

Terrorism in Punjab & Closure in a Comparative Context: It ‘Ain’t’ Over ‘Till It’s Over

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Punjab’s Khalistan movement arguably ended in the early 1990s. Cessation of a terrorist movement, however, may be temporary unless the causes and consequences of violence are resolved. If a reasonable degree of closure is not secured, if the issues and situations that led to violence are not sufficiently resolved, then political violence and terrorism can reappear. Burying its head in the sand does not resolve society’s traumatic period of violence. Various institutional means of efforts to deal with root causes are sought in this chapter’s seven case studies. Secondly, it is argued that human rights are in the interests of all the contending parties as popular legitimacy is their mutual goal. Excessive violence and intimidation is counterproductive to whoever employs terrorist tactics. Communicating that to the contestants is a major challenge. Codification may be possible in a manner that is similar to the Geneva Conventions for war.

“The past is never dead. It’s not even past.” William Faulkner

Introduction¹

Punjab has yet to engage seriously in closure following the official end of the decade-long Khalistan movement in India in 1992. Even Nepal is busily engaged in closure actions related to its Maoist insurgency from 1996 to 2006. A Truth and Reconciliation Commission (TRC) and a Commission of Investigation on Enforced Disappeared Persons (CIEDP) were formed on February 2015. As of June 15, 2016, the TRC had received 33,592 complaints, while the Nepal CIEDP registered 2,084 complaints as of June 12, 2016 (SAIR 2016). Punjab has yet to engage in any of these closure actions. Punjab will be the last of the case studies considered in this chapter. Each of the case studies reflect particular responses to the need for closure, some more or less successful than others.

“It ain’t over ‘till it’s over” is street language conveying common sense and wisdom. A grass roots approach is essential so as to centrally involve the population; the major target for legitimacy of militant groups as well as the state. Cessation of political violence does not deal adequately with the causes and consequences of the violence, and the wounds remaining in the human survivors and/or national psyche. If a reasonable degree of closure is not secured, if the issues and situations that led to violence are not sufficiently resolved, then political violence and terrorism can reappear. Burying its head in the sand does not resolve society’s traumatic period of violence.

A second basic concern is to anticipate the need for closure. Efforts can be attempted to build-in measures involving closure during the violent conflict. If meaningful efforts are made early, then actions to solidify closure following the termination of violence can be more effective. Idealism is not sufficient. A pragmatic approach will be presented in the conclusion.

Consequently, this chapter has two concerns in regard to closure. First, closure should be clearly identified as to the means and as a core element to the burgeoning literature on terrorism.² There already are a large number of institutionalized efforts undertaken to attempt a healing process for societies that have been wracked by political violence and the now current term -terrorism. No one measure or formula fits all situations, although a few general principles will be set forth. A summary of these efforts at closure in the context of brief case examples comprises the major part of this paper.

Then, suggestions will be made in the conclusion for including closure as a key concern during the periods of violence. The focus of this section will be on institutionalizing human rights, especially for the state but also for the anti-state movements. This dimension is less charted than post violence efforts at closure. Nonetheless, it will be argued in the conclusion that human rights are in the interests of all the contending parties in regard to their goals. Excessive violence and intimidation is counterproductive to whoever employs terrorist tactics. Communicating that to the contestants is a major challenge. Codification may be possible in a manner that is similar to the Geneva Conventions for war.

There is one final caveat on the need for closure. It continues to amaze me that the terrorist "industry," exploding with specialists, expert studies and textbooks, does not include closure. I engaged with fellow specialists on a two-year book project, published by the U.S. Institute for Peace in 2007, which produced fourteen case studies on terrorism and counterterrorism in democracies. My chapter is on India (Wallace, 2007). During our draft presentations to the entire group, positive comments about my chapter on Kashmir and Khalistan were tempered by the questioning about the sections on closure. I defended the inclusion of closure, but had only limited time to make my defense. Clearly, the notable specialists did not recognize the subject as important to counterterrorism. Later that day, a very senior British scholar presented his chapter on a South American country. Counterterrorism efforts by the state succeeded in the 1960s, he concluded, but he remained puzzled as to why political violence returned in the 21st century. "It is because they didn't have closure," I bellowed out. No one questioned me after that outburst, but neither did any of them include closure in their chapters.

Various Efforts at Closure

More than thirty nations during the past three decades have attempted some form of closure involving commissions and courts. An academic discipline termed "transitional justice"³ is developing with a new language: "retributive justice," "restorative justice," "historical clarification," and "lustration" (Schmemmann, 2001). There is no formula for closure. Nonetheless, there are a variety of efforts

that should at least be examined as providing a beginning. Most notable in providing an institution for truth telling and working toward closure is the Truth and Reconciliation Commission (TRC) pioneered by the Union of South Africa in 1995.⁴ TRCs are laudable and necessary, but there is difficulty in evaluating their success.⁵ Partly, the problem is that closure efforts inevitably necessitate compromises and may not satisfy the need for justice. Nonetheless, TRCs do confront the past rather than adopting an ostrich-like position of ignoring it. Truth and Reconciliation Commissions also were established in Chile in 1990⁶ and Peru in 2002.⁷ Nepal's TRC and CIDP formed on February 10, 2015⁸ became the 31st state established commission. In 2007, for the first time, a nation's TRC reached outside of its own border to gather the personal stories that are so important to closure. In this case, the Liberian TRC reached across the ocean to Staten Island in New York.⁹

The Union of South Africa Truth & Reconciliation Commission, 1995

Two cases from the Union of South Africa TRC hearings illustrate the range between success and near failure. First is what can be termed "the Amy Biehl Case."

Amy Biehl died in 1993 in a black township in the Union of South Africa at the hands of angry black youths who saw her as a symbol of white oppression. To the contrary, while she was a white student at Stanford University, United States on a Fulbright Fellowship, Amy opposed racist apartheid policies. Four years later, after apartheid had ended, her killers confessed before the Truth & Reconciliation Commission (TRC) in the presence of Amy's mother and father, Linda and Peter Biehl. The Biehls accepted the killers' repentance. Reconciliation rather than revenge or retribution is their philosophy. Accordingly, Linda and Peter Biehl started a foundation in Amy's name to ameliorate the problems of black youth, the root cause that led to their daughter's death. Peter died in 2001, but Linda continued to spend about six months a year in the Union of South Africa engaged in the social service begun by Amy.

