory gaps, perpetrators use contrivance, adding details, sometimes out of sequence, or borrowed from other moments or others' memories, or even imagined, but believed to be true. These details give memory body and life, and accurately represent how per-

petrators remember events (or want to remember them), even if they do not match the chronology or factual set of events.

Socialization also frames vital lies. Families, schools, churches, and military institutions shape how people experience events in the past and even teach a specific language for talking about those events, or to avoid talking about them. Over time, social norms or individual attitudes change values and influence the way in which individuals remember their past. Sometimes they may do so according to their new set of values and thus reinvent their past. At other times, they cannot escape the language of memory that they learned originally, and they remain trapped in a particular narrative about the past.

Perpetrators of authoritarian state violence do not speak about their acts of violence at the time those acts are committed. Elizabeth Jelin's ominous statement, "If there are no words . . . there cannot be memories," may explain the absence of confession by perpetrators.³¹ Formal and informal gag rules pervade authoritarian periods. It is common for perpetrators to recount official sanctions and self-censorship that prevented them from talking about their violent acts, even to their colleagues, family and friends, and counselors. Gag rules persist into democratic periods, sometimes through violence, threats, and intimidation. Perpetrators may deliberately erase their violent acts more from consciousness, so they can learn to live with themselves without ghosts and haunting memories. Perpetrators' silence and amnesia not only reflect this learning process, but may also be used instrumentally to avoid reprisals.

When perpetrators do speak out, they often evoke the vocabulary they were taught by the authoritarian regime: denial, justification, excuses, and euphemisms that hide their acts from themselves and others. They may do so even when they feel remorse for their past, for they simply have no other language. The language of war, and particularly "unconventional war" (counterinsurgency), pervades their confessions, sanitizing atrocity. The vocabulary of "interrogating" or "eliminating" the enemy in a "war," for example, obscures the reality of kidnapping, torturing, executing, poisoning, raping, and disappearing prisoners held in covert detention centers.³² Perpetrators characterize the defenseless victims in those camps as ferocious enemies whose defeat requires military virtues of self-sacrifice, patriotism, heroism, and bravery. As soldiers, perpetrators contend, they have a duty to defend the nation from communism, terrorism, or barbarism.

Asserting that the ends (defeating the threat to the nation) justify the (usually unarticulated) means, perpetrators portray themselves as forces of "good" against the forces of "evil."

Perpetrators must justify or excuse these acts only when silence and denial no longer work and evidence of atrocity emerges. In the context of war, as opposed to a human-rights framework, the nature of the violence can be characterized in perpetrators' favor. Perpetrators often blame their enemies, the subversives, for the violence, claiming that the authoritarian regimes in fact prevented more extreme brutality. They point to awards, decorations, promotions, raises, status, and commemorations they received for their bravery against the enemy.³³ And because their accounts "ring true," certain audiences accept them. A Chilean Air Force general's statement is illustrative: "I don't condemn these [military] groups. Probably without them the danger to the country would have been even greater. At first glance into this issue they look like monsters. But the truth is that we owe them a lot for having defeated subversion."³⁴

That perpetrators fail to question their "missions" at the time is not surprising. They often live in isolation in security-force communities. Authoritarian regimes control the media and political opposition, eliminating alternative viewpoints from public debate. Social bonds reinforce allegiance to the regime and its acts through family and friendship networks, parties, and festivities. Religious institutions (most notably, the Argentine Catholic Church and the South African Dutch Reformed Church) often support authoritarian regimes and their acts.³⁵ Only during the transition from authoritarian rule do perpetrators begin to see their acts from a different perspective. Abandoning their vital lies, however, threatens their moral foundations and their beliefs in themselves and in others, so most cling steadfastly to learned, or indoctrinated, versions of the past.

Regime supporters also cling to the heroic version, or salvation myth, of the authoritarian regime. To explain mounting evidence of violence, perpetrators adopt a language of error: human mistakes explain why innocent individuals die in wars; bureaucratic error explains why commanders fail to learn about and stop violence carried out by renegades, rogue forces, and emotionally or mentally unstable elements within the security forces. In pointing to human and institutional fallibility, perpetrators deny moral responsibility for systematic violence. At most, perpetrators may admit to crimes of omission or to

failing to halt the violence, but not to crimes of commission or to acting violently. They condemn the violence, without condemning the regime:

Remorseful and betrayal confessions, rare as they are, break out of these narrative patterns and challenge authoritarian justifications and excuses. Audiences rarely embrace these confessions, doubting their sincerity, judging them to be instrumentally driven, or finding within them the authoritarian regime's justifications and excuses. Such scripts therefore rarely satisfy audiences looking for condemnation of the regime. But some audiences nonetheless use them, as well as other confessional forms, to that end.

