

Assembly. It was also the home of deliberative microcosms chosen by lot, and some of them offered notorious examples of defective deliberation—notably symbolized by the fate of Socrates.

Clearly, specifying the conditions for constructive citizen deliberation, a middle ground between Athens (the mass politics of the Assembly) and Philadelphia (the elite deliberations of the Constitutional Convention), requires an entire agenda of research and institutional experimentation. There is now no clear middle ground between Athens and Philadelphia. But perhaps we can create one if we nurture collaborations between theory and practice of the sort suggested by Gunderson, Spragens, and others in this volume.

**Truth v. Justice: The Morality of Truth Commissions.** Edited by Robert I. Rotberg and Dennis Thompson. Princeton, NJ: Princeton University Press, 2000. 309p. \$55.00 cloth, \$18.05 paper.

Melissa Nobles, *Massachusetts Institute of Technology*

Scholarship is substantial and growing on “transitional justice,” that is, the legal and political decisions devised by incoming democratizing regimes to address the excesses of outgoing repressive regimes and the harms endured by their victims. Truth commissions are perhaps the most significant, if controversial, innovations in a democratizing regime’s toolbox. Their significance is largely derived from their peculiarity. Since the early 1970s, approximately 21 commissions have been established in various countries. They have been defined as “bodies set up to investigate a past history of violations of human rights in a particular country—which can include violations by the military or other government forces or by armed opposition forces” (Priscilla Hayner, “Fifteen Truth Commissions—1974 to 1994: A Comparative Study,” *Human Rights Quarterly* 16 [November 1994]: 597–655).

That definition usefully captures the basic purpose of truth commissions but does not include their other functions. They are quasi-judicial bodies designed to uncover truths, if not a singular or comprehensive truth. They are often modeled after courts of law and often employ evidentiary standards similar to legal standards, but they are not courts of law. Commission recommendations are not in themselves legally binding, although information revealed by such proceedings has been used in subsequent criminal trials, as in Argentina. Truth commissions turn criminal prosecution on its head by seeming to make truth seeking an end in itself. No less important, they are designed to provide a psychological catharsis, for both individuals and nations, and to lead to reconciliation. Yet, a tension emerges immediately from these two purposes. How can truth, without prosecution, lead to justice? And without justice, can there be true reconciliation?

An answer to these questions is the central objective of *Truth v. Justice*. Although the book takes as its subject the morality of truth commissions in general, it is really about the South African Truth and Reconciliation Commission (TRC). It is the product of a conference held in South Africa in May 1998 and attended by officials of the TRC; South African academics, jurists, and physicians; and foreign scholars. Presentations at the conference comprise the book’s 14 chapters. Like most edited volumes, particularly those that result from conferences, the essays are sometimes redundant and of uneven quality.

The tension between truth and justice that the book addresses is rooted in the political circumstances of the TRC’s creation. In negotiating the transfer of power from the

white minority National Party (NP) to the black majority African National Congress (ANC), a compromise was reached. A blanket amnesty would not be granted to former government officials (including military and police forces), as desired by the NP, and there would not be wholesale criminal prosecutions of former apartheid leaders, as desired by the ANC. Instead, parliament established the TRC, and persons who committed “gross human rights violations” for political reasons were to be granted amnesty if they fully disclosed their crimes before the Amnesty Committee. Victims were allowed to speak publicly of their experiences before the Human Rights Committee. This compromise has been justified as the most desirable politically, given that the feared alternative was violent war.

Yet, the morality of the TRC has been questioned. If justice—that is, criminal prosecution—is traded for truth and future reconciliation, then a defense of and justification for this trade are required. The chapter by Amy Gutmann and Dennis Thompson analyzes this central issue and thus serves as the conceptual anchor. As they see it, truth commissions come with a “heavy moral burden,” since these and other such transitional institutions “sacrifice the pursuit of justice as usually understood for promoting other social purposes, such as historical truth and social reconciliation” (p. 22). If new democracies are to bear this moral burden, then the justification for truth commissions should meet three criteria, which constitute the “moral foundations” of truth commissions. First, the justification must be moral in principle, in that it “should explicitly appeal to rights or goods that are moral” and are thus “comparable to the justice being sacrificed” (p. 23). Second, the justification should be moral in perspective, in that it seeks to be broadly accessible to and inclusive of all persons seeking “moral terms of social cooperation” (p. 23). Third, it should be moral in practice, meaning that the justification can draw on the actual proceedings of the truth commission as an example.

In separate chapters, Elizabeth Kiss and André du Toit also provide thoughtful and persuasive justifications for the TRC, and du Toit directly responds to the argument of Gutmann and Thompson. Neither Kiss nor du Toit is content to have the TRC understood solely in terms of political compromise and to have its brand of justice judged insufficient because it was not retributive. Indeed, both argue that the TRC has helped create another kind of justice—“restorative” justice—that is distinct from and better than retributive justice. They do not deny the political compromise that created the TRC, but they assess the commission in ways seemingly independent of its origins.

According to Kiss, truth commissions are morally ambitious, and therein lies their significance and potential to advance restorative justice. In her view, restorative justice is a coherent and legitimate but risky framework for addressing past abuses, and truth commissions are ideally suited to deliver such justice. Restorative justice is defined by the TRC itself as “concerned not so much with punishment as with correcting imbalances, restoring broken relationships—with healing, harmony and reconciliation” (p. 69).