Ariel Dorfman, a member of the TRC replied to a question by Peter Biehl on closure with the following:

"I think closure happens when you have the body. When the person who hurt that body asks for forgiveness, repents for having done that and says they will not do it again. That is a form of closure. I think... I think... closure happens because those bodies (that) disappeared were hurt because of all the damage done... the results rather than being held is a step toward paradise. In the sense that though every death is terrible, a death in vain is much more terrible than a death that did not lead to a community resolving its problems. I would say closure particularly happens when every person in that community is able to take that person home with them and make that person part of their home and part of their lives.

“On the other hand, I feel we should not lie about closure – we should not see closure for its own sake or seek closure as the solution to all problems. Because I believe there are pains we should not pretend do not exist. I’m sorry to put this as bluntly as I am doing but even all the closure in the world cannot return Amy Biehl. I mourn for it. I grieve for it. I do think we have to deal with the ambiguity of existence. It is difficult to deal with. The TRC is being asked to deal with all these things – it is being asked to do more than it can possibly do. It cannot offer closure. Each person will find his own form of closure. Closure is both satisfactory – it’s a haven – but closure also means to close, and close is the opposite of life. Life opens. So, at times we have to live with those wounds and those openings – and there is no alternative – because we cannot save the basic mystery of life. And that life is entangled with death in a tremendous way.”¹⁰

Transparency and reconciliation marks the Amy Biehl situation. Healing takes place. Amy Biehl remains dead, but the societal wound for the concerned individuals essentially is closed. To what extent this situation contributes to justice or to closure for the larger society is less clear.

In contrast, another case involves a police colonel who came forward to the Commission at the last possible moment. He admits to being responsible for the torture and killing of a young black activist. A filmed documentary of this case (Bullfrog Films, 1999) reenacts the various episodes of imprisonment, poisoning, torture and ultimately the killing while he was in police custody. It also shows the young man in a hospital as he is recovering from the torture and poisoning prior to his last incarceration and disappearance.

A final scene in the documentary takes place at the home of the deceased activist. The colonel appeals to the family in Christian religious language as he repents for his sins. Several members of the family question him closely for the facts and his own involvement. His sincerity is less believable. He denied personal knowledge of key elements of the torture and poisoning, while affirming being in charge with complete knowledge of what transpired under his command.

The mother is most forceful in pressing the colonel. Ultimately, she states that she appreciates his candor and now after many years of extreme anxiety has an understanding of what happened that she previously lacked. But, understanding, however important, is not forgiveness. At this point in the filming, the murdered man’s son hits the colonel over the head with a table lamp fracturing his head. This is an unplanned, spontaneous act. Blood dripping from his head, the colonel, quickly retreats from the house and the film ends.

Transparency did take place as the colonel revealed what had transpired with the son including the disappearance for several years and the revelation about the killing. The victim’s mother and father were even transported to the remote police facility where the murder took place. Reconciliation, however, did not occur.

Justice as perceived by the victims and the general public differs markedly. Victims feel that “the TRC did very little in this regard, whereas the public has broadly favorable opinions...” (van der Merwe, 2009)¹¹

Argentina and the “Dirty War” 1976-1983

Openness is an essential part of the closure process. The mothers in Argentina emphasized the need for transparency, marching around the Plaza de Mayo seeking their “disappeared” from the “dirty war” from 1976- 1983. New- born babies taken from their mothers during the “dirty war” became adults attempting to rediscover their past.¹² Two decades later, President Nestor Kirchner instituted several measures to attempt closure including apologies and reparations. In 2004, he accepted a proposal to turn the infamous Naval Mechanics School in Buenos Aires into a holocaust-type Museum of Memories. About 5,000 people were tortured there during the military dictatorship from 1976-1983. The Mothers of the Plaza de Mayo supported this action (*The New York Times*, 2004).

Closure efforts continued in 2007 with a focus on the clergy condemning the actions of their own Catholic church. A fellow priest, Father Ruben Capitanio, accused Father Christian von Wernich, a police chaplain, and the Roman Catholic Church of complicity in the atrocities committed during the “dirty war.” In this trial the figure emerged of 15,000 Argentines killed and thousands more tortured. The 89-year-old Father von Wernich has been sentenced to life in prison. He was found guilty of involvement in seven murders, 31 cases of torture and 42 kidnappings. Father von Wernich is the first Catholic priest prosecuted in connection with human rights violations in Argentina. He is primarily a symbol of the church’s relation to the military regime and its excesses.

Most importantly, “a sea of elderly women” from the Plaza de Mayo continued to push their cause. During the repression, they were known as the Mothers of the Plaza de Mayo. Subsequently, they continued to press for knowledge of the disappeared as Grandmothers of the Plaza de Mayo. They wore white scarves in their hair bearing the names of disappeared family members. They clung to and kissed Father Capitanio for his role in exposing the church hierarchy. Hundreds of protestors cheered the sentence and fireworks were shot off outside the courthouse (Barrionuevo, 2007).

Closure in this case consisted of recognition of the crimes, sentencing of the individuals, and “over several months of often chilling testimony during the trial.” Less clear is the role of Jorge Mario Bergoglio, then the young leader of Argentina’s Jesuits, and subsequently Pope Francis. The pope’s authorized biographer, Sergio Rubin, argues that this was a failure of the Roman Catholic Church in general. Some Argentine human rights activists, such as 1980 Nobel Peace Prize activist Adolfo Perez Esquivel, defended him, while others have been critical.¹³ Involvement of the Church in Argentina’s dirty war contrasts sharply with the role of the Church in Chile and Brazil where priests and bishops

publicly condemned the government and worked to save the persecuted (Barrionuevo, 2007).