Confessional scripts often have multiple, intertwining, and even contradictory narrative strands. While one dominant narrative form—remorse, heroism, denial, sadism, silence, lies, amnesia, betrayal—may emerge, other forms intrude. Confessions also change over time as new information surfaces and as political contexts and opportunities change. Even the dynamic dialogic process initiated by confessions alters those confessions. Perpetrators learn new languages for expressing their views only through interaction with victims and survivors who challenge them. Or they adopt new views, refining their positions to make their arguments precise, more or less inflammatory, or to reclaim their confession after editing or excerpting for public consumption has distorted its original intent. Even subtle changes in a script, or what parts of the script are made public, reveal how actors begin to live with each other in contentious coexistence.

Confessional Stages. Vivian Patraka encourages one to extend the notion of the stage beyond its architecture—"land, buildings, and physical props"—and to include its role in the production of meaning.³⁶ She identifies two types of stage: performance place and performance space. Performance places produce scripted meaning and representation.³⁷ One would expect perpetrators, therefore, to deny their past, remain silent, or claim amnesia to avoid a guilty verdict in court. Plea bargaining agreements, on the other hand, promote betrayal. Truth commissions and mitigation of sentence hearings encourage remorse. "Made for TV" confessions involve heroic, sadistic, or exaggerated fictions. Performance places heavily influence the kinds of confession perpetrators produce.

Performance space, however, complicates scripted meaning and

representation by producing “multiple performances of interpretation.”³⁸ These spaces “not only condition political acts,” they become the sites in which meanings of the past are openly contested and reshaped.³⁹ Performance space opens up access to other political performers. Victims and survivors, for example, may seize the confessional stage, diminishing perpetrators’ control over their confessions and even subverting or derailing the political project they hoped to advance.

Audience responses to media coverage of confessions illustrate the concept of performance space. Although perpetrators might prepare their confession for a particular stage, such as a courtroom or truth commission, the media take it over. “Mediatized” versions of confessions, or those “circulated on television, as audio or video recordings, and in other forms based in technologies of reproduction,” replace the original, live, and uncut versions unseen by most audiences.⁴⁰ Due to official policy, space limitations, location and time accessibility, awareness of the event, or demand, most audiences miss the live version, but catch the mediatized one. Mediatized performances, however, are not faithful copies of the originals. Hours or days of testimony are reduced to minutes on radio and television programs or to a few sentences in a print story. Decisions about what to exclude and include in news stories create meaning that may diverge from the perpetrators’ intended message. The media, for example, seek dramatic material and may distort a confession by reproducing only small segments of it: screams and sobs, anger or laughter, sneers or tears. Camerawork can create or diminish emotion: it can zoom in on perpetrators, making them larger than life, or pull back to invite audiences “to see the pain of others but not to feel it.”⁴¹ Radio broadcasts eliminate explanatory facial expressions. Print media flattens inflection. The media, in short, possess enormous power over what confession the public views and interprets. Because most audiences witness confessions through mediatized accounts, those accounts actually become the confessional event, not an interpretation of it, reinforcing the adage that “we never ‘know’ an event but only its media coverage.”⁴² Mediatized versions thus tend to obliterate the original.⁴³ Being aware of this potential, perpetrators sometimes demand live, uncut, and unedited air time to present their public confession. Otherwise, they might find themselves in the awkward position of challenging their own confession, or what became of it in the media.

Despite their power, mediatized performances do not “speak for themselves,” present one uncontroversial interpretation of perpetrators’ confessions, or dictate political meaning to audiences. Sometimes they accurately depict perpetrators in all their complexity: simultaneously brutal and vulnerable, guilty and innocent, powerful and weak, rendering multiple interpretations of their pasts. Sometimes mediatized versions include commentary from other, even contending, social viewpoints. The media, in other words, become the performance space in which audiences debate the political significance of perpetrators’ confessions to past violence. Even if the media produces scripted meaning and representation, audiences can use the portrayal to challenge those meanings.

The transitional-justice literature focuses on establishing the right set of institutions, often ignoring the role of the media in generating the political meaning around those institutions. The multiple performances of power that occur on transitional-justice and mediatized stages reveal the dynamics of contentious coexistence and how political actors sort out their differences and learn to speak to each other.

Confessional Timing. We live in an age of confession. Guests expose their deep secrets on widely watched television programs like *Oprah*. On websites like postsecret.com, people send in deeply personal and anonymous confessions in art form. Public leaders admit to personal scandals. Governments, nations, businesses, religious institutions, and political organizations confess to past political or social wrongs. Confession arguably has never played such a large role in political and social life. Despite the prevalence of confession, perpetrators remain reluctant to reveal their deepest secrets about the authoritarian past. For the most part, they remain silent to avoid violent or legal reprisals. Personal, institutional, and political factors only rarely succeed in encouraging perpetrators to overcome their fear of retaliation and speak out about their past.

Proximity to death—terminal disease, aging, tragic accident—or more general psychic and physical healing compels some perpetrators to speak out. Approaching the end of their lives or hoping to begin new ones, they realize they have nothing to lose from revealing their past. Indeed, after reevaluating their actions, some may consider atonement for past wrongs as necessary to their personal salvation.

