

## Conclusion to Part I

As analysed in Chapters 2 and 3, the judicial investigations and trials on the massacres have succeeded in uncovering much vital information regarding the nature and scope of the Strategy of Tension and the role played by various protagonists, above all the groups of the radical right. However, it is also the case that even the latest trials have largely failed to bring the culprits to justice, due mainly to the amount of time that has elapsed since the crimes themselves. Indeed, given that this was most probably one of the goals of the various episodes of obstruction of justice carried out by state institutions, it must be said that it has been fulfilled. One must also add that many of the protagonists continue to remain reticent, and that many potential witnesses continue to report the existence of a climate of intimidation and fear, which helps to ensure that only very few are prepared to come forward. According to historian Aldo Giannuli, researcher for Milan prosecutor Salvini and consultant to the Parliamentary Commission on the Failed Identification of the Authors of Terrorist Massacres, 'when you finally reach a verdict after thirty years the witnesses are dead or doddering, the evidence has disappeared and in the end you can always find a jury which is willing to acquit everyone' (interview with the author, 24 October 2005).

The criminal trials have also failed to unearth a comprehensively plausible truth in relation to *stragismo* and the Strategy of Tension, as evidenced by the continuing existence of a variety of interpretations based on the trial findings, as examined in Chapter 4. A general consensus regarding the full involvement of extreme-right groups, notably Ordine Nuovo, gradually gives way to diverse hypotheses concerning the role of state institutions and political actors, as well as international forces. According to Giannuli and Salvini himself, the shortcomings of the criminal justice process in this respect can be attributed at least in part to divisions within the judiciary. Indeed, Giannuli expressed the drastic view that 'the truth regarding the *stragi* was not part of the plans of the Italian judiciary'. This is not to say that individual magistrates were not committed to finding the culprits, but that the judiciary was not united in this, particularly since the police and the *Carabinieri* were themselves involved:

It is not a coincidence that in the trials concerning left-wing terrorism you have a very high percentage of convictions, in those regarding right-wing terrorism you have a much reduced percentage, and if you look carefully you find that those convicted

belonged to the NAR not to ON and AN, and the sentences referred to individual murders not the massacres, for where there is an involvement of institutional bodies there is nothing doing. (Lack of) evidence does not come into it. (Interview with the author, 24 October 2005)

This raises a more general question regarding the relationship between truth and justice, and between 'retributive' and 'restorative' justice, particularly in countries which have experienced a violent political conflict. There seems to be a general agreement among experts that the full disclosure of the truth is a vital part of the process of achieving justice for past wrongdoings, while there is a fierce controversy raging around the merits and demerits of retributive versus restorative justice.

The former refers to criminal law proceedings and court trials, whereby the perpetrators are made accountable for their past actions and are punished in accordance. As Llewellyn and Howse (1999) pointed out, the advocates of criminal prosecutions stress the importance of trials to establish the supremacy of the rule of law, to ensure individual, not simply collective, responsibility for past crimes, to allow the full disclosure of the truth, to give victims redress for the harm they suffered. Others add the need to counter a culture of impunity and to instil trust in the (new) legal and political system.

Restorative justice, by contrast, refers to alternative processes of justice which typically bring together all stakeholders and focus on truth telling, reconciliation and healing. A typical example is that of the Commission of Truth and Reconciliation in South Africa, set up in 1995, which promoted the coming together of both perpetrators and victims of the apartheid regime, whereby the perpetrators confessed to their crimes in exchange for a wide amnesty and for the forgiveness of their victims. There are many advocates for this kind of justice, which is seen to promote peace and reconciliation and a general coming to terms with a divided past by all participants to a conflict. Indeed, there has been a proliferation of this type of commission in many countries emerging from violent conflicts or dictatorial regimes.

The debate over these two types of justice appears to have two main dimensions: a practical dimension and a moral one. Concerning the moral dimension, there are many who voice deep concern for what is seen as replacing the rule of law and the principle of individual responsibility and accountability with vague notions of 'reconciliation', 'forgiveness' and 'healing'. Studies of the South African experience, as well as the experiences of post-Cold War countries, have brought to light divergent opinions over the morality of restorative justice, particularly in relation to the victims (James and De Vijver 2000; Rotberg and Thompson 2000; Villa-Vicencio and Verwoerd 2000; Wilson 2003; Gibson 2004, 2005). As regards the practical dimension, the advocates of restorative justice emphasise the excessive length and costs of criminal proceedings, the difficulty of bringing the culprits to justice, especially in a climate where connivances and biases can influence court proceedings, or indeed when suspected perpetrators are still in positions of power. In this context, a restorative justice approach can be more successful in promoting the full disclosure of the truth and the restoration of state legitimacy.

