

*Passive resistance as a form of historical justice
and reparation in Peru*

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What follows are the notes to a 20-minute long oral presentation. This document is its written representation, at a preliminary stage. It is incomplete! I don't intend to read from the paper; rather, the principal ideas will be extracted and elaborated orally, and accompanied by a power point. They should express the main thesis of the paper, its order, and underlying concerns.

Abstract.

Pacifism is not inaction in the face of conflict, but resistance to certain forms of action and thus comprises, by virtue of its resistance, action. This paper observes the theory and practice of passive resistance as action in light of Quipu, a project uniting indigenous women from different communities in Peru. Formed in response to the enforced sterilizations conducted under the Fujimori government, Quipu is a phone-line founded on the act of giving testimony, the recording of historical injustice. Women call from remote locations in Peru to tell their story. Under its premise, passivism assumes not only a form of resistance but also a reparative role in a post-conflict, post truth commission period.

State perpetrated violations of the right to reproductive health and human rights are contextualised within indigenous practices of repair. Quipu is illustrative of this in several ways. Primarily, this paper observes how the project negotiates social justice by exposure of injury (via the medium of oral history). Stark contrasts between indigenous and Western cultures of reparation delay and deny responses to historical injustice in Peru. Where indigenous or traditional societies tend to expose and celebrate repair (not the injury itself, but the method by which it is repaired), Western cultures, including the Peruvian state, have tended to mask events of the past, respond with material (often monetary) reparative measures in an attempt to erase histories of injustice which led to injury. The paper proposes a methodology of historical justice, the purpose of which is to locate points of repair and processes of reparation. It argues that far from a debilitating state, passivism, in this instance, represents a force which has the potential to repair and liberate.

Introduction.

The principal subjects this paper deals with are women as victims of armed conflict, specifically indigenous mainly Quechua speaking women who were subjected to enforced sterilisations under the Fujimori administration in the final years of the Peruvian armed conflict (1990s). However, the point is not to objectivise their condition as women, but to treat violations of their right to reproductive health as violations of human rights. The project of Quipu is illustrative of how the use of oral history documents injustice, exposes injury, calls for a right to the truth. In essence, the act of giving testimony demands recognition of and reparation for the violations suffered. The objective of the work is to trace the theory and method of pacifism as it informs the victims' acts of resistance to the injustices committed against them. Thus, the thesis states that reparation is owed to the victim of any violation; pacifism constitutes a form of reparation as consequence of a methodology of historical justice. Further, the truth is antecedent to any act of reparation, without which justice can hold no meaning. Importantly, methods of historical justice unfold within solidarity (what will be known as *lieux-communs*). Where Peru has offered reparation, it is derived of Western renderings of justice – destined to a predominantly indigenous population. Divergences between indigenous and Western conceptions of justice have delayed and denied repair in a post-conflict Peru. The thesis implicitly responds to three interrelated questions, which reflect the context studied here, but also draw on broader examples from other contexts: How does culture affect interpretations of victim as passive or active agent of change? How does the victim in turn inform democratic practice (as manifest in processes of truth telling) within transitional societies? How can passive resistance inform theories and methods of historical justice and reparation?

I. Historical context of the armed conflict.

May 17, 1980. This day marked the eve of the first Presidential elections to be held in a dozen years after a succession of military regimes. In resistance to the elections, the Communist Party of Peru, *Sendero Luminoso*, or Shining Path, who had been active since the late 1970s, burned a series of ballot boxes in Chuschi, Ayacucho.¹ The highlands of Ayacucho became the epicentre of their guerrilla war in which resistance justified armed struggle.

On December 3, Shining Path consolidated its armed wing, the People's Guerrilla Army. Their leader, Abimael Guzmán was a communist professor of philosophy at the San Cristóbal of Huamanga University in Ayacucho. Local tensions between predominantly indigenous *campesinos* and their substantially wealthier Creole counterparts of the surrounding cities reflected regional disparities between rural poverty and urban elite which has been one of the most persistent legacies of Spanish colonial rule in Latin America. Guzmán was inspired by José Carlos Mariátegui's *Seven Essays on the Interpretation of the Peruvian Reality*, a writer and founder of the Communist Party of Peru who had once proclaimed, "Marxism-Leninism is the shining path of the future."² This statement would later baptise Peru's armed struggle.

