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The Professor's Column
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Professor Brown Applies Game Theory Techniques to the Truth and Reconciliation Question in War-Torn Sub-Saharan Africa

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For those readers not familiar with the basic concept, truth and reconciliation involves the use of two procedural devices, the unfettered factual disclosure of human rights abuses by those who used such violence as a political tool, coupled to the promise of amnesty in return for such disclosure as a way to engender healing and forgiveness in conflict-torn states. The South African version of the so-called “truth and reconciliation” process (hereinafter “TRC”) chaired by Former South African Anglican Archbishop Desmond Tutu remains the most celebrated example of this post-conflict resolution technique.

In recent years we have seen a proliferation of TRCs throughout much of war-torn Sub-Saharan Africa. From the vast yet troubled expanses of the Democratic Republic of the Congo to the killing fields of Rwanda; from villages ravaged by civil-war in Sierra Leone to the mortar fire-riddled streets of Monrovia, Liberia, TRCs have emerged in the past decade as the preferred means of addressing the transitional justice needs of a growing number of post-conflict states in the region.

Professor Jeff Brown, who has taught students about the strengths and weaknesses of truth and reconciliation in his Rule of Law Seminar since the late 1990s, wants to provide international peacemakers, international organizations, and the citizens where TRCs are most likely to be used with a more refined way of understanding and

appreciating the potential hidden costs of truth-telling. While there is no dearth of criticism surrounding the wisdom of using TRC's as a means of securing peace in post-conflict societies, most of this criticism ignores the deeper cost-based problematics that make truth-telling such a seductive but also seductively dangerous and misleading type of transitional justice.

In an upcoming work entitled *Truth-Telling Fallacies: A Game Theoretic Critique of the Truth and Reconciliation Process In Sub-Saharan Africa*, Professor Brown argues that TRCs if implemented imprudently, meaning without a full appreciation of both the short and long term costs involved, may actually increase the likelihood of political violence in states where disputed elections or other political deliberations produce results that one side views unfavorably. Employing game theory techniques like the well-known Prisoner's Dilemma more commonly used by economists and political scientists, Professor Brown demonstrates that by removing the severe sanction of criminal liability, TRCs make it more likely rather than less that political opportunists will resort to violence to achieve their short term political ends in the face of disputed political outcomes like flawed elections.

In basic economic terms, once one introduces TRCs into the mix of potential conflict resolution outcomes, political elites will begin to consider this possibility as they weigh and assess their individual cost-benefit options, an entirely rational process, one should note. If these calculations reveal the likelihood that some form of truth-telling will be employed as the preferred dispute resolution option (and not criminal prosecutions), then political elites may also conclude that they have little or nothing to gain through the peaceful resolution of political disputes in the short term. To the contrary, they may

conclude that they have more to gain by promoting various forms of social unrest, including inciting ethnic and other forms violence.

The resultant political instability, itself a deliberate by-product of the exacerbation of ethnic and other tensions by cynical elites, encourages the political opposition to seek a negotiated settlement in order to reintroduce a modicum of stability, and typically on terms favorable to the party or parties responsible for the violence in the first place. Increasingly in Sub-Saharan Africa, these settlement deliberations include the prominent use of TRCs. It is precisely the use of this type of decisional and policy-based manipulation in the recent Kenyan conflicts that has aroused the ire of human rights advocates like Human Rights Watch and Amnesty International. Not surprisingly, the TRC models figures prominently in Kenya's post-conflict dispute resolution template.

Professor Brown hopes that his observations will encourage policy makers and international peace negotiators to reconsider their growing willingness to use TRCs indiscriminately and to recognize that in some situations, the threat of severe criminal sanctions actually represents the more responsible policy direction that should be utilized.