Trials continued into 2008 with the sentencing of Antonio Bussi, 82, and Luciano Benjamin Menendez, 81 to life imprisonment for the disappearance in April 1976 of the former Senator, Guillermo Vargas Aignasse. The two generals were senior members of the military government that ruled the country during the 1970s and 1980s (Schweimler, 2008).

Rwanda: War Crimes Trials at the Village Level: gacaca

Judicial proceedings in the form of war crimes trials in the Netherlands, Tanzania and Sierra Leone focus on the perpetrators. An intriguing experiment with *gacaca* village-type semi-judicial proceedings in Rwanda to try approximately 100,000 people, primarily male Hutus, accused of genocide in 1994 provide another kind of tribunal approach (Lacey, 2002).

War crimes trials can deal only with the leaders and most heinous crimes in a time-consuming and costly manner. Rwanda could not afford to continue to incarcerate, at its expense, such a large number of productive persons needed for its poor country. Gacaca trials provide a version of truth and reconciliation trials tailored for the villages where they resided and committed offenses against their neighbors.

Procedurally, the accused were grouped into five categories:

1. The Leaders are subject to capital punishment as defined by “power.” All those who had the power to incite to kill were sent to regular courts, not Gacaca. Attacking a woman is considered as a major crime. These fell under the jurisdiction of the War Crimes Tribunal in Tanzania.
2. Regular citizens who carry out the orders receive 25 years to life, rather than death as under ordinary law.
3. Those who wounded, but without the intent to kill. Those who confess will receive half of their sentence in prison, half at home with community service obligations.
4. Looters. They can go home, but must return what they stole.
5. “Blameless ones” as designed by the villagers are released.

Defendants provided statements of their crimes to the prosecutors and then were corrected and judged by their assembled fellow villagers. Some of the crimes were minor or forgiven by the villagers. Others resulted in sentences. Transparency did take place, but comments by several Tutsis in the documentary film were bitter at the light sentences rather than expressing reconciliation. It will take time, perhaps decades, to ascertain if the following prayer is answered:

The Prayer:

Listen to me God of Rwanda

Protect me from the urge for vengeance

Uphold Justice and keep our land free from harm.

As in the Union of South Africa case, empirical data tends to show disappointment in regard to justice in the perceptions of the Rwanda victims (van der Merwe et al., 2009). Despite their limitations, the *gacaca* trials did serve its limited purpose of dealing with the internment of the huge number of people in the small country. By contrast, the U.N. supported International Criminal Tribunal for Rwanda, conducted in Tanzania over a period of more than two decades indicted only 93 people. Sixty-one defendants were convicted and 14 were acquitted. It held its final hearings in 2015 for crimes committed during the 1994 genocide. A notable contribution is that it was the first international tribunal to deliver verdicts in relation to genocide and recognise rape as a means of carrying out genocide (BBC News, 2015). International war crime tribunals are elite judicial institutions for major leaders rather than the numerous village level participants accused of less severe crimes as represented in the *gacaca* trials.

Root causes focusing on ethnic animosities between Hutus and Tutsis are continuing in neighboring Burundi and especially the Congo (The Economist, 2015). To paraphrase the classic economic dictum, judicial institutions are necessary, but not sufficient.

Spain's Civil War 1936-1939: Legislative Action in the 21st Century

Spain provides an example focusing on the legislature. Marcos Ana, an 87-year-old poet remembers being imprisoned and tortured as a consequence of Spain's civil war from 1936-1939 and the dictatorial Francisco Franco regime. Forty-six years after his release, he wanted to commemorate and offer justice to the thousands who suffered during this period. "We're not looking to blame anyone, but we want to be recognized," he asserts. In September 2007, he published his memoir, "Tell Me What a Tree is Like" that relates the story of how as a 19-year-old socialist, he was arrested, tortured, and later condemned to death. He seeks Parliamentary action "not to settle old scores," but as "remembering suffering as a way to prevent Spain's dark past from repeating itself." He says it "is also a way to restore dignity to those who were denied it" (Burnett, 2007).

Legislative action beginning in 2007 responded to such requests for closure. A controversial act of "Historical Memory" passed by the Socialist government of Prime Minister Jose Luis Rodriguez Zapatero aimed at encouraging Spain to resolve issues from its "bloody 20th century history." The law provides public financing to unearth the mass graves in which thousands of Spaniards were buried during the war. It also requires the removal of many symbols of the Franco dictatorship from public areas and buildings. Legislation that went into effect in December 2008 grants Spanish citizenship to descendants of those exiled during the civil war and the fascist Franco dictatorship. Successful applicants will not have to renounce their other citizenship (Donadio, 2008).

Reopening the dark side of the Spanish civil war has led to research on its disappeared, especially the children. As in post-World War II Argentina, hundreds of children were taken from Franco's Republican opponents for

adoption or sent to religious schools and state-run homes as Franco sought to purge Spain of Marxist influence. The figure could be higher. Judge Baltazar Garzon in November 2008 ordered provincial judges to investigate the “disappearance” of children. In a 152-page court order, he suggested that there could be thousands of “lost children.” He ordered the provincial courts to collect DNA samples from aged Spaniards searching for family members (Burnett 2009).

Birth records were hidden or destroyed and new identities were provided. Emilio Silva, head of the Association for the Recovery of Historical Memory, concludes that: “In a sense, this is the most symbolic crime of the Franco era...to steal a child and take away his identify.” In addition to its emphasis on the children, the organization has excavated the remains of hundreds of people from Franco-era graves. Professor Angela Cenarro Lagunas, historian at the University of Zaragoza, examined the political orientation process of the Catholic schools and the social welfare system known as Social Aid. The children led a life of “fascist doctrine, harsh discipline and Catholic ritual,” she stated (Burnett, 2009).

In 2016, the continuing search for information continued with the revelation that a “huge Spanish archive” existed in Catalonia. This treasury of what are categorized as confiscated documents” is being returned to the appropriate families (Minder, 2016).