Further influenced by the ideology of Mao Zedong, the armed movement of the Shining Path expanded under the Maoist teaching that guerrilla war should be fought predominantly in the countryside, gradually cutting off the cities. Given the initial date of May 17, 1980, after which the popularly elected Fernando Belaúnde Terry assumed the Presidency, the internal armed conflict effectively developed from within a transition to 'democracy'; it lasted between 1980 and 2000.

¹ See <http://rpp.pe/politica/actualidad/chuschi-pueblo-testigo-del-primer-golpe-de-sendero-luminoso-noticia-366247> ; <http://www.elmundo.es/elmundo/2006/10/14/internacional/1160796742.html>

² <https://diariocorreo.pe/cultura/por-que-se-le-denomina-sendero-luminoso-773232/>

On August 28, 2003, the final report of the Truth and Reconciliation Commission was presented, after two years of work and 17,000 testimonies. It found Shining Path to be responsible for 54 percent of fatal victims reported to the Commission.³ The total number of deaths attributed to the armed conflict was cited as 69,280, in contradiction to the 27,000 victims to have been previously acknowledged by the government and other human rights organisations. According to the Commission, 79 percent of victims were inhabitants of rural zones, 75 percent of whom spoke Quechua or another native language as their mother tongue.⁴ The armed forces played their part, too. In rural zones under control of the government, enforced disappearance, torture and rape of the local, predominantly indigenous, population were practised as methodologies of war.⁵

It was thus a war fought between the armed forces, the armed wing of Shining Path, other minor rebel groups, and rebel *campesinos*, armed and calling into question the neutrality of the civil population. Citing a *campesino* whose words spoken during her years of fieldwork provided reference for the title of her book *Entre prójimos*, Kimberly Theidon writes, “Jesucristo, mira lo que hemos hecho entre prójimos.”⁶ El prójimo essentially describes proximity, someone close, one’s neighbour. In this sense, the statement reads, Jesus Christ, look what we have done to one another.

II. *Historical context of violations of the right to reproductive health.*

Much has been said of women in armed conflicts as their bodies are used as weapons of war, particularly in regard to sexual abuse. Little has been said in regard to violations of their right to reproductive health. The aim of this paper is to lay bare the reality of women victims of the right to reproductive health in the Peruvian internal armed conflict, although its purpose is not to objectivise the condition of women but to treat violations of the right to reproductive health as violations of human rights.

In great part, the violence perpetuated against indigenous communities was a response to the rural setting of Shining Path’s movement. Government policies were an attempt to crack down on rural regions, and ethnic populations, where the conflict was rife. The example of violations to women’s right to reproductive health in indigenous communities is illustrative, notably in the form of enforced sterilisations. Within this example, distinctions between violence committed by different actors of the armed conflict is somewhat clearer. Violence here was State perpetrated.

On September 15, 1995, less than a year prior to the inception of the enforced sterilisations, Alberto Fujimori attended the United Nations International Conference on Women in Beijing. His presence represented the only male in attendance. There, he announced the government’s Reproductive Health and Family Planning Program, under which, in 1996 began the operations that would forcibly sterilise over 300,000 indigenous, mainly Quechua speaking, women, many of whom consequentially died or suffered morbidity. The operations were performed in the shadows of a discourse on feminism, women’s rights, development and population concerns. Public health workers responded to orders to fill quotas, in squalid

³ CVR, Conclusiones, 2003.

⁴ Ibid.

⁵ Kimberly Theidon, *Entre prójimos: El conflicto armado interno y la política de la reconciliación en el Perú*, (Lima: IEP Ediciones, 2004). See Capítulo 8, *A la fuerza*, for detailed testimonies of women collected by Theidon and her team during fieldwork, 2002-2003.