Facing their own death also appears to inspire empathy among some perpetrators toward their victims and victims' families, motivating them to apologize. Public confession offers some perpetrators a pathway to healing from the physical or psychological trauma induced by past acts of violence—insomnia, anxiety, depression, emotional withdrawal, or addiction. Believing that confession will chase away the demons that haunt them, some perpetrators hope to begin a new and healthier life by atoning for the harm they caused to others.

Perpetrators seeking salvation will most likely choose private, over public, acts of confession. Rational calculation, however, drives some to go public with their story. Perpetrators may speak out against their colleagues, commanders, or the security forces in general, if they perceive the risks of public confession to be lower than the risks of silence. A pattern of mistreatment, betrayal, abandonment, or punishment within the security forces, for example, may convince some perpetrators that they will become scapegoats and that public confession may offer more institutional protections than silent loyalty to the outgoing regime. Most perpetrators, however, fear reprisals from the security forces and wait until other perpetrators test the explicit or implicit threats of disloyalty.

Confessional chains often occur, with one confession unleashing similar ones.⁴⁴ These chains sometimes arise only after one perpetrator has tested the safety of speaking out and cleared the way for subsequent confessions. Confessional chains also emerge when perpetrators attempt to “correct” impressions created by earlier admissions, thus clearing perpetrators' besmirched names or reputations. Confessional chaining also occurs when journalists, prosecutors, or other perpetrators “out” perpetrators, encouraging them to go public with their own story. Confessional chains may also result from rumors about financial or legal rewards for incentives. Chaining sometimes affects only particular security branches, since other sectors may prove more effective in ensuring silence.

Political transitions create particular institutional and material incentives that motivate some perpetrators to speak out despite potential reprisals. Perpetrators sometimes consider silence the greater risk, particularly when institutional arrangements offer amnesty in exchange for confession, as in the South African Truth and Reconciliation Commission, the Rwandan *gacaca*, and state witness programs. Perpetrators' decisions to confess may depend on internal calcula-

tions about the likelihood of exposure or trial. Institutional arrangements that reduce prison lengths, such as plea bargaining or mitigation of sentence hearings, also induce some perpetrators to speak out in exchange for their freedom.

Perpetrators may also anticipate material rewards or fame for their confession. Media outlets sometimes pay perpetrators for their stories or make them celebrities. Thus some perpetrators actively peddle their stories, often exaggerating their material value. They write, or plan to write, confessional books, though few achieve significant sales, material benefit, or fame. Only those perpetrators who work with journalists to tell their story gain access to a wider audience. Contentious coexistence emphasizes how unfolding and ever-changing political dramas, and not personal and institutional incentives alone, motivate perpetrators' confessions.

Confessions begin cautiously, reasserting safe euphemisms and coded speech. Over time and in interaction with victims and survivors, perpetrators must learn a new way to speak about their past. Attitudes change when language changes, and perpetrators thus begin to comprehend another point of view. As Jelin notes, "With time, and with historical, political, and cultural processes developing, there will necessarily be new processes of giving meaning to the past, with new interpretations. Thus, revisions, changes in narratives, and new conflicts over interpretations will have to arise."⁴⁵ The very act of public confession, in other words, forces perpetrators to understand, sometimes for the first time, what they did and its impact on individual lives and the nation's history. In explaining to those "outside" the repressive apparatus exactly what took place, and particularly in being questioned by victims or their representatives, perpetrators begin to see themselves and their acts without the protective shield of official discourse.⁴⁶ The confessional act allows perpetrators to "know" the event: to speak the unspeakable and to inscribe the event for the first time, by breaking with the official version and the silence imposed on them. Sometimes confessions appear long after the end of authoritarian rule. As evidenced by the capture and trial of Nazi war criminals, late confessions can incite political drama and contentious debate long after the atrocities have ceased.

Confessional Audiences. Following Stanley Fish, I argue that confessional texts are devoid of meaning on their own and require "interpre-

tive communities” to create meaning.⁴⁷ In the case of perpetrators’ confessions, such communities emerge among the audiences who witness them. Although perpetrators try to control interpretations of their performances, audiences hijack them and impose their own meanings. Confessional audiences resemble Augusto Boal’s notion of the spectator who “no longer delegates power to the characters either to think or to act in his place. The spectator frees himself; he thinks and acts for himself! Theater is action!”⁴⁸

Alfred Jarry asserts that the process of audiences interpreting performances is inevitable. “In any written work,” he writes, “there is a hidden meaning, and anyone who knows how to read sees that aspect of it that makes sense for him.”⁴⁹ Audiences do not uncover meaning deliberately or unconsciously hidden from them. Instead they use confessional performances to advance their own political projects. Confessions act as catalysts and as tools: as catalysts, they spark debate over issues previously silenced or dormant in society; as tools, they give their audiences a performance they can use for their own ends. Audiences mine confessions for what the perpetrators say and intend, how they say it, who they are, and where and when they perform.