Algeria, Amnesty and Reconciliation

Amnesty in a manner similar to the Truth and Reconciliation Commission became a central issue in Algeria in 2007. As in the previous cases, the conflict and terrorism peaked decades previously. In the 1990s, radical Islamists and government death squads killed more than 100,000 people. Residual conflict continues. Reconciliation became the focus of closure efforts. As of June 27, 2007, 40,000 people had applied for amnesty or compensation under the program, 2,200 of them are former Islamist fighters.

According to the press report, “it was a faster, more sweeping solution than the cathartic” truth and reconciliation commissions. It comprised a “public forum in which victims could tell their stories and others could confess their crimes in return for amnesty” (Smith, 2006). Public pressure and witnessing, roughly similar to Argentina, has survivors parading in front of the government palace, displaying photos of women who were killed and demanding justice. A question does remain concerning the effectiveness of this process. Transparency as to the disappeared is a major issue. In contrast to the South Africa TRC, the truth dimension is suspect. As a group of victims complained, it is as if President Abdelaziz Bouteflika is attempting to “tear the pages of ten years of violence from our memory, give us money and make us forget about our disappeared.” Moreover, as the amnesty period expired, only 300 individuals had been able to take advantage of the amnesty provisions (Dridi, 2005).

Cambodia 1975-1979, 2006-8: Documentation Centre, Local Memorials & Trials

Pol Pot and his Khmer Rouge almost destroyed Cambodia's society by forcing its population into what can be termed a version of cruel rural slavery resulting in the "killing fields" that claimed almost a quarter of the population. Youk Chhang established a Documentation Centre preserving the horrors so as to prevent the return of genocide. He documented the three years, eight months and 20 days that killed 1.7 million Cambodians. Six hundred thousand pages of documents, maps of 20,000 mass graves and 4,000 transcribed interviews with former Khmer Rouge soldiers are "testimony to Chhang's conviction that there is no future without making peace with the past" (*Time Magazine*, May 3, 2007). Similarly, smaller versions throughout the country contain relics of the killing fields including bones of the slaughtered.

An even more ambitious, scholarly and independent research institute became active in the 1990s. The Documentation Center of Cambodia established by Yale University collected tens of thousands of previously unknown internal documents from the Khmer Rouge regime and thousands of interviews from victims as well as Khmer Rouge cadres after 1995 (Etcheson, 2014).

In 2007, the efforts at closure continued with a United Nations supported trial of the top remaining leaders of the Khmer Rouge regime. As in the previous cases, the society couldn't face the tortuous past earlier, nor could it ignore it. Efforts toward closure became essential. Nuon Chea, 82 was the chief ideologue of the movement and "Brother Number Two" to Pol Pot. Judicial actions for justice and closure after three decades also included 64-year-old Kaing Guek Eav known as Duch. He commanded Tuol Sleng a major prison in Phnom Penh's capitol where more than 14,000 people died. These trials, by a mixed international tribunal, didn't begin until the summer of 2006 (Mydans, 2007).

Duch's trial continued in 2009. Christophe Peschoux, who heads the Cambodia office of the UN High Commissioner for Human Rights, emphasizes the importance of the tribunal in stating that: "To me, it's the credibility of the tribunal that is at stake..." It has taken a decade to establish the hybrid tribunal that is composed of a mixture of Cambodian and foreign co-prosecutors, and three Cambodian and two foreign co-judges in an "awkward political and legal balancing act." The court's formal title is the Extraordinary Chambers of the Courts of Cambodia (ECCC) (Mydans, 2009).

A lower ranking cadre, Him Huoy, 53, testified to the horrors of the executions of his colleagues and others in which he had to participate. He described himself as "a victim of the Khmer Rouge." He now is a farmer and father of nine who is liked by his neighbors. But, one of the survivors told the Documentation Center of Cambodia, a private research center that Huy beat and tortured him. Two of his co-workers remembered him as "a seasoned killer, an important figure at the prison and a key participant in the execution process." It also has been calculated by the Documentation Center that at least 563 members

of the prison's staff, about one-third of the total, were executed while working there.¹⁴

One of the incarcerated survivors, A French scholar of Buddhism mistakenly identified as a CIA agent, Francois Bizot, states that Duch admitted his guilt and appeared "humbled by what he had done." He asked for forgiveness "before collapsing in tears..." Bizot, present at the scene, has mixed feelings about forgiveness, but not about the crimes committed by Duch and the Khmer Rouge. Their genocide will be judged as a "crime against humanity," he concluded (Bizot, 2009).

Justice as provided by the Court finally took place in August 2014. Nuon Chea, the deputy secretary of the Communist Party, and Khieu Samphan, the president of the Khmer Rouge state during the genocide, received sentences of life in prison for crimes against humanity. It took eight years and a cost of more than \$200 million by the tribunal, officially the Extraordinary Chambers in the Courts of Cambodia (ECCC), for the judgments. "The indictment is the most complicated since the Nuremberg trials...and worth the wait...(especially) because the tribunal has amassed an extraordinary cache of documents and testimonies" (Etcheson, 2014).

Punjab, India: Social & Political Measures

Political violence engulfed Punjab, India from approximately 1980-1992, although sporadic violence continued into 1995. Initially led by Sant Jarnail Singh Bhindranwale, the leader of a Sikh seminary, the Khalistan Movement led to the Indian army assault on the Sikh-fortified Golden Temple complex in Amritsar in 1984. An independent Sikh state then became the clear goal of the many militant Sikh radical groups fighting the Indian state until they were crushed (Wallace, 2007).

Punjab's approach to closure began with deliberate efforts to deal with the social consequences of violence as well as more direct political measures. It is estimated that the violence in Punjab left 13,000 widows and "caused suffering to 88,000 children." Hostility and revenge are among the characteristics they manifest (Kumar, 2001). These women and children constitute the major victims of militancy and, accordingly, are the focus of attempting to "transform the culture of violence into a culture of peaceful coexistence." A major divide tends to separate victims who were terrorized by the militants from victims associated with the militants. Victims, from non-terrorist and terrorist backgrounds, continue to "relive the traumatic experience" of the terrorism era, including those in institutions (Kumar et al., 2001).