⁶ Ibid., p. 18.

conditions. The Program, Fujimori insisted, was to reduce poverty, modernize rural indigenous Peru, promote gender equality and protect reproductive rights, and provide access to family planning services such as contraception and legal sterilisation. A 1998 investigation by human rights lawyer Giulia Tamayo revealed that indigenous women in impoverished rural communities where birth rates were high had been targeted by state officials, lied to, bribed, coerced, forced into undergoing sterilisation surgeries. The FIGO General Assembly resolved in September 2010 that “Women’s health is often compromised not by lack of medical knowledge, but by infringements on women’s human rights.”⁷

I want to stress here that just as maternal health falls under the broader right to reproductive health, so does that within the universally recognised right to health,⁸ as such, any violation of any aspect of the right to health constitutes violation of a human right. Such as Giulia Tamayo affirms, “the right to information gains value as a substantial and interdependent component of the right to decide in reproductive matters.”⁹ In essence, a violation of a human right represents violation of a freedom. Discrimination was exercised in the performance of the enforced sterilisations on the grounds of gender, ethnic, cultural and economic difference.

III. *A methodology of historical justice.*

The differences between representations of history and lapses of memory hold great influence over demarcations of justice. The differences between them, as well as the relationship between them, constitute the moral grounds upon which the call for historical justice is made, and possibly claimed. I consider all violations to comprise *historical* injustices in the sense that a violation, although it incurs a contemporary legacy, is an aspect of memory and the past. In this vein, historical justice is a means to address and repair historical injustice.

By using a methodology of historical justice, I want to look at the possibility of locating points of repair within common ground, or what I refer to as *lieux-communs*. Further, I argue that reparations are impossible in the absence of common ground. This paper documents the emergence of *lieux-communs* not as physical structures (although they could and often do assume this form), but as ideological frameworks which initiate a redefinition of the present by questioning its historical significance.

Defined by Edouard Glissant in his *Philosophy of Relation* as sites, the origins of ideas, *lieux-communs* lay a concrete and metaphorical common ground. “The hyphen in lieux-communs (common-place),” he says, “is a crazy root that pushes you beyond the edges. A forward moving root that keeps you in place.”¹⁰ While it unites, it also defies boundaries. This contradiction becomes important in both the form and function of *lieux-communs*.

IV. *Passive resistance and a call for reparation: Quipu.*

⁷ International Federation of Gynaecology and Obstetrics, FIGO General Assembly, Washington D.C., September 2010.

⁸ As recognised by Art. 1 of the Universal Declaration on Human Rights, which states, “All human beings are born free and equal in dignity and human rights.” United Nations, UDHR, 1948. Also Art. 12.1 of the International Covenant on Economic, Social and Cultural Rights which affirms “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” Art. 12.2 outlines the corresponding obligations of States in the realisation of the right.

⁹ Giulia Tamayo, *Nada Personal: Reporte de derechos humanos sobre la aplicación de la anticoncepción quirúrgica en el Perú 1996-1998*, p. 22, CLADEM, Lima 1998.

¹⁰ Edouard Glissant, *Philosophy of Relation*. 2009.

I now begin to look at the example of the project Quipu, and to question its existence and function as a *lieu-commun*. Quipu is the name given to a phonenumber set up by Demus which receives calls from victims from remote locations across Peru who offer testimonies of the enforced sterilisation they were subjected to under the Fujimori Family Planning programme. The act of giving testimony is an act of resistance, a form of oral history which articulates a demand for recognition and reparation.

I perceive that resistance can take two forms; physical as in armed struggle, or intellectual, as in passive resistance.¹¹ Pacifism constitutes a form of historical justice in its resistance to violence where violence has been the norm. By contesting the established historical norm of violent circumstance, through the creation of exceptional non-violent circumstances, it purports historical justice. Within this reversal of norm, lie the seeds for at least symbolic, and potentially material, reparation as well. Pacifism comprises a form of reparation simply by virtue of its rupture of cycles of violence. In this sense, it is reparative symbolically, although it has the potential to translate into material reparation also.