Audiences do not approach confessional performances uniformly or in a political vacuum.⁵⁰ They bring to them backgrounds, experiences, political perspectives, and vested interests that shape interpretations. Audiences react to confessions from any of five pre-established positions: cynical, traumatic, healing, retributive, and salvational. Victims and survivors (and those sympathetic to them) approach confessions from cynical, traumatic, healing, and retributive perspectives. Authoritarian-regime supporters approach confessions from traumatic and salvational perspectives. Each position involves a corresponding political project.

Cynical audiences disbelieve that perpetrators will reveal the truth about the past. They consider perpetrators sufficiently powerful to avoid serious penalty. They presuppose that confessions will comprise cover-ups, denials, and blaming-the-victim strategies. They discount remorseful confessions as insincere. They assume that perpetrator confessions are instrumental: to avoid trial and conviction, to reduce a prison sentence, to profit materially, or to heighten power and prestige.⁵¹ In the cynics’ view, perpetrators who undergo the transitional-justice process will emerge unscathed and even seem virtuous.

Anticipating a losing power struggle with perpetrators, cynical audiences advocate nonprosecutorial, victim-driven truth commissions that silence perpetrators. El Salvador's truth commission, for example, allowed victims and survivors to name perpetrators, identify their acts of violence, and condemn that violence, while it excluded perpetrators from the political process.

Such a model is inconsistent with contentious coexistence. By endorsing censorship and political exclusion, it encourages antidemocratic processes. Moreover, it tends to isolate perpetrators in an authoritarian enclave, enhancing their potential power and appeal in society. In contrast, subjecting perpetrators' ideas to public scrutiny "narrows the range of permissible lies" and shrinks their political power, preventing them from developing sacred and unimpeachable doctrine.⁵² Cynics' rigid position on perpetrators also ignores complex layers of guilt and responsibility for antidemocratic attitudes and behavior within perpetrator and victim communities.⁵³ Transparency, critical thinking, and practiced debate over the past provides the opportunity to build a stronger democratic culture. In their understandable desire to remove perpetrators from positions of authority, cynics may, paradoxically, enhance their power and weaken democratic practice and outcomes.

Traumatic approaches, like cynical ones, call for silencing perpetrators, but for different reasons: they aim to shield victims and survivors from reliving authoritarian violence, regime bystanders and new generations from witnessing violence by hearing confessions, security forces from institutional breakdown over confessions, and democratic society from political polarization. The traumatic approach is premised on the notion that witnesses, particularly victims and survivors of authoritarian state violence, do not experience confessions at a safe and critical distance, but as part of their present lives. Perpetrators' confessions invade their safe spaces, entering living rooms through the television, kitchens through the radio, daily routines through newspapers and headlines in newsstands, and conversations with friends and colleagues through popular references to the confessional event. Moreover, public confessions catch witnesses unaware, who do not choose and cannot prepare themselves for the encounters. Like smells and words or other mental and physical reminders of a violent past, seeing or hearing torturers in the media

traumatizes and retraumatizes individuals, creating states of fear, helplessness, and paralysis.

Perpetrators have a particularly profound impact on victims and survivors. Sadistic and heroic confessions justify violence and exaggerate victims' roles in threatening the nation. Heroic confessions often praise fallen victims and denigrate survivors who "squealed," which erodes survivors' integrity. Denial prevents victims and survivors from confirming the violence they experienced and its traumatic impact on their contemporary lives. Confessions; the traumatic approach contends, assault victims and survivors once again, paralyzing them with fear, forcing them to withdraw into silence and self-blame.

Confessions expose to atrocity, sometimes for the first time, those who did not witness or experience authoritarian state violence; thus they traumatize bystanders and post-authoritarian-era generations, particularly victims of physical or psychological abuse. Bystanders also face the heightened trauma of guilt for disbelieving victims' accounts, for blaming victims, for supporting a regime capable of such atrocity, for failing to act to prevent the violence, and even for benefiting from authoritarian rule.

Democratic society faces trauma when old ideological and political positions reemerge and threaten political stability. Many supporters of the democratic process fear a destabilizing battle of "memory against memory." They imagine that authoritarian forces might remobilize and reverse the transition to democracy. To avoid such an outcome, many support the "pragmatic" solutions of silencing debate over the past or of forming highly proscribed truth commissions, as in Chile, in which neither perpetrators' names nor specific acts appear.⁵⁴

Members of the security force may support the same position if they feel that the military institution is threatened by fragmentation. They may advocate blanket amnesty and silence, as in Brazil, to avoid tensions between softliners and hardliners in the military and between new and old generations of security forces, and to prevent finger-pointing between military branches. Strong and united national defense, this audience contends, protects citizens and the nation from trauma.