Women were targeted by the terrorists and the police, but for different reasons. Khalsa movement values emphasized women "as reproducers of the Sikh martial race and repositories of Sikh culture." Sexual roles, mobility, dress, and conduct were part of the prescribed patriarchic imposed rules for a "reconstructed women's identity" (Kumar et al., 2001). In a sample of 200 women victims, 32% belonged to the militant affiliate category, and 28% to police families. Others witnessed killings, torture or humiliation (Kumar et al.,

2001). Social codes relaxed after violence ended, but the women from militant associations “were isolated by other community members, more so by the support structures” (Kumar et al., 2001).

Religious organizations, non-governmental organizations and the government provided assistance. State assistance, however, was not provided to those “suspected of having militant connections” (Kumar et al., 2001). One major study by a senior police official in Punjab focuses exclusively on the needs of the families of “killed police personnel,” including 33 recommendations (Das, 2002).¹⁵ Thus, the women and children associated with militants felt estranged. Victims continued to be apprehensive about the revival of militancy, with 38% positive and 29% uncertain (Kumar et al., 2001).

More direct political efforts involved the resumption of the political process including elections at every level of the state, from local government in rural and urban areas to the state assembly and national parliament.¹⁶ Equally important for closure is the return of many former militants, including some of the most notorious leaders. Many have retired, a few have entered politics, and most have quietly entered regular occupations.¹⁷

Encouraging former terrorists to return is part of a political strategy adopted by the elected state government. The ruling Akali Dal-BJP (Bharatiya Janata Party) alliance announced the new policy in April 2001 (The Hindu, 2001). A strong negative reaction came from the opposition Congress Party. Results were almost immediate. A major breakthrough occurred when Wassan Singh Zaffarwal, chief of a major terrorist group the Khalistan Commando Force (KCF), returned to Punjab from Switzerland on April 11, 2001 after negotiating his surrender with the police. He served a two-year prison term before being freed on bail, was acquitted on seven of the nine cases against him, and then became a homeopathic physician.¹⁸

Dr. Jagjit Singh Chohan also returned in 2001 after 25 years in exile. He is probably the earliest ideologue of the movement, having established a Khalistan government in exile in London and issued Khalistan “passports.” His earlier political career included being finance minister in the Punjab government in the 1960s. After returning, he set up a charitable hospital and personally dispensed medicine. He also established an unsuccessful political party that continued to advocate for Khalistan (Dogra, 2003).

Zaffarwal and Chohan’s return encouraged many others to follow. Particularly notable in regard to continuing problems of closure is the establishment of social service institutions by Bhai Kanwar Singh Dhami, a political ideologue of the Akal Federation. Released from jail in 1997, he acknowledged that the “movement is dead” and then established a trust administering orphanages and homes that in 2003 provided shelter for 250 women and children. He also gave financial support to 360 children of slain militants, and distributed a monthly pension to widows. Orphaned children are raised in “strict adherence” to Sikh religious codes, and are trained in a traditional Sikh martial art (Dogra, 2003).

Manraj Grewal authored a book published in 2004 that captures the aspirations of the returnees in its title, *Dreams After Darkness: a search for a*

life ordinary under the shadow of 1984. Her interviews with returned militants and accounts of survivors of those who died violently emphasize how they are rebuilding their lives (Grewal, 2004).

It seemed possible that conflicting socialization processes would be underway for state vs. militant victims. NGO institutions, such as provided by ex-militants, appeared to be emphasizing one set of values in contrast to the state. Moreover, physically separate institutions could reinforce emotionally laden stereotypes. Political groups and parties that emphasize extremist positions could provide channels that again could be destructive for Punjab. India's National Security Council Advisor, M.K. Narayanan reiterated the charge that Pakistan's ISI (Inter-Services Intelligence) continues to attempt to revive Sikh extremism. "There has been a manifest attempt in Pakistan to build up a radical Sikh environment," he asserted on October 16, 2007, "but the desired effect of sustained tension was not working." He also claimed that efforts have been made for the "resuscitation of militant groups in Canada, US and Germany."¹⁹

These fears did not result in a renewal of the Khalistan movement. The orphans are now adults and essentially have been integrated into Punjab's various political streams. An educated explanation is that competitive, accommodative politics provide effective structural channels and outlets. The rural based, Sikh dominant Akali Dal alliance with the urban based, Hindu dominant BJP provides one cross-cutting competitive structure. It essentially alternates in power with the Congress Party that also aggregates Sikhs and Hindus. Sikhs in both political structures reflect the Sikh majority in Punjab.

In almost yearly trips to Punjab, I am told that the population continues to reject the violence that consumed it during the 1980s and into the 1990s. Reject may not be the appropriate term as it assumes confronting the past situation in a manner that has not yet taken place. It is more likely that Punjab's population would rather not confront the ugliness of movement and state violence. Torture, rape, extortion and encounter killings sullied this dark period. Burying one's head in the sand may seem preferable to what can be perceived as reopening old scars.

Institutions, including Human Rights organizations have been and are active in revealing what transpired as well as attempting to secure justice. In addition to the national and state human rights commissions, various documentary reports continue to be published, e.g. a 600+ page first volume that provides extensive documentation and analysis of hundreds of cases of alleged disappearances, torture and extrajudicial killings (Kumar, 2003). Notable author and Sikh, Khushwant Singh, in reviewing the volume, pointed out that the National Human Rights Commission is investigating major charges (Tribune, 2003). Despite these notable efforts, transparency remains incomplete.

Reaction to the Nanavati Report on the Delhi riots against Sikhs in 1984, issued twenty one years later in 2005, suggests that as in Argentina closure probably will take several more decades. Khushwant Singh said "I feel personally let down by the Nanavati Commission....Twenty-one years later and still little justice." He characterized the Report as "the most gross example of miscarriage of justice" (*Tehelka*, 2008).