In material form, a quipu represents a horizontal line of woven string with a series of vertical strings attached to it, upon which knots are tied. The knots encode important information in a positional system, each of which represents a number which in turn stands for an object. Etymologically, quipu is the Latinised form of the Cusco Quechua “khipu,” meaning knot. They provide a deep understanding of local notions of history and community.¹² In the early years of the Conquest of Peru, Spanish officials relied on quipus as a source of documentation of tribute payments, production of goods, population and census, or settlement of disputes. But with the strengthening of the Spanish invasion and the imposition of the written word, quipus became a largely historical artefact, relocated to indigenous memory. Although some believe they are unrelated to any spoken language, historians Edward Hyams and George Ordish read in the quipus a recording system similar to that of musical notation. Quipus hold no sound in and of themselves, but contain basic information which a performer then brings to life.¹³ Thus, although not an oral but a material object, quipus *talk*.¹⁴

Symbolically, the project represents the method of the original quipu in the sense that it ‘talks’ by gathering information in the form of oral testimonies, and therefore numbers the victims of the enforced sterilisations. The project is an act of resistance against the human rights violations endured by the indigenous women who underwent enforced sterilisation. The women who testify are unarmed, the form of their resistance is passive; yet they expose injury, and thus truth, in a defiant stance against silence.

Pacifism is not inaction in the face of conflict, but resistance to certain forms of action and thus comprises, by virtue of its resistance, action. Jackson inverts the language and discursive

¹¹ Obviously, this perception is rather reductive. It intends to sketch a broad idea of different forms of resistance, as opposed to categorising them and acknowledges there is much space for contradiction and overlapping between the two.

¹² Susan A. Niles, ‘Considering Quipus: Andean knotted string records in analytical context,’ in *Reviews in Anthropology*, Vol. 36, Issue 1, 2007, pp. 85-102.

¹³ Edward Hyams and George Ordish, *The last of the Incas: The rise and fall of an American empire*, p. 84. New York: Barnes & Noble, 1996.

¹⁴ Quipus are also referred to as “talking knots.”

construction of pacifism and nonviolence within theories of International Relations, thus exposing pacifism as a subjugated knowledge.¹⁵ This does not mean that a knowledge ceases to exist, rather it continues to exist and is transformed by processes of subjugation. What changes is how knowledge is written and, consequentially, how it is read or interpreted. Martin Lienhard reads ‘alternative texts,’¹⁶ risen from the margins, in answer to the negotiations at play in the multicultural reality of Peru (creole, mestizo, indigenous). The oral testimonies pertaining to Quipu are one example of an alternative text. Cultural adaptation has marked the Peruvian landscape since Spanish conquest, indeed since before it was consolidated as a single territory, yet in post-conflict the Western and indigenous world views are not reconciled, but continue on paths of negotiation of the dual (or multiple) cultures¹⁷ which co- or cross-exist in continual redefinitions of reality.

Under the premise of Quipu, passivism assumes not only a form of resistance but also a reparative role in a post-conflict, post truth commission period. One way it does this is by articulation of the victims’ right to the truth. The right to the truth represents an individual right and a collective right. Collectively, it extends to families or relatives of victims as a whole entity, and to society at large.¹⁸ Law 975 of 2005 in Colombia recognises a right to the truth and defines it as belonging to society.¹⁹ Luis Joinet, independent expert on impunity appointed in 1997 by the UN Commission on Human Rights, found an inalienable right to the truth.²⁰ He further attributes application of the right to both the individual victim and their family as a collective right. The latter incurs an obligation on the part of the State to remember, to “be forearmed against the perversions of history that go under the name of revisionism or negationism, for the history of its oppression is part of a people’s national heritage and as such must be preserved.”²¹

In contexts which deny the experience of human rights violations, or the extent to which they have affected victims, the State, by omission of recognition, further violates victims’ right to the truth. The project of Quipu in Peru illustrates one instance of pacifism as activism in the victims’ commitment to expose the truth, an act which demands recognition at a symbolic level and which has the potential to translate into reparation at material levels as well. Their truth invokes the memory of what happened and the present implications of the rights violations and violence suffered. Thus passive resistance has the power to operate across temporal divides, reconciling different often divergent histories. It is at intersections where knowledge has been ‘subjugated’, that resistance, and indeed passive resistance, assumes a

¹⁵ See Richard Jackson, ‘Pacifism: the anatomy of a subjugated knowledge,’ pp. 1-16, in *Critical Studies on Security*, 17 July 2017.