André du Toit also provides an alternative to retributive justice against which the TRC’s morality should be judged. He argues that the kind of justice required during periods of political transition differs from that required in established democracies, and he judges the Gutmann and Thompson moral criteria inappropriate for the TRC. Instead, du Toit maintains that the TRC’s constitutive moral conceptions of “truth as acknowledgment” and “justice as recognition” meet the demands of justice required during political transitions

(p. 123). Justice, for du Toit, has neither universal nor ahistorical meanings.

Other chapters usefully examine other aspects of truth commissions, although nearly all focus on the TRC. Three essays tackle different aspects of amnesty and other legal procedures. Two works critically analyze written reports produced by truth commissions, and historian Charles Maier distinguishes between the craft of serving history versus that of serving justice. As actual participants in the preparation of the TRC's final report, Charles Villa-Vicencio and Wilhelm Verwoerd provide interesting insights into the production of official truth.

Overall, the book makes an important contribution to the growing transitional justice literature in general and to the TRC literature in particular. The focus on the TRC, however, with only occasional references to other truth commissions, makes it difficult to draw general lessons. As nearly all the authors state, the TRC was extraordinary. It may well serve as a model for present and future commissions, but it is not representative. Nonetheless, inquiry into whether decisions that pass political tests can also pass moral tests is worthy of sustained analysis, along the lines provided in this volume.

**Democracy, Justice, and the Welfare State: Reconstructing Public Care.** By Julie Anne White. University Park: Pennsylvania State University Press, 2000. 173p. \$35.00, cloth, \$17.95 paper.

Russell L. Hanson, *Indiana University Bloomington*

Modern welfare states offer cash payments, public housing, medical assistance, food subsidies, and a wide range of social services to needy individuals. The assistance is rendered by professional social workers and administrators who have the authority (and responsibility) to determine who is needy, what their needs are, and how those needs can be met equitably and efficiently. This top-down approach is both ineffective and paternalistic, according to Julie Anne White, who advocates a system of care based on democratic deliberation rather than bureaucratic rationality.

White's critique of welfare paternalism draws on her case study of New Futures, a philanthropically inspired effort to improve service delivery in five American cities by coordinating the actions of various social service agencies. Although cooperation increased, the experiment failed to achieve its stated objectives of reducing school dropout rates, the rate of teen pregnancies, and teenage unemployment. Moreover, "the project left unchallenged the institutionalization of a class of caregivers . . . and a class of recipients of care, a division of labor that reinforced a paternalistic model of care" (p. 19). This is because the problems of the poor were defined in technical terms, and problem solving was therefore dominated by experts who seldom consulted with the intended beneficiaries. Not surprisingly, the latter came to view the experiment with great suspicion, which undermined its chances of success.

The reform failed not because of arrogance or bureaucratic bungling; it reflected the very notion of dependency upon which welfare policy is predicated, or so White argues. She notes that a housewife who stays home with her children while her husband works is no less financially dependent than the single mother on welfare. Yet, there is no groundswell of calls for the husband to determine his wife's needs and decide whether or how they will be met within the family. That form of subjection is reserved for the single mother on welfare,

whose dependency is socially or, as White insists, politically constructed along paternalistic lines.

Precisely because it is a political construction, the relation between client and state should be democratized, according to White. The alternative is to end welfare, which some say is incompatible with ideas of individual autonomy that are central to liberalism and democratic citizenship. For White, considerations of justice augur against this move, and she aims to reconcile justice and welfare in a democratic society. This requires a reconceptualization of justice, which is the core of this reflective book.

White rejects philosophies of justice as fairness, conceived in terms of impartiality and a substantive commitment to rights, as paternalistic. She likewise resists arguments that place a parochial ethic of care over and above distributional considerations. Instead, White advances a conception of "justice as fairness of caring," stressing the importance of consulting care recipients, not just caregivers, in social programs. Thus, she advocates a "more participatory process of defining needs, where the discussion privileges the voice of those presently 'in need' in the course of defining 'need' and determining arrangements of resources to meet those needs" (p. 136).

As an example, White cites the Beacons programs, which are collaborations between communities and schools in metropolitan New York. These projects have successfully engaged young students in extracurricular affairs and expanded the opportunities for adult education in poor communities. Unlike New Futures, Beacons projects are grassroots operations, and clients play an important role in defining community problems and designing solutions. This participation is the key to success, according to White, and it constitutes a model of democratic welfare provision or caring.

White assumes that welfare dependency is a political construct and, as such, should be democratized. It can be argued, however, that not all politically constructed relations can or should be democratized. The diagnosis and treatment of medical ailments, for example, are unavoidably technical, and although we might agree that patients should be consulted about options, would we want to "privilege" the choice of a person carrying an infectious disease if that choice increases others' risk? Do we think it is wise, just, or caring to "privilege" the voices of children, the emotionally distressed, or the mentally incompetent in deciding which of their needs to meet and how to meet them? In short, are not there instances in which paternalism is warranted, even in a democratic society?

White's argument overreaches in another respect, as well. Theories of deliberative democracy are invoked to buttress arguments against a mode of provision in which welfare professionals are presumed to know what is best for their clients. But the author's own scrupulous review of these theories shows that there is only a presumption of equality among the parties to a discussion or decision. Any notion of "privileging" is out of place in deliberative democracy, although it is a key feature of "justice as fairness of care."

Sensing the tension, White recalls John Stuart Mill's assertion that individuals are ordinarily (although not invariably) the best judges of their own interests, but this does not resolve the contradiction for two reasons. First, the competence of a significant number of welfare recipients is in doubt; children and those suffering from emotional or mental illness may not be the best judges of what is in their interest. Second, under conditions of scarcity a fair distribution of welfare services cannot be achieved by privileging each person's sense of needs. Financial limitations require us to set collective priorities on care, and that cannot be done without invoking