Contentious coexistence argues that democracies cannot suppress debate. Efforts to do so will generate conflict between "social forces

that demand markers of memory and, on the other [hand], those who seek to erase these markers," and over who is authorized to remember the past and what form of remembering is appropriate and legitimate.⁵⁵ Ultimately it may prove more disruptive to democracy to censor political memory than to allow it, no matter how painful the trade-off between psychological harm to individuals and potential benefits for the political system.

Healing audiences consider open dialogue, including participation by perpetrators, essential to the health of individuals and society. The healing process begins with perpetrators' acknowledgment, through confession, that violence occurred. That acknowledgment verifies victims' accounts, allowing them to overcome the taunts of their victimizers that no one will hear or believe their stories. Confessions have the potential to confirm victims' previously unspoken, unheeded, or disbelieved experiences.⁵⁶ Psychologists contend that societal silence perpetuates victims' self-blame, confusion, and rage, all of which prevents recovery.⁵⁷ To restore their mental health, victims and their families need it to be known that *someone* committed undeserved, unlawful, and immoral violence against them. Even if perpetrators fail to fully disclose details or apologize for their acts, the debates they engender acknowledge and condemn past violence. The South African scholar Hermann Giliomee captures this effect when he states, "A nation . . . is built on great forgettings and great rememberings." Donald Woods adds, "We used to hear so many complaints in the bad old days that the allegations of people like ourselves against the security police were exaggerations; were unpatriotic, . . . and untrue."⁵⁸ Confirmation of those "exaggerations," through perpetrators' confessions, restores the credibility of those who witnessed, endured, and condemned past violence.

Confessions further aid the healing process by providing missing details: who did what, to whom, when, where, and how. Sometimes only perpetrators witnessed these acts or survived to tell the story. With this information, families of victims may undertake healing rituals of burial and mourning. Legal death certificates, based on perpetrators' confirmation of facts, also release life-insurance policies or pensions needed by families for their physical survival and well-being, particularly when the victim contributed significantly to the household income.

Therapeutic and religious communities advocate forgiveness as

necessary for individuals building a new life after violent events. Forgiveness releases victims and survivors from harmful, unresolved, and undifferentiated anger and removes perpetrators' power over them. While nearly all members of the healing community concur that victims and survivors need to know what they are forgiving for the process to be effective, they disagree over the significance of perpetrators' remorse to that knowledge and forgiveness.⁵⁹

Perpetrators' confessions, particularly remorseful ones, may contribute to healing societies as well as individual victims. They provide a route for perpetrators to restore themselves in the community, rebuilding what they destroyed by explaining their past and asking forgiveness.⁶⁰ Confessions also contribute to a clear and official history of violence. When perpetrators admit to what they did, they render doubt impossible. As South African journalist Donald Woods states, "Even the supporters of such people in the past have had to confront the fact. They've heard this coming out of their own mouths, of these people, now. These unbelievably terrible things for one human being to do to another. And to admit it. And to say 'I hit him on the head with a steel sjambok,' 'I stabbed him so many times,' 'I burned the body.' . . . Now at last surely they have to accept [that] these things happened."⁶¹

The South African Truth and Reconciliation Commission, with its institutionalized confessional process in the Amnesty Committee hearings, its confirmation of victims' testimonies in the Human Rights Violations Committee, and its array of psychologists, social workers, and religious figures to encourage healing and forgiveness, embodied the healing audience's ideal. Advocates of the Rwandan *gacaca*, or community courts, also consider perpetrators' acknowledgments of guilt for violent acts and their atonement through community-service projects to be crucial components of reconciliation and restoration of trust in communities torn apart by genocide.

But the healing approach is not without its critics. Forgiveness as a component of healing and reconciliation, some critics contend, places undue burden on victims and survivors. Not only must they recover from their traumatic pasts, but that very recovery hinges on forgiving those who injured them. Other critics question whether memory-as-healing may backfire, creating antipathy toward victims and survivors who resolutely press their demands despite other important concerns in society. Some observers question whether endless memory heals,

or if health might instead depend on putting the past in the past.⁶² Indeed, advocates of retributive justice consider trials, and not restorative justice, healing for individuals and societies because they restore the equality of victims and perpetrators before the law, establish knowledge and acknowledgment of wrongdoing, and set precedents that deter future violators.⁶³

Punishment approaches advocate confessions in the context of retributive justice. Such audiences consider trials for crimes committed by authoritarian states to be essential to establishing rule of law, strengthening democracy, and deterring future human-rights violations. Confessions play a crucial role in this process by establishing the facts of the crimes: what happened, when, where, by whom, to whom, and on whose orders. Court trials, moreover, signal the democratic government's break with the authoritarian past and its commitment to legal, procedural, and moral guarantees for citizens—key ingredients for reestablishing the trust between citizens and governments destroyed by authoritarian rule. Blanket amnesties, on the other hand, as Paul van Zyl notes, “undermine the rule of law, provoke anger and cynicism among victims and citizens, and promote impunity.”⁶⁴

“Trials,” moreover, “are meant to teach a lesson.”⁶⁵ They demonstrate equality under the law. Illegal activities of all citizens, including elite political forces, will be judged by the laws of the country. When investigation and prosecution indict regime criminals, all citizens recognize that neither silence, nor orders from above, nor political favor provides immunity.⁶⁶ Before making or executing illegal orders, potential perpetrators must first judge whether to risk prosecution, whereas past perpetrators, who believed that their crimes would go unpunished, were unconcerned with such considerations.