Similarly, Gurdev Grewal, an IAS (Indian Administrative Services) officer with long service in the Home Ministry states that “The Central Government did the inevitable to confuse the public and gain time to bury the Truth...” (Grewal, 2006) Grewal concludes that in Punjab “The ghost of terrorism continues to haunt us. Gobind Thukral, a veteran reporter of the violence, agrees “closure hasn’t taken place at the level of state and society.” Moreover, “the 1947 holocaust (India’s partition) is still with us.”²⁰ Belated justice for the 1984 Delhi riots continued in August 2008, when four persons were sentenced to life imprisonment for their involvement in the “rioting, murder and conspiracy.” The sentencing reversed a court acquittal eighteen years previously that had cited lack of evidence (The Times of India, 2008).

Despite some notable efforts, the incomplete process of closure continues in Punjab. No significant TRC has taken place. No major museum or documentation center has been established. Judicial efforts have been largely unsuccessful.

Rebuilding Judicial Systems

Finally, political violence also necessitates the rebuilding of judicial institutions. Truth and Reconciliation Commissions, War Crimes Tribunals and other judicial-type institutions primarily focus on past human rights violations. Newer literature is focusing on crimes and codes in “post-conflict” societies. Several books from the U.S. Institute for Peace are directed specifically to states emerging from the havoc occasioned by political violence and terrorism.²¹

Conclusion

Reconciliation is an obvious goal of closure. So is transparency and justice. Weaving together the fractures that result in societal fratricide is the best possible outcome. The Amy Biehl case provides a heart-warming example of the success of the Truth and Reconciliation Commission in the Union of South Africa in achieving all three elements: transparency, justice and what may be the most difficult of all, reconciliation. It may be a rare example as contrasted with other cases.

Justice always is a major concern. Closure measures most commonly involve judicial processes ranging from war crimes tribunals with full legal protections to the more informal village level trials as in Rwanda. Truth and Reconciliation Commissions vary in regard to their procedures, professionalism, and to some extent in regard to their goals. Nonetheless, all of these various judicial and judicial-type proceedings are involved with justice. This raises basic questions in each case about the length of the trial, and the relation of amnesty or a reduced sentence to justice. There is no formula that can be easily applied, nor will the outcome necessarily satisfy the various aggrieved parties. A significant degree of justice, however, can be achieved from a societal perspective no matter how many years or decades are involved.

The major achievement of closure first of all is transparency. Argentina buried its collective head in the sand for decades, as did Spain for an even longer period. Atrocities have to be recognized in institutions such as the Museum of Memories, Holocaust Museums, and documentation centers. Setting forth the facts, opening whatever records are available and attempting honestly to answer the questions of movement and state victims provides a major impetus to healing. It promotes an understanding, a first step to some degree of justice, the possibility of some degree of forgiveness and a meaningful degree of reconciliation. Transparency may be the most lasting result, a willingness to live with the truth and a reminder for future generations.

Justice and reconciliation, to whatever degree they can be achieved also are important, but impossible without transparency. Scars will remain. The question remains as to whether the trauma involved in periods of movement and state terrorism can ever be fully resolved. But, as the cases presented in this chapter evidence, it never is too late to begin the process. Nor is it too early or too late to rebuild judicial institutions ravaged by political violence with codes of criminal procedure designed for post-conflict societies.

Neither is it too early to attempt to build in elements involving closure during the active periods of political violence. Societies gradually evolved codes of behavior and institutional mechanisms so as to reduce human rights violations during war between states. Terrorism, it can be argued, is different. The movement uses excessive means and relies on clandestine tactics in its asymmetrical warfare. Similarly, for security reasons the state may feel that it is forced to become a mirror image of the terrorist movement, as it concludes that it is necessary to use means that are illegal according to the various Geneva conventions.

Sri Lanka provides an example of such behavior. In October 2007, Louise Arbour, then the United Nations High Commissioner for Human Rights, condemned the government after a visit stating: "the weakness of the rule of law and prevalence of impunity is alarming." The U.S. then pressed Sri Lanka to allow for human rights monitors, infuriating the government. One pro-government newspaper captured the government reaction in declaring: "...those U.N. knights in shining armor tilting at windmills in small countries should be told that the protection of human rights is next to impossible during a fiercely fought war" (Sengupta, 2008).

In 2015, Sri Lanka abruptly changed from an increasingly authoritarian government denying efforts at closure focused on human rights to positions more amenable to closure. Early elections called by incumbent President Mahinda Rajapaksa to increase his powers backfired. His opponent Maithripala Sirisena won a clear victory, repeated later in the year in parliamentary elections. Subsequent political measures provide hope that the divide between the majority Sinhalese and minority Tamil populations may be significantly bridged. In this case, closure following decades of terrorist actions by the Tamil Tigers as well as the state may be underway.²²

Asymmetric warfare is nonetheless warfare. Targets and goals are the same for the movement and the state. Both sides need the support of the population;

they - the people - are the target group. Legitimacy is the key concern. Movement efforts are designed to destroy the legitimacy of the state and replace it with its own. Similarly, the state has to maintain its legitimacy and prevent or destroy the movement's legitimacy.

Human rights become primary in regard to the target population and legitimacy. Movement excesses in Punjab became a major factor in the decline and defeat of the Khalistanis, particularly in the rural areas of the state. State excesses involving torture and "encounter deaths," i.e. illegal executions, assisted Khalistani recruitment and prolonged the period of political violence. Neutral and third parties can be enlisted and institutionalized. Human Rights Commissions have been helpful in Punjab and Kashmir. Counterterrorism training increasingly includes codes of conduct and positive orientations toward winning the hearts and minds of the population. Hopefully, these beginning steps will continue to evolve as codes of conduct did for conventional warfare. Movement and state forces may come to realize that human rights and security for their goals are not mutually exclusive. To the contrary, they are inextricably related.

