



*Justice heals*



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



Knut Rauchfuss  
Medical Care Service for Refugees  
Bochum / Germany

<http://www.gerechtigkeit-heilt.de>



**“Justice heals”:**

- International campaign against impunity
- Worldwide Network of more than 60 Human Rights groups and activists
- Project initiated and coordinated by the „Medical Care Service for Refugees Bochum“





## *Medical Care Service for Refugees:*

- Medical and psychosocial treatment center for refugees located in Bochum/Germany
- Aid to immigrants without papers
- Human Rights Organisation

The center offers support to survivors from torture, war crimes and other severe human rights violations:

- psychotherapy
- social work
- legal support
- Human Rights activities

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## Psychotherapeutic experience:

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



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## Scientific research:

- **2001 Medical Care Service for Refugees started to investigate on the influence of impunity on survivors' mental health**
- **From 2004 to 2007: scientific research study on impunity and mental health covering the experiences from 13 countries**



- **Schmolze, Rauchfuss (2007) included: Argentina, Cambodia, Chile, East Timor, El Salvador, Ex-Yugoslavia, Guatemala, Paraguay, Peru, Rwanda, Sierra Leone, South Africa and Uruguay**
- **Further research on: Algeria, Colombia, Germany, Greece, Honduras, Indonesia, Iraq, Liberia, Morocco, Mexico, Russian Federation, Spain and Turkey**

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## Political intervention:

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



**Here: Presentation of the outcomes of our research work**

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# 1. What do we mean, when talking about impunity?

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



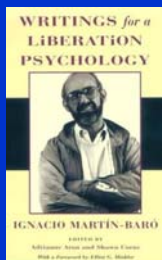
## Measures against impunity include:

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

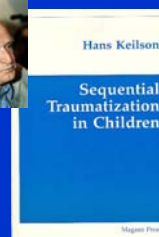
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# 2. What is our concept of trauma?



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



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

(Martín-Baró 1996, Reprint)



- There is no 'post-trauma' and no PTSD
- The 'Socio-political Traumatic Process' is a continuum and depends on developments within society
- Survivors need acknowledgement from surrounding society

(Becker 2006)

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### 3. How does impunity influence the traumatic process?

#### a) Survivors from man made disasters:

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



#### b) Family members of forcibly disappeared people



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

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### 3a. How does impunity influence survivors?

#### Experiences from therapy centers:

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



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

(Kordon & Edelman 1986; SER-SOC 1995; Becker 2006; EATIP, GTNM/RJ, CINTRAS & SERSOC 2002; Kordon et al. 2005; Kazi 2004; Universidad Popular Madres de Plaza de Mayo 2002 and personal interviews)

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

- uncertain loss without parting opportunity
- incomplete mourning (no burial / missing grave)
- permanent search for the whereabouts of the missing and circumstances of disappearances
- special target of disinformation and systematic lies by the state



- no opportunity to accept the loss of the beloved ones
- acceptance means betrayal
- sometimes even reparation is considered as betrayal
- psychotic situation in between denial and acceptance
- triggered by deals such as: receive information and grant impunity in exchange
- self-accusation for not having been able to protect or to find the missing relative
- frustration, distrust, anger, rage
- exclusion from society
- social descent

☞ Impunity after the conflict continues and deepens the traumatic process

(Kordon et al. 2002, Dorfman 2003, Preitler 2006, Cuesta 2006 and personal interviews)

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### 4. Effect of Truth Commissions?

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

- Argentine 1983-1984
- Chile 1990-1991, 1992-1996, 2003-2004, 2007-
- South Africa 1995-2000
- Guatemala 1997-1999
- Peru 2001-2003



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



Results:

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

☞ Truth Commissions alone have not the promised therapeutic effect

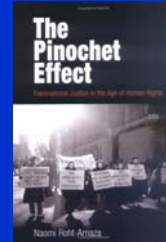
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## 5. Are there any proves that justice might heal?