Most critics of deterrence focus on lack of evidence. Deterrence theories assumed that the Nuremberg Trials established the threat of prosecution for war crimes that would prevent subsequent perpetrators from committing atrocities. They cannot explain why perpetrators of post-World War II genocides and authoritarian state violence ignored that threat. The paucity of other domestic and international trials hardly convinces perpetrators that they will face adjudication for illegal acts; on the contrary, it indicates that most perpetrators literally get away with murder.⁶⁷ Until trials become standard procedure, impunity will reign. Moreover, some critics contend that if trials were to effectively prosecute perpetrators of state violence, lead-

ers with criminal records would simply attempt to retain power rather than risk prosecution by stepping down. In sum, existing evidence does not link retributive justice to deterrence.⁶⁸

An additional criticism of the retributive approach is the impact of failed trials. When prosecutors lose cases, perpetrators are fully exonerated. They are not pardoned or amnestied; they are found not guilty. These losses send a strong signal that perpetrators can, if charged, "beat the rap." They also challenge the strength and capacity of the judicial system. The famous acquittals in South Africa of Magnus Malan, the head of the apartheid police force, and Wouter Basson, a chemical-weapons expert working for apartheid intelligence, demonstrate that despite overwhelming (but circumstantial) evidence of guilt, courts do not always convict. Unsuccessful trials may do more harm to building rule of law and deterrence than no trial at all.

A salvational approach emerges among supporters of the authoritarian regime: passive and active, military and civilian, formal members of the dictatorial state, and nonstate actors. Salvation-oriented audiences embrace confessions that defend the regime and glorify its heroic role in saving the nation from subversion. They obliquely accept torture and killing as the only means to end the chaos and violence wrought by the enemy forces. They also point to legal documents that legitimize the regime and its use of force.

Such a view of a regime's duty rejects remorseful confessions and attempts to silence them. Security forces and their supporters employ a variety of tactics to suppress penitent confessions: ad hominem attacks, intimidation, and even violence. Regime supporters raise public questions, for example, about the sincerity and knowledge of remorseful perpetrators, suggesting that they work for the regime's enemies. They produce evidence of financial instability to suggest that such perpetrators have offered up fictitious confessions to the highest bidder. And they drag skeletons out of perpetrators' closets: addiction, mental-health problems, divorce.

At times, these tactics may actually backfire: the existence of financial or personal difficulties may *confirm* the traumatic experiences these perpetrators endured in their secret, violent lives; intimidation and violence against remorseful perpetrators legitimizes their claims by exposing the coercive apparatus that produced their violent acts. Nevertheless, by painting remorseful perpetrators as rogue forces willing to lie for financial rewards, salvational audiences often suc-

cessfully attribute the violence to immoral individuals, or "bad apples," in the otherwise noble security forces.

Indeed, salvational audiences share, at least publicly, respect for human rights and condemn individual "bad apples" who committed crimes and tarnished the regime. They even appropriate the language of human rights. When they cry "Never again!" however, it is a call for vigilance against the left-wing "subversion" that threatened political stability and required the military to restore order. They accuse the "subversives" of violating human rights and applaud the regime for ending the threat of communism. They sometimes consider transitional-justice mechanisms to be orchestrated efforts by the same leftists who had toppled the nation's security to amass power and undermine their adversaries in the security forces.

Although sometimes dismissed as a lunatic fringe, or as unpopular extremist elements left over from the authoritarian period, salvational audiences are spurred into action by confessions. In addition to denigrating remorseful perpetrators, they endorse heroic ones. The media calls on them to represent regime views. They resonate within some sectors in society precisely because their position does not appear to be a "tissue of lies." They also give voice to a silenced constituency—those who quietly support the past authoritarian regime, despite evidence of wrongdoing and a changing political climate.⁶⁹

Bringing even these extreme views into public dialogue can prove healthy for democracy. Contentious coexistence claims that public debate exposes the weaknesses in the views under discussion. Regime supporters may feel that salvational audiences harm the regime's image more than do victims and survivors. They may continue to support the regime, but distance themselves from the extreme positions taken by salvational audiences. Public debate, therefore, can help erode social polarization by creating a range of different perspectives on the past.