Closure in Punjab necessitates that the three major principles of Truth and Reconciliation Commissions are followed: Truth in the form of transparency, justice however retrospective, and reconciliation that is the most difficult of all. Despite some notable efforts, the incomplete process of closure continues in Punjab. No significant TRC has taken place. No major museum or documentation center has been established. Judicial efforts have been largely unsuccessful. Various institutionalized efforts provided in the case studies in this chapter can be suggestive to Punjab as it inevitably at some point in the future reexamines its past. As William Faulkner's insight stated: "The past is never dead. It's not even past."

Notes

¹ I presented an early version of this chapter at the Institute for Development & Communication 15th Anniversary Celebration. Chandigarh, India, January 5-8, 2009.

² "Terrorism" is the extreme term for a spectrum involving political violence that also includes militancy, insurgency, extremism and radical. Each of these terms can be used politically. During the height of the Khalistan crisis in Punjab, a newspaper editor frankly told me how he dealt with the "unreasonable" demands for publication by the Khalistani groups, e.g. announcements for bhog ceremonies (funerals for "martyred militants"). He carefully selected and edited them using the term militant. He crafted a narrow line between movement and government pressures. Terrorism is a term that can be applied both to a movement as well as to the state as in Punjab. Militancy need not necessarily involve violence. See Wallace (2011).

³ For example, see van der Merwe, Baxter, and Chapman (eds.) (2009).

⁴ Shea (2000) analyses the TRC in the context of South Africa's transition from apartheid to democracy. Also, see the documentary film: Bullfrog Films (1999). *Where Truth Lies: South African Truth and Reconciliation Commission*.

⁵ March 21, 2013 marked the 10 anniversary of the final report of the Union South Africa's TRC. Basic questions remained as to its progress toward meeting its goals including "establishing a new moral order." To mark Human Rights Month in South Africa, the South African History Archive (SAHA), in conjunction with the South African Broadcasting Corporation (SABC), launched the following website on the work of the TRC in 2013: <http://www.sabctrc.saha.org.za/>. Accessed 4/14/13.

⁶ See Torrens (1999).

⁷ Forero (2002) writes about the Truth and Reconciliation Commission in Peru.

⁸ See Sharma (2015) about The Truth and Reconciliation Commission in Nepal.

⁹ Barry (2007), writes about Liberia's Truth and Reconciliation Commission in Staten Island, home to one of the largest populations of Liberians outside Africa, many of them survivors of 14 years of civil war. A DVD produced by the U.S. Institute of Peace in July 2007 documents the work of truth commissions in the Union of South Africa, Peru, East Timor and Morocco.

¹⁰ Communication from Linda Biehl, to Paul Wallace, October 11, 2002.

¹¹ See van der Merwe et. al (2009) for past and forthcoming empirical studies.

¹² See Ocampo (1999) and Rohter (2002).

¹³ An article in The Washington Post in March 14, 2014 analyses Pope Francis's rise through the Argentine church during the 'dirty war' of Argentina's military junta from 1976-1983. Also see Caparos (2013) and Romero (2013). Romero cites the Mothers of the Plaza de Mayo who criticizes Pope Francis for "not confronting the dictatorship, with the 150 or so other priests who were killed during the so-called Dirty War."

¹⁴ Mydans (2009a) reports that the Documentation Center calculation is in a 2001 book by Ea, M. and Sim, S.

¹⁵ P.S. Gill and M.S. Bhullar, former Director Generals of Punjab Police, contribute a foreword and preface respectively in Das (2002).

¹⁶ For a review and analysis of Punjab's election history see Kumar, (2003). Pp. 382 ff. focuses on the post-terrorist period.

¹⁷ I interviewed one former militant in Punjab in 1996 who worked for the State Bank of India, a government concern. He talked confidentially about his time in Pakistan with other militants, and how he finally decided to return after being in Nepal and concluding that the Punjab movement no longer had any prospects. He secured the position through a relative in an important elective position in state government.

¹⁸ See Gajinder Singh (2009).

¹⁹ Narayanan made these statements while on board Prime Minister Manmohan Singh's airplane. See Jha (2007).

²⁰ Seminar at the Institute of Development and Communications, Chandigarh, India, January 7, 2007 and subsequent personal communications.

²¹ The U.S. Institute of Peace, Washington, DC publishes all of the following. Rausch (2006), O'Connor et al. (2007) and (2008).

²² Bastians and Harris (2015). Cumming-Bruce (2015).

References

Barrionuevo, A. (2007). Argentine Church Faces 'Dirty War' Past. *New York Times*, September 17.

Barrionuevo, A. (2007). Argentine Priest Receives Life Sentence in 'Dirty War' Killings. *The New York Times*, October 10.

Barry, E. (2007). From Staten Island haven, Liberians reveal war's scars. *The New York Times*, September 18.

Bastians, D. and Harris, G. (2015). Pope Says Sri Lanka Must Confront Truth About Its War to Heal. *The New York Times*, January 13.

BBC News (2015). Rwanda genocide tribunal holds final hearings. <http://www.bbc.com/news/world-32422217>. Accessed May 2016.

Bizot, F. (2009). My savior, their killer. *The New York Times*, 17 February.

Bullfrog Films. (1999). *Where Truth Lies: South African Truth and Reconciliation Commission*, (365474). Color, sound, 30 minutes. Distributor: Bullfrog Films, Inc. (BULFRG), US. Triumph Over Terror Series (1835).

Burnett, V. (2007). Bill in Spanish Parliament Aims to End 'Amnesia' About Civil War Victims. *The New York Times*, October 28.

Burnett, V. (2009). Nationalists in Basque Losing Vote in Assembly. *The New York Times*, March 1.

Caparos, M. (2013). God Is an Argentine. *New York Times*, 15 March.

Cumming-Bruce, N. (2015). U.N. Urges Sri Lanka to Establish Court to Investigate War Abuses. *The New York Times*, September 17.

Daikha Dridi, D. (2005). Victims Groups Question Algeria Amnesty. *Aljazeera*.

Das, P. M. (2002). *Terrorism: The untold story*. Abhishek Publications.