¹⁶ Martin Lienhard, *La voz y su huella: Escritura y conflicto étnico-social en América Latina, 1492-1988*. (Ediciones del Norte, 1991.)

¹⁷ Anne Lambright, *Andean truths: Transitional justice, ethnicity, and cultural production in post-Shining Path Peru*, p. 3. Liverpool University Press, 2015.

¹⁸ See Inter-American Commission, Report No. 136/99, of 22 December 1999, Case of *Ignacio Ellacuría et al. v. El Salvador*, para 221. The same has been expressed by the UN High Commissioner for Human Rights, Mary Robinson, at the 55th Annual DPI/NGO Conference ‘Rebuilding Societies emerging from conflict: a shared responsibility,’ 9 September 2002.

¹⁹ Law 975 of 25 July 2005, ‘Law of justice and peace.’ See Art. 7.

²⁰ His final report reads “Every people has the inalienable right to know the truth about past events and about the circumstances and reasons which led, through the consistent pattern of gross violations of human rights, to the perpetration of aberrant crimes. Full and effective exercise of the right to the truth is essential to avoid any recurrence of such acts in the future.” See Louis Joinet, ‘Question of the impunity of perpetrators of human rights violations (civil and political),’ Final Report pursuant to decision 1996/119, UN Doc. E/CN.4/Sub.2/1997/20/Rev.1., Annex 1, Principle 1.

²¹ *Ibid.*, para 17.

new and necessary form. It does not stand as an implicit presence, it does not lie in wait of a distant and peaceful hope; it forges alternative memories, is a force of change within an action of solidarity. Pacifism itself is force, yet this affirmation is threatened in the absence of solidarity.

V. *Oral testimony.*

Resistance not as an individual but a collective effort, the foundation of a *lieu-commun* as a result of a convergence between physical and intellectual labour. To testify is to articulate a call for reparation. The call is not necessarily for material but symbolic reparation, for recognition of a wrong committed which is evidenced in the very nature of orality as it demands reception, or listening. It is a witness who presents testimony, who in the Spanish shares the same root word as the verb, *testigo*; *testimoniar* o *testificar*, (*el testigo o la testiga prestó testimonio*). The shared roots between the witness as subject and the act of testimony assign to the victim an active role and shed light on the existence of passive resistance as a force of strength. In concrete, testimony and the role of the witness play indispensable roles in the construction of the truth.

As Bassiouni considers, legislation on rights violations in international law has been largely conflict-centric; he proposes a shift to privilege a victim-centric perspective.²² A victim-centric perspective would require redefinition of international crimes so they become dependent on the victim's suffering rather than on the nature of the conflict or context of violations. The specificities of whether victim abuse has occurred in an international or domestic setting, or, for example, as a result of police brutality outside of conflict would in a legal analysis be secondary to the importance, Bassiouni advises, of the issue of the violation framed from the victim's viewpoint.²³ Many overlapping sources of law apply to this victimisation, thus, states Bassiouni,

From a purely legal perspective, victims' fate and the punishment of violators vary and depend on whether lawyers apply international human rights law, international humanitarian law, international criminal law or domestic criminal law. Such distinctions are of little significance to victims in their quest for redress.²⁴

In the methodology of a victim-centred system, the act of giving testimony and the importance of hearing victims in public audiences is essential. The right to testify would be analogous with the obligation to give evidence. Neumann acknowledges the importance and privilege of the victim in interpreting history over the role of the historian. He says: "The expert witness who reports on her research about an event in the past is no match for the eyewitness who was involved in that event. Presumed authenticity now trumps professional authority."²⁵

Elizabeth Jelin notes a series of interrelated issues involved in the possibility or impossibility of the production of testimony. Firstly, it involves the possibility that survivors can speak of what they lived through. Secondly, "the impossibility of constructing a narrative and the

²² C Bassiouni, 'International Recognition of Victims' Rights,' p. 204. *Human Rights Law Review* (2006) 6 (2): 203-279. Oxford University Press.