CONTENTIOUS COEXISTENCE AND THE CONFSSIONAL PERFORMANCE

"Democracy was born in transgressive acts," proclaims Sheldon Wolin, and confessional performances certainly qualify as transgressive.⁷⁰ They make profound disagreements over the past audible, visible, physical, and public. They provoke conflict, as audiences clash

over interpretations of the past and their meanings for contemporary democratic practice. Deep and irreconcilable schisms emerge in response to perpetrators' confessions, the kind of schisms that had undermined earlier democratic experiments and ushered in repressive authoritarian rule. These schisms divide the armed forces, weakening national security. They retraumatize victims. They reassert authoritarian versions of national values. Multiple, logical, and reasonable motivations therefore exist for stifling perpetrators' transgressive confessions and preventing them from undermining democratic governance and culture.

Because of the conflict they generate, unsettling accounts challenge some aspects of deliberative democracy, the main dialogic approach to democratization. On one hand, unsettling accounts share with deliberative democracy the goal of having "citizens of a liberal state. . . . learn to talk to one another" to "solve their ongoing problem of living together."⁷¹ Yet participants in confessional performances tend to violate some of the prerequisites advocated by scholars of deliberative democracy. They rarely accept, for example, "gag rules" or "conversational constraint." For that reason, some scholars would most likely put contentious issues like past authoritarian state violence "off the conversational agenda of the liberal state."⁷²

I argue instead that confessional performances can contribute to democracy through public dialogue and deliberation. I make five central claims about building contentious coexistence in new democracies. First, issues of state violence cannot be kept out of public discussion. Perpetrators confess. And when they do, they generate deep dialogic conflict. Despite efforts by democratic states to legislate and in other ways to prevent such debate, it happens. Explosive emotions overwhelm even those institutional mechanisms designed to steer debate toward constructive and reasoned deliberation. Emotional intensity and irreconcilable differences obliterate such constraints. Issues of state violence remain on the conversational agenda of new democracies because citizens demand it, and the media loves it.

Second, new democracies, and even established ones, would be better served by embracing these issues. By doing so, they would recognize public demand to wrestle with underlying tensions over the past. Confessional performances engage core democratic values: free speech, justice, and protection of human rights. Democracies cannot afford to suppress this debate. Dialogue, as Bruce Ackerman points

out, is "the first obligation of citizenship."⁷³ To repress it is to settle the past through silence and presumed agreement. "We gain nothing of value by falsely asserting that the political community is of one mind on deeply contested matters," Ackerman warns.⁷⁴

Third, dramatic political performances, like confessions, put democracy into practice. They increase democratic participation and debate over important political issues. Audiences pay attention to confessions because of the drama they generate: the rupture of silence; novel, "insider" perspectives; lurid language about violence; engaging acting; emotive speech; exciting media coverage; and loud, visible, intense, and conflictive audience response. These aspects of the confessional performance draw in not only participants among those directly affected by, or involved in, the regime's violence, but include those who were "neutral" bystanders during the authoritarian regime and new generations of citizens. Confessional performances become catalysts for broadening political participation and expanding political debate.

Through participation and debate, citizens exercise democratic rights. Expressing views contrary to those prevailing in society puts free speech into practice. It can also improve the quality of debate. When perpetrators make public confessions, they must carefully consider what content and presentation style is most likely to convince their audience. The ensuing dialogue, moreover, forces confessors to refine their statements, to adopt more effective language, better argumentation, more precision or clarification. Through this process, perpetrators sharpen their own thinking and understanding of the conflict.

Debate is not one-sided. Audiences participate not only in listening but also in speaking. They begin to understand the issues at stake, particularly in highly dramatic political spectacles. Performance makes issues matter to their audiences. Exposed to a range of opinions and responses, listeners begin to formulate their own political views. Confessional performances put democratic contestation and access to information into practice. As Seyla Benhabib succinctly argues, "Deliberation is a procedure for being informed" and for creating an "enlarged mentality" in society.⁷⁵

The process of political speaking and listening teaches a new language and exposes citizens to contending perspectives that are unavailable when debate is silenced. When perpetrators initially speak out, they draw on the terminology and the beliefs they learned

through socialization in the security forces; while such indoctrination may not reflect their true nature, it has become their only language and identity. The performance of confession, particularly in its interaction with audiences, teaches perpetrators new words that might more accurately reflect their personal convictions. It also forces them to confront alternative perspectives on the past and to reconsider their own accordingly. Through performance, perpetrators gain confidence in their views, even as those views are altered by the process. When they see and hear the harm they have done to citizens and families, their “insider” ideas of the past may change.

Putting democracy into practice also involves the development of mobilizing skills that allow groups to compete. With regard to participation in confessional performances, Jelin identifies “memory entrepreneurs,” or leaders who translate events—such as confessions—into political action projects. “Memory militants” carry out those projects. Both of these political actors play an important role in gaining proximity to the public stage, helping members of the group to overcome opposition and intimidation and to speak out, and establishing the group’s moral legitimacy within society. While Jelin cautions that overly successful mobilization may lead to “memory saturation” and “memory backlash,” or resistance among even sympathetic audiences to focusing exclusively on past authoritarian state violence, new confessions by perpetrators can energize dormant memory movements.⁷⁶

Fourth, contentious debate shifts power relations in society, which could lead to more democratic outcomes. However, democratic scholars and practitioners fear that contention could cause polarization and a political battle for victory by the more powerful group. Such a victory could then lead to a controlling elite, since the elite possess more political resources in liberal democracies. Jane Mansbridge advocates fostering “enclaves of resistance” that challenge elite power through debate.⁷⁷ That model, while attractive in terms of increasing dialogue, could intensify political polarization over contentious issues, since it pits a group of citizens against the state. To prevent the potentially destabilizing effects of polarization, new democracies try to silence competing enclaves (e.g., pro-regime vs. anti-regime) and navigate a middle road toward consensus about the past. The search for neutrality and consensus on highly contentious political issues, however, has proved ineffectual.