### UN-International and hybrid courts and tribunals:

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



### International Trials:

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

### Notable national trials:

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

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



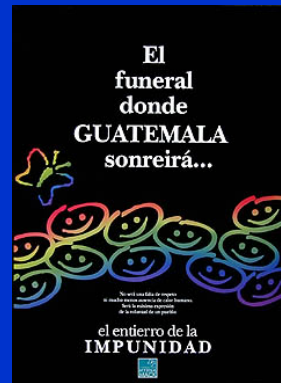
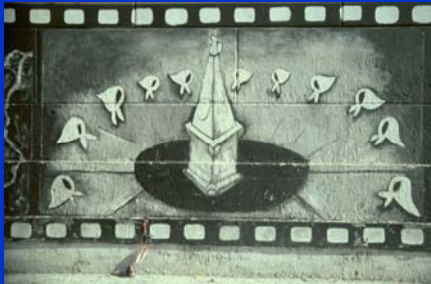
- ☞ For a long time the widespread global character of impunity was complete.
- ☞ Therefore there can be only little evidence about a positive impact of justice on mental health.
- ☞ Only during the recent years changes are arising, especially in Argentine, Chile, Peru and Uruguay

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# What we know:

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



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

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## a) The Pinochet arrest 1998 and later

- not arrest on October 16, but House of Lords decision of November 25 confirming Pinochet's crimes were not covered by his presidential immunity had a catalytically effect
- the former untouchable had been touched
- atmosphere of silence broke and people started to take side in the Pinochet case
- survivors didn't hide any longer
- lots of survivors and family members of victims talked for the first time about their traumatic experiences
- survivors who had returned from exile after 1989 tried to hide their past during the first years
- beginning with the trial against the former Chief of the secret police Manuel Contreras in 1995 and expanding from late 1998 they readopted their personal history and talked openly of being Ex-political prisoners
- hundreds of them filed lawsuits against Pinochet and other military officers for torture and disappearances despite the amnesty law
- the "Pinochet Effect" immediately spread to the neighbouring countries



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## b) The breakdown of impunity in Argentina

- During dictatorship and after return to formal democracy Mothers of Plaza de Mayo developed a "Sense of coherence" (Antonovsky 1997) by:

- collective search for their children and grandchildren (understanding)
- overcome isolation and fear – take up struggle (regain activity)
- Fight against impunity and political demands for a different society (sense of life)

(Preitler 2006)



- Until 2006 the Mothers consequently denied any cooperation with government and repeated demanding the "return with life"
- Mothers denied exhumation, official acts of memory and reparation
- Continuous and often frustrating attempts to bring perpetrators to court



- 2000: partial crackdown of impunity in Poblete case
- 2003: Nestor Kirchner entered presidency
- Kirchner Government abolished impunity laws
- more then 1.000 cases had to be reopened and hundreds of perpetrators were taken into custody
- From 2004 Mothers in fact started to accept memorials
- From 2006 Mothers slightly started to cooperate with the Kirchner government

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## c) Uruguayan lawyers overcome amnesty laws

- first identification of the remains of an Uruguayan forcibly disappeared in early 2006 (30 years after disappearance)
- At the day of the burial, March 14, the High Court decided to put former dictator Bordaberry under trial
- catalytically effects on Uruguayan survivors and family members (20 % of the population)



- 10 % of the inhabitants of Montevideo were present at the burial
- several disappearances have been made public for the first time
- several court cases have been opened
- survivors, who had never talked about their traumatic experiences to their children, started to tell their stories to their grandchildren

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## 6. Is only justice able to heal the wounds?



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



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



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

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### ➤ Truth finding:

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



- provides part of the necessary acknowledgement by society
- prepares the construction of a collective memory

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## ➤ Creating a collective memory:



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

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## ➤ Legal justice:

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



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



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## ➤ Rehabilitation and integral reparation:

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



• All types of human rights violations and groups of victims must be included into reparation programs.

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

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## ➤ Never Again:

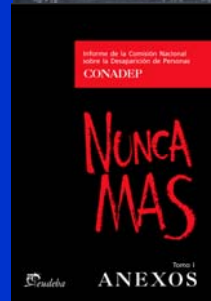
There is a high risk, that the traumatic experiences might reoccur if there was no Truth finding, no Legal justice and if there hasn't been established a culture of memory which keeps the past awake and future generations alerted.



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

Institutional reforms that help to prevent a comeback of atrocities:

- Military reforms
- Strengthening democratic structures
- Developing a non-violent practice of conflict resolution
- Strengthening the independence of jurisdiction
- Dissolving social injustice
- Developing an open and democratic culture within society
- Implementation of international law



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**As long as there is no justice in the aftermath of conflicts the fight against impunity is not only a necessary moral struggle for human rights, but also a basic need for the sustainable recovery of survivors.**

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# Bochum Declaration

"Justice heals – the international fight against impunity"  
International Congress, Bochum, Germany, 14 – 16 October 2005



Bochum declaration

To the government of Germany  
To the governments of the countries of this earth  
To the international community

From all the regions of the planet we have gathered in Bochum, united by the conviction that crimes against humanity cannot remain unpunished. Crimes against human dignity as they are and have been committed systematically in past and current wars, in the torture chambers of dictatorships and only for other so-called democracies.