Dogra, Chandra Suta (2003). Yesterday's obdurate Khalistani is at last returning home - softened, if not chastened. *Outlook*, May 26.

Donadio, R. (2008). Spain offers citizenship to exiles' descendants. *The New York Times*, December 29.

Ea, M. and Sim, S. (2001). *Victims and Perpetrator? Testimony of Young Khmer Rouge Commanders*. Documentation Center of Cambodia. <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.139.5319&rep=rep1&type=pdf>

Etcheson, C. (2014). Let the Khmer Rouge Record Show Cambodia Shouldn't Censor the Khmer Rouge Court's Files. *The New York Times*, August 26.

Forero, F. (2002). Where the bodies are buried in Peru. *The New York Times*, February 16.

Grewal, M. (2004). *Dreams after darkness: A search for the life ordinary under the shadow of 1984*. Rupa & Company.

Grewal, G. (2006). *The Searching Eye: An Insider Looks at the Punjab Ordeal*. New Delhi: Rupa & Co.

Jha, V. (2007). Recent blasts to echo at Indo Pak anti terror meet. *The Indian Express*, October 18.

Immigration and Refugee Board of Canada, Algeria: The Charter for Peace and National Reconciliation and the evolution of the violence in Algeria, (2006), DZA101674.FE, 24 October. <http://www.unhcr.org/refworld/docid/46fb72f6a.html>.

Kumar, P., Dagar, R., & Neerja. (2001). *Victims of Militancy*. Chandigarh: Institute for Development and Communication, with acknowledgement to UNICEF India Country Office, New Delhi.

Kumar, P. (2003). Electoral Politics in Punjab. In P. Wallace and R. Roy (eds.), *India's 1999 Elections and 20th Century Politics*. New Delhi: Sage Publications.

Kumar, R. N. (2003). *Reduced to ashes: The insurgency and human rights in Punjab* (Vol. 1). Sikh Students Federation.

Lacey, M. (2002). Kanombe Journal; After the Horror, Truth and Some Healing, Maybe. *The New York Times*, June 20.

Minder, R. (2016). Franco's Long Shadow Lives in a Huge Spanish Archive: Confiscated Documents are Returned to Families. *The New York Times*, July 17.

Mydans, S. (2007). Former Khmer Rouge Leader Arrested. *The New York Times*, September 20.

Mydans, S. (2009). Trial Begins for Khmer Rouge Leader. *The New York Times*, February 1.

Mydans, S. (2009a). Trials in Cambodia Expose the Cogs in a Killing Machine. *The New York Times*, March 9.

Ocampo, L. M. (1999). Beyond punishment: Justice in the wake of massive crimes in Argentina. *Journal of international affairs*, 669-689.

O'Connor, V. M., Rausch, C., Albrecht, H. J., & Klemenčič, G. (2007). *Model Codes for Post-conflict Criminal Justice* (Vols. 1 & 2). US Institute of Peace Press.

Rausch, C., & Banar, E. (2006). *Combating serious crimes in postconflict societies: a handbook for policymakers and practitioners*. US Institute of Peace Press.

Rohter, L. (2002). Argentine default reopens 'Dirty War' wounds. *New York Times*, March 12.

Rohter, L. (2004). Debate Rises in Argentina on Museum of Abuses. *New York Times*, April 19.

Romero, S. (2013). Back Home A Pontiff Is Honored If Not by All. *New York Times*, 15 March.

Schmemmann, S. (2001). How to Face the Past, Then Close the Door. *New York Times*, June 20.

Schweimler, D. (2008). Argentine chiefs jailed for life. *BBC News, Argentina*, August 28. <http://news.bbc.co.uk/go/pr/fr/-/2/hi/americas/7587199.stm>

Sengupta, S. (2008). Take aid from China and take a pass on human rights. *New York Times*, March 9.

Sharma, G. (2015). Nepal Sets Up Panels to Probe War Crimes Amid Cries for Justice. *Reuters*, February 10.

Shea, D. C. (2000). *The South African truth commission: The politics of reconciliation*. US Institute of Peace Press.

Singh, Gajinder. (2009). Rebel turns healer, skips Blue Star. *The Telegraph*, June 7.

Smith, C. S. (2006). Many Algerians Are Not Reconciled by Amnesty Law. *The New York Times*, June 28.

South Asia Intelligence Review (SAIR), (2016). Weekly Assessments & Briefings, Volume 14, No. 51, June 20.

Tehelka (2008). Interview with Harinder Baweja, *Tehelka.com*, September 5.

The Economist (2015). *Congo and Rwanda: Ever Again*. January 24, 2015, pp. 43-44.

The Hindu (2001). *Badal, BJP offer to ex-Punjab militants*. April 6.

The Times of India (2008). *1984 anti-Sikh riots: Four sentenced to life imprisonment*. Accessed at <http://timesofindia.indiatimes.com/india/1984-anti-Sikh-riots-Four-sentenced-to-life-imprisonment/articleshow/3413514.cms>

The Washington Post (2013). *Rights activists differ on how much guilt Pope Francis shoulders from Argentina's 'dirty war.'* March 14.

Torrens, J. (1999) *America*, Vol. 181, Issue 2, July 1-24, 1999, p. 12.

U.S. Institute for Peace. (2007). *Confronting the Truth: Truth Commissions and Societies in Transition*, July 2007.

Van der Merwe, H. (2009). Delivering justice during transition: Research challenges. *Assessing the impact of transitional justice: Challenges for empirical research*, 115-42.

Van der Merwe, H., Baxter, V., & Chapman, A. R. (Eds.). (2009). *Assessing the impact of transitional justice: Challenges for empirical research*. US Institute of Peace Press.

Wallace, P. (2007). Countering terrorist movements in India: Kashmir and Khalistan. *Democracy and Counterterrorism: Lessons from the Past.* New York: United States Institute of Peace.

Wallace, P. (2011) Sikh Militancy and Non-Violence, in Pashaura Singh (ed.), *Sikhism in Global Context*. New Delhi: Oxford University Press. Pp. 85-101.