²³ *Ibid.*

²⁴ *Ibid.*, p. 205.

²⁵ K. Neumann, 'Historians and the yearning for historical justice,' p. 150.

symbolic lapses and voids involved in trauma are relevant in this issue.”²⁶ These represent silences inherent in remembering and the act of retelling. Then, another “deliberate silence” is involved, in which limitations imposed by external factors influence, at times control, the production of testimony, the voice in its use and also the listeners who extract its meaning.²⁷

Jelin says, “When dialogue becomes possible, he or she who speaks and he or she who listens begin the process of naming, of giving meaning and constructing memories. Both are needed, each is indispensable to the other, interacting in a shared space.”²⁸ The relationship between the two is not necessarily reciprocal, however, but negotiated. What is also indispensable here is the common place, drawn from testimony, which initiates the laying down of memory, the preservation of truth, the protection of an uncertain future, essentially the protection of human rights. Although testimony may issue from a single voice, it creates dialogue, whether externally or internally, in oral or written form. The space opened by negotiation and the possibility for the extraction of truth lays the foundations for *lieux-communs* and subsequently enables the theory upon which the structure takes form and begins to function, to resist.

VI. *Divergent practices of repair.*

This paper has argued the importance of historical justice in the conception of resistance. By way of synthesis, the final section observes the function of historical justice in the administration of reparations.

What is to be repaired? The example this paper observed has been the right to reproductive health for victims of enforced sterilisation. Far from suggesting any concrete forms of reparation, I will clarify the following points. Firstly, the right to health is translated as a right to access to healthcare. This is because the duty to uphold this right falls to the State, which as a structure, cannot ensure good health for all, but must provide the conditions in which all are able to access healthcare services in their diverse forms. Then, the right to reproductive health comprises an aspect of the right to health. When violated, it is similarly the State’s responsibility to enact repair. The reparations in question are owed to women of indigenous, mainly Quechua speaking, communities in rural Peru. How were reparations framed and applied as part of the Truth and Reconciliation Commission? How does the State, as a product of the West, interpret this responsibility?

Can the Peruvian state be considered a Western state? I consider an affirmative answer with three sides. The Peruvian state is a Western state insofar as the concept of state is Western in the very first instance. Furthermore, where other neighbouring nations such as Bolivia have recently attempted to contest or balance a predominantly Western state model by including increasingly indigenous ideals within their mandates, Peru has remained largely Western centric in its rule. Finally, in the specific timeframe this paper deals with, the Fujimori government administered its indigenous population under a frame of universal values and universal human rights concerns, which are, far more Western than they are universal.

²⁶ Elizabeth Jelin, *State repression and the labors of memory*, translated by Judy Rein and Marcial Godoy-Anatuvia, p. 61. (University of Minnesota Press: 2003.)

²⁷ Ibid.

²⁸ Ibid., p. 64.

Furthermore, the conceptual roots of historical justice draw heavily on reparation.²⁹ These roots involve new concepts of dislocation. Repair often involves processes of amnesia, or an erasure of time. The inference that justice is transformative in a historical or restorative sense, and not merely a means by which to lay the foundations for a future, suggests a dislocation from its contemporary significance.

The material dimensions of historical justice are diverse and “vary from relatively small payments to individuals to demands for a massive redistribution of wealth on a global scale.”³⁰ However, the notion of repair inherent in the term or act of reparation transcends the materiality of historical justice and intimates victims’ struggle for the symbolic recognition of their suffering. Elazar Barkan states “The call for reparation is as much a call for repentance and mourning as it is for restitution.”³¹ History is of the essence because there is a relationship between those wronged (in the past) and their lives, or the lives of descendants (in the present). The term ‘victim’, in many international covenants on the right to reparation, and in numerous domestic legislations, extends to the next of kin of the victim, and in some circumstances, to descendants of the victim in case of the victim’s death.³² This extension of victim is an illustration or mapping of how a violation and its effects travel and how its continuity manifests itself in different times, generations, and relationships.

