

## 'Toxic waste'

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Umtata lawyer and former detainee Dumisa Ntsebeza said the liberation movements should deal effectively with the "skeletons in our own cupboards" and heed recommendations made during an internal inquiry into the ANC camps. If the ANC failed to do this, the National Party government could opt out of dealing with its past, and public unease over the camps would not be laid to rest, he said.

A commission could also look at the feasibility of reparations, compensation and land restoration. However, Zalaquett cautioned, in a country such as South Africa where the majority of the population was aggrieved by apartheid, "once you start pulling a thread of the knot of reparation you may continue without an end in sight. For this reason it may be worth considering whether reparations in South Africa should be emphasised more in their symbolic and spiritual aspects than in their material ones."

On the issue of whom to prosecute and for what, Open Society Fund president Aryeh Neier said: "Efforts must be taken to ensure that those who held the highest responsibility for the most serious crimes are prosecuted and punished, not those who simply carried out orders. And in dealing with the past, abuses must not be compounded. One's methods must be beyond reproach and must adhere to considerations of fairness and due process."

Rosenberg said that in highly bureaucratized systems - as was apartheid - it could be difficult to pin crimes to individual authors. However, even a small number of prosecutions could have important symbolic value.

According to some delegates, under international law there is an obligation to prose-

# 'Amnesty mean 'am

**T**HE experiences people of different countries suffered at the hands of totalitarian governments were very varied, the conference on Justice in Transition heard. So were modes of resistance - and the styles of the oppressors themselves.

But all agreed on the need to confront the perpetrators of these crimes - sooner or later. From Poland came the message: be wary of the term "amnesty", for under certain circumstances it can come to mean amnesia. From Latin America the warning was: "reconciliation" can easily be confused with recurrence.

Speaking on a panel entitled "Reconciliation/Amnesty: Past and Present Experiences", American journalist Tina Rosenberg drew a distinction between Latin America and Eastern Europe. In Eastern Europe, the state sought to mobilise the entire society along socialist lines. Silence and non-participation were unacceptable, even punishable, and everyone was expected to be an active, practising communist. In Latin America, however, the state set

itself up in opposition to the people and sought non-participation, preferring a passive and docile - even apolitical - citizenry.

Consequently, those who challenged the regimes in Latin America were more easily identified and criminalised. By contrast, in

In Eastern Europe, the period of control over the benefits of

from abundant scarce goods. The state was key to a

By contrast, punitive, were usually brutal. In Latin America, individual European national systems

*'In Eastern Europe they were criminal regimes whereas in Latin America they were more likely to be the regimes of criminals'*

"In Eastern Europe, regimes, were more national," Rosenberg

In Argentina, individual



*DELEGATES: Tina Rosenberg of the US and Wiktor Osiatynski of Poland.*

nine-man junta, involving about 300 witnesses who one after the other gave evidence about some 700 charges of illegal detention, murder, torture and kidnapping – the legal term for what had been called, simply, “disappearances”.

The 1985 trial, which began two years after the elected government came to power, followed due legal process and ended in the acquittal of most members of the junta for lack of evidence.

However, under great pressure from the military, the new government backtracked, passing new laws that made it very difficult to prosecute any military personnel other than security chiefs.

In Chile, when the military dictatorship ended in 1990, the new government appointed an eight-person commission to record the crimes against humanity committed since the military coup in 1973. For a year the commission took its brief nation-

wide, talking to every victim’s family, perusing court records, even interviewing members of the military, who were forced to cooperate.

Jose Zalaquett, a member of that commission, told the conference “this was a very important healing process. Persons who once had been shunted away from the official buildings were now received with dignity. They were offered a cup of coffee, the Chilean flag was there and an official commission was listening to them with due respect.

“They broke down in these offices and this was the first time that people started crying. When you are confronting arrogance you don’t cry. You face it. But you can afford yourself a measure of relief under these very different circumstances.”

The end result was a 900-page document that was published as a book and sent with a personal letter from the president to every affected family. The report also made

detailed provision for compensation for scholars, reparations.

The trial in New York and Weschler, a country where before it had been a nation having a beach”.

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