Much of the controversy over the two types of justice involves having to choose between one or the other. However, some have argued that they should be considered complementary approaches (Hayner 2001; Minow 2000). Minow (2000: 238), in particular, has written about the limitations of both approaches, stressing, specifically in the case of state-sponsored political violence, the inability of many trials to bring to light the complicities and responsibilities of the wider institutional and political structures which made the crimes possible, because an emphasis on individual culprits often leaves these structures untouched. She argued for truth and reconciliation commissions working to complement the achievements of criminal trials, while recognising that even implementing a variety of approaches may fall short of a society's needs, since 'no response to mass atrocity is adequate' (ibid.: 235).

In the Italian case, it can be argued that the limits of the criminal justice process with regards to political and, most likely in the case of *stragismo*, state-sponsored violence, are very much in evidence. It is impossible to say whether more could have been achieved if the criminal process, at some stage after the end of the Cold War, had been discarded in favour of some kind of restorative justice approach. What does seem apparent is that criminal law proceedings have run their course and have gone as far as they possibly could as regards identifying the culprits, bringing them to justice, and uncovering the truth. The only way forward therefore seems to rest with novel approaches to truth and 'justice' that are external to the trials.

It is also important to establish how the victims themselves weigh the truth in relation to justice in the Italian case. Bolognesi, for example, was clearly not prepared to engage in a process of reconciliation or indeed forgiveness which did not have as a precondition a full engagement in truth telling on the part of the culprits. The latter had to take precedence over the former. Milani, on the other hand, was more open to various possibilities. This was partly because, while Bolognesi was convinced that at least some of the culprits for the Bologna massacre had been secured to justice, Milani faced a situation in which the perpetrators of the Brescia massacre remained officially unknown. In this context, he seemed to accept the need for a 'political truth' alongside the truth uncovered by the trials. In his words: 'The real state secret in Italy is that many know the truth but do not tell, even at very high levels. Not so much because they gave the orders [for the massacres] but because there were connivances, cover-ups.' In his view, the main limit of the lack of a full judicial truth, and of the ambiguous formula of acquittance applied to many defendants by the Courts, was precisely the persistence of an attitude of denial among many people for political reasons. Thus the culprits became alternatively extreme-right or extreme-left activists, according to the political affiliation of the commentators. This situation, in his view, necessitated an end to prioritising the 'reason of state'. Parallel to this, there was a need, for the sake of democracy, to 'invent something' that made it possible for people to tell the truth. Milani argued forcefully that the strength of any democratic system was based on truth, whereas in Italy the knowledge that the opposite was the case determined continuing mistrust in the institutions of the state.

It is in this context that Part II takes into consideration, within the framework of the literature on truth telling and national reconciliation, whether in Italy there have been any steps in this direction, and whether the political actors that have emerged from the collapse of the First Republic and of the old ideologies, have themselves attempted to contribute to the emergence of the truth through a critical reappraisal of the past. One of the ways, for example, in which the criminal findings can be reinforced and justice supported, thereby also restoring the legitimacy of the state, is through a wide acknowledgment of the truth the trials have uncovered so far, ideally by complementing it with missing 'bits of truth' concerning the role of political organisations and state institutions. This is especially the case for those parties which are the heirs of Italian neofascism, and above all those, like *Alleanza Nazionale*, which have officially renounced and even condemned their fascist past. As we shall see, this scenario is far removed from reality. The limitations of the criminal trials almost pale into insignificance when compared to the total absence of any meaningful process of national reconciliation, with the result that, among the heirs of neofascism, the criminal justice findings are rejected en bloc, the presumed culprits are turned into victims, the victims of the massacres are forgotten or relegated to a marginal position and the longstanding enemies of neofascism are turned into culprits. Their attitude challenges the rule of law and raises troubling questions concerning the value of pursuing criminal justice for politically inspired crimes through the Courts when there is no recognition of the legitimacy of their findings among political parties pledging allegiance to democratic principles and commanding the support of a considerable sector of the electorate and public opinion.