One concession the Western State model can make is recognition of customary law alongside positive law. In this vein, identification of the specific individuals or collectives which practice customary law in Peru implies recognition of people or groups who practice traditional forms of administration of justice.³³ Not only acknowledgement of their existence, but a degree of comprehension of traditional conceptions of justice is essential, even primordial, to any act of reparation.³⁴

To close, I now turn to a broad and abstract reading of indigenous practices of repair, and finally to a few abstract reflections on the concept of repair within Quechua speaking communities. To repair something is to remember how it was. The visual artist Kader Attia reads a dialogue between the acts of injury and repair. What he comes to suggest is that a process of reparation is neither the act of injury or repair, it is the *in between* which falls from prominence. He recalls the widely accepted belief that repair is the fixing of broken items, broken situations. Repair refers to physical injury, but also to psychological injury, often

²⁹ The concept and practice of reparations comprises the central subject of chapter 6 of this thesis, in which its relationship to historical justice is discussed at length.

³⁰ Manfred Berg and Bernd Schaefer, see p. 1, ‘Introduction,’ pp.1-17, in *Historical Justice in International Perspective: How societies are trying to right the wrongs of the past*, edited by Manfred Berg and Bernd Schaefer, (Cambridge University Press, 2009).

³¹ Elazar Barkan, *The Guilt of Nations*, p. 288.

³² Cite examples here.

³³ Fernando Bazán Cerdán, ‘Estado del arte del derecho consuetudinario: El caso de Perú,’ p. 52, in *Revista IIDH*, Vol. 41, 2005, pp. 51-82.

³⁴ Reparation is in part a legal process. Geographical demarcations of justice, customary law, incorporating or referencing local traditions in post-conflict reconciliation and legal reform in terms of justice. new constitutions or amendments, creating contexts of legal pluralism in recognition of various coexistent legal systems pertaining to different peoples within a single national territory: Bolivia 1994, Colombia 1991, Ecuador 1998, Peru with article 149 of the constitution in 1993. However, a degree of autonomy does not necessarily equate to equality before the law. Do they represent laws of progressive change or mere recognition? Do they offer present or future justice, do they repair past injustice? Who is the dominant voice?

unseen, undocumented. It also infers a possibility – perhaps the inevitability – of transformation. In this vein, repair also becomes the change or evolution of a system.³⁵

In this sense, the process of repair is the uncovering of old stories, of history. Attia calls ours an era of amnesia, and warns us to take care of the successions of states between anything that we are using or not. If something is of no use to us, it tends to be forgotten, to become part of an obsolete past.

And the differences between Western and extra-Western conceptions and practices of repair play an important role here. Attia further considers, in traditional societies, repairing an injury means showing the injury.³⁶ Revealing or exposing it. In the Congo, calabashes are repaired in sophisticated processes. In Japan ceramics are repaired highlighting the injury, celebrating it, giving the object a second life. This second life, the possibility of a future or recognition of a continuum of time implicates the uncovering of memory, the subtraction of histories. By comparison, the West uses repair as a method that suggests denial of the injury. It labours under the illusion of control, that it envisions a denial of time. The metaphor between the traditional object restored roughly (the object had a life, it still has a life, it has a history and is living with a wrinkle), and in the west the obsession with removing the wrinkle poses conceptual and practical challenges to reparations.³⁷

Quipu exposes the truth, and thus the injury, before other voices (the judge who did not see in the human rights violations of the enforced sterilisations a crime against humanity) who have misinterpreted the life plan – and its violation – of the women who underwent enforced sterilisation. Their right to health was violated, as was their their right to life; not only in the sense of mortality but quality of life, their right to live well, in freedom, and to be informed to make their own decisions regarding their lives. One form of repair is the recognition of historical injustice, without which no form of historical justice can be conceived.