As we did not accept and will not accept that humans are persecuted and brutally displaced, disappear into secret torture centres, are intimidated and murdered or even executed straight away in broad daylight.

And as we know that the perpetrators and authors of these crimes have a name and an address where they are free from criminal prosecution and able to resume their previous, or they believe so, of previously installed accounts for their personal enrichment, and after enough they even have leading positions in parliament, boards of management or public authorities, from where they continue to decide their country's fate.

And as we know that every new day in which human rights and freedoms can move freely in the streets of our cities constitutes a new step toward the goals of the victims and towards the fundamental social fabric.

Coming from Asia, Africa, Europe and Latin America, we are gathering here in order to exchange the experiences that we have collected in our fight against impunity of these criminals. And we have developed strategies on how to use these experiences in the future and in other places, against perpetrators.

We have been working with survivors of violence and the victim's families for years and decades. (not just as long a period we cannot continue to shed light on those crimes and to put the perpetrators in the dock.

The wounds run in the souls of the survivors of violence, perpetrated by dictatorships and wars, take a long time to heal. Only the necessary recognition of traumatic experiences by the surrounding society offers the possibility of coping with these experiences. A society, however, that grants the perpetrators to enjoy pensions in rest and peace, while their victims are queuing in front of therapy centres, induces this recognition each new day.

For these reasons, we call for justice and to the impunity of crimes against humanity and we claim that:

i) the government of the Federal Republic of Germany

- has to join the German Code of Crimes against International Law as a real instrument for the prosecution of crimes against humanity

- This includes the abolition of the suspension regulations in the code of criminal procedure, which have seriously obstructed the opening of proceedings up to now.

- The continuous abandonment of claims against perpetrators in German courts must be withdrawn. If necessary, the legal provisions for this must be created.

- The guidelines on German foreign policy must declare the struggle against impunity, as well as the international protection of human rights, including the special protection of human rights defenders, an objective of utmost importance.

ii) from the governments of this earth

- Human Rights violations have to be investigated by independent commissions, listening to Testimonies of survivors and victims and documenting the reported crimes in a systematic and extensive form which is usable in court. Reports must be publicly accessible and should not include the names of perpetrators.

- In order to integrate civil society in an appropriate way, commissions shall integrate human rights organisations, self-help groups and associations of survivors and relatives. These must have the opportunity to send an influence on the activities of the commissions, based on equal rights. The work of national commissions is to be monitored by international bodies.

- Commissions must have far-reaching legal rights, including access to all archives, and have to be equipped with the necessary financial and human resources. This includes the extension of the forensic medical service, in order to meet the requirements for the identification of corpses and circumstantial evidence.

- Survivors of human rights violations, and relatives of victims, who bodily or in court, have a right to psychological assistance and, if necessary, full access to witness protection programmes.

- Perpetrators must be prosecuted within the framework of legal procedures based on the rule of law.

- All crimes perpetrated by state institutions or officials must be tried in civil courts.

- Annulment and pardons, by which perpetrators in different countries have been granted impunity for war crimes, genocide or crimes against humanity, violate international right. They must be withdrawn without replacement, if they have not been done and, the necessary constitutional conditions are to be settled.

- Additionally, we claim that all governments join and ratify the statute of the International Criminal Court.

- Survivors, relatives and descendants of victims are entitled to compensation. All types of human rights violations and groups of victims must be included into reparations programs.

- Reparation schemes must be designed in an integral way and, besides the necessity of material compensation, must lead to a comprehensive psychosocial, political and cultural rehabilitation and integration into social life.

- Claims for compensation must be granted without time limits.

- Reparation payments must not lead to a delay of legal proceedings, to the annulment of investigation cases or to the suspension of the right to demand criminal prosecution.

- All states are requested to sign and ratify the UN Convention against Enforced or Involuntary Disappearance.

- Special rapporteurs, independent monitors, and working groups of the UN human rights system as well as the correspondent regional systems have to be granted unhindered access to the country.

iii) from the international community

- The international community is to provide the supra-national instruments and institutions, that serve the protection of human rights with more extensive material and human resources.

- The development of the Global Partnership for the Prevention of Armed Conflict shall be supported and promoted.

Bochum, October 16, 2005

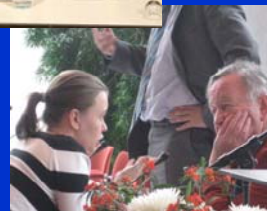
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**Special thanks to my Co-worker:**  
**Bianca Schmolze**  
(Coordinator of the network „Justice heals“)  
**and all the other activists and supporters of the campaign**



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