Such a search may also be unnecessary. Contentious coexistence claims that dialogue breaks down opposing poles, whereas censorship entrenches them. Mansbridge explores the negative impact of isolated, or censored, enclaves. If the members of a group speak only among themselves, they understand only one language and one set of values. Shielded from public debate and scrutiny and protected from argumentation, loyal members unthinkingly adopt the group's philosophy. Public discussion of these views could expose them as unsupported by available evidence and thus erode their appeal within the group. To avoid such erosion, enclaves may attempt to refine their ideas to better meet rhetorical challenges. In the process, their extremist supporters may split off, accusing the group of capitulating to moderate influences. The dialogic process thus promotes moderation and weakens political polarization.

Iris Young considers dialogic processes themselves as shifting power relations by promoting "a conception of reason over power."⁷⁸ Argumentation becomes a political resource accessible to a variety of groups. Opening up the debate to contentious, performative, and emotive forms of speech makes the process more inclusive and shifts power resources toward groups incapable of "dispassionate and disembodied" speech.⁷⁹ Young describes this process as understanding "differences of culture, social perspective, or particularist commitment as resources to draw on for reaching understanding in democratic discussion rather than divisions that must be overcome."⁸⁰ Contentious debate, in short, not only attracts a wide range of citizens but also increases their access to political resources (talk) so that they can influence political outcomes.

Confessional performances fit Young's analysis by shifting political power away from the authoritarian regime and toward a human-rights and justice agenda. This happens through the public performance that puts into public debate denial, justifications, and excuses for authoritarian state violence. Once such rationalizations become public, victims and survivors and human-rights activists can challenge them. They can mobilize their own constituents in performative acts that produce evidence and argumentation that refute authoritarian versions of the past. They gain access to the media. They expose bystanders and even some pro-regime elements in society to the hypocrisy of such versions. They thereby erode authoritarian notions. Confessions spawn debate around issues of concern to the public, and

they also provide the framework to contest interpretations on these matters. Their emotional intensity and significance allow groups to develop effective argumentation for or against them.

Fifth, the bonus of contention is more democratic outcomes. Although deliberative-democracy approaches emphasize process over end results, promotions of such models are certainly motivated by the pay-off of democratic outcomes. And although contention cannot guarantee democratic outcomes, they are nevertheless an expectation inherent in the process: participation in political debate, development of political (dialogic) resources, skillful use of those resources, and the shifting of power balances toward previously silenced or excluded groups.

Public debate can strengthen democratic norms. To participate in public debate, one must develop a new—democratic—language. Thus, perpetrators would not publicly advocate kidnapping, torturing, killing, or disappearing citizens; they would instead use euphemisms acceptable in democracies: detention, interrogation, and defeat in war. They adopt the language of democratic norms, advocating justice (for war crimes committed by the enemy) and human-rights protections (for security-force members and their families). Although a new idiom may merely disguise old attitudes, it can also play a transformative role. In shifting the terms of the debate, perpetrators reflect a shift in norms. By articulating those norms, they diffuse them. In diffusing them, perpetrators not only satisfy the guardians of democratic order but also incorporate the democratic currency of debate into their own segments of society. Everyone, in other words, becomes a democrat, at least linguistically. Authoritarianism, albeit defended as politically expedient in the past, garners little support today.

Democracy as a preferred political system generates little debate, in other words; what is debatable is the quality or extent of democracy and the means by which it is achieved. By using the language of human rights, justice, and free speech, perpetrators' confessions reinforce that language as a measure for assessing democracy. Groups within society may not agree on definitions of human-rights violations, but they agree in condemning them as a whole. How justice is served will evoke deep ideological debates, but consensus around democracy dictates *that* it be served.

Contention over the past does not disappear; it remains unsettling and unsettled. Yet contending groups learn to live together—to coexist

—with their irreconcilable differences in flawed democracies. They learn, through practice, to use the political resources of speech to negotiate the terms of democracy. In the case studies that follow, conflicts generated by perpetrators' confessions exemplify contentious coexistence. In each of these cases, organized groups of human-rights activists, victims, and survivors have found the means to use confessions to advance their particular goals for democracy. They have often overcome great obstacles, including internal conflicts, in the process. They make the case for contentious coexistence as a democratic model.