VII. Concept of well-being.

Justice and acts of reparation are often studied in terms of well-being as it relates to mental health. In relation to women, psychological effects of sexual abuse in armed conflict has been a core reference for the determination of states of well-being (or their absence). But the same reference has not provided an entry point for understanding the effects of violations of the right to reproductive health. The psychological imparts an essential methodology, however not without consideration of the historical context.

Quecha speaking communities within Peru maintain theories of the aetiology of their illnesses and the methods for treating them. Their therapeutic repertoire is drawn from the tight links between mental health and processes of the administration of justice, or their absence, and the micropolitics of reconciliation.³⁸ For instance, Theidon writes,

³⁵ Kader Attia interview with MCA Chief Curator Rachel Kent, available on YouTube, published April 12, 2017, <https://www.youtube.com/watch?v=UIU-VeQoqzs>

³⁶ See Kader Attia, 'The repair from Occident to Extra-Occidental cultures.'

³⁷ Ibid.

³⁸ See Theidon, *Op. Cit.*, p. 22.

“Yuyay” es el término quechua para recordar y los que recuerdan son *Yuyayniyuq*. Entonces, tenemos aquí un concepto central en la construcción del ser humano, y es precisamente la pérdida del uso de razón la que se vincula con la borrachera, la locura y los asesinos.³⁹

Memory and the ability to remember comprise essential parts of well-being. How a culture expresses itself, how a culture *remembers* are fundamental elements of justice. Thus, a jurisdiction which neglects to account for the indigenous voice it pretends to serve does not represent justice or reparation. The final point I make is that, in essence, the different methodologies of repair discussed above actually derive from different conceptions of well-being. In this way, we are no longer contemplating, in a post-conflict, post truth commission Peru, reconciling what is the right (correct) way to repair, but rather the conciliation of difference across cultural and historical divides.

Conclusion.

No approximation of reparations for victims of the right to reproductive health has been suggested by the Peruvian State. But the project of Quipu is in itself reparative in nature as it reappropriates what was taken or undone, by violent histories of colonialism or armed conflict, violation of rights, omissions of protection of rights. Freedom. A methodology of historical justice relays the truth and lays a common ground upon which to build a restoration of rights.

The victims of the violations in question are women. But the point of this paper has only been to dwell on specificity within the broader concern that every violation is accorded reparation; the violation was to reproductive health, yet also to the human rights of the victims. When it is relevant and when irrelevant to make distinctions. Further, no suggestion of what the reparative measures should consist is advanced; it is simply stated that the victims are owed reparation, their right to reparation is an inalienable.

Pacifism is first and foremost ideological, but this does not mean that as a series of ideas it does not translate into action. To resist violence with violence does not offer change; it does not replace the norm with the exception. This paper has studied passive resistance as action in relation to collectives within civil society, not as action on the part of the State. Pacifism here has been regarded as non-violence, not explicitly in relation to peace. But the implicit relation it draws with peace here, is that of the truth. Remembering, relaying and exposing historical truth in the pursuit of historical justice. Passive resistance stems from a theoretical origin, as does armed resistance although this too purports a violent action. Does this give the latter an edge? Passive resistance demands collective social action, emancipatory change, liberation from dominant repressive structures and practices which are, in one way or another, violent in form. Quipu, in this vein, purports a democratic function, articulates solidarity rights; the rights to freedom of expression, information, truth; the right to health as an aspect of civil, social, political, and economic rights.

In order to conform a methodology, pacifism requires a common ground, to draw from collectivity and create solidarity. Further, it offers a preliminary justice, one which needs to draw on other structures to uphold its position of resistance, such as the legal one. My reference to democracy is not so much its function as a political structure (the newly democratic Peru of Terry which gave rise to an armed conflict, a democratic Colombia –

³⁹ Ibid., p. 61.

arguably the most solid democratic state of Latin America – which has provided the stage of the most protracted internal armed conflict of the Americas), but a social one (within which resistance is able to mobilise and effect change and rights). The forging of *lieux-communs* is so important precisely because this sense of commonality or shared narrative or form of rationalisation or remembering is what violence intends to repress.