

Missing-ness, History and Apartheid-era disappearances:

**The figuring of Sphiwo Mthimkulu, Tobekile ‘Topsy’
Madaka and Sizwe Kondile as missing dead persons**

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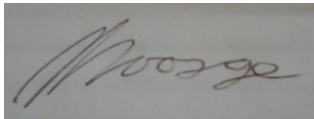
A dissertation submitted in fulfillment of the requirements for the Degree of Doctor of Philosophy in the Department of History, Faculty of Arts, University of the Western Cape and the Department of History, Faculty of Arts, Vrije Universiteit Amsterdam.

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Plagiarism Declaration

I, Riedwaan Moosage, declare that 'Missing-ness, History, Apartheid-era disappearances: The figuring of Sphiwo Mthimkulu, Tobekile 'Topsy' Madaka and Sizwe Kondile as missing dead persons' is my own work, that it has not been submitted for any degree or examination other than the University of the Western Cape and Vrije Universiteit Amsterdam, and that all the sources I have used or quoted have been indicated and acknowledged by complete references.

Riedwaan Moosage



September 2018



Abstract

The argument of this dissertation calls for an abiding by missing-ness as it relates to apartheid-era disappearances. I am concerned with the ways in which the category missing is articulated in histories of apartheid-era disappearances through histories seeking to account for apartheid and how that category is enabled and /or constrained through mediating practices, processes and discourses such as that of forensics and history itself. My deployment of a notion of missing-ness therefore is put to work in underscoring notions of history and its relation to a category of missing persons in South Africa as they emerge and are figured through various discursive strategies constituted by and through apartheid's violence and iterations thereof.

I focus specifically on the enforced disappearances of Siphiso Mthimkulu, Tobekile 'Topsy' Madaka and Sizwe Kondile and the vicarious ways in which they have been produced and (re)figured in a postapartheid present. Mthimkulu and Madaka were abducted, tortured, interrogated, killed and their bodies disposed through burning by apartheid's security police in 1982. In 2007 South Africa's Missing Persons Task Team exhumed commingled burnt human fragments at a farm, Post Chalmers. After two years of forensic examinations, those remains were identified as most likely those of Mthimkulu and Madaka. Their commingled remains were reburied in 2009 during an official government sanctioned Provincial re-burial. Kondile was similarly abducted in 1981 and after being imprisoned, tortured, interrogated and killed, his physical remains were burnt. The MPTT has been unsuccessful in locating and thus exhuming his remains for re-burial. Sizwe Kondile remains missing.

Missing-ness as I evoke it serves to signal the lack and excess as potentiality and instability of histories accounting for the condition and symptom of being missing. The productivity of deploying missing-ness and an abidance to it in the ways I argue is precisely in not explicitly naming it, but rather by holding onto its elusiveness by marking the contours of discourses on absence-presence, those which it simultaneously touches upon and is constitutive of. Articulating it thus is to affirm missing-ness as a question that I argue, be put to work and abided by.

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Nicky Rousseau deserves special acknowledgement for standing by me, for being an intellectual interlocutor, a mentor and a teacher. Words will never be sufficient to express my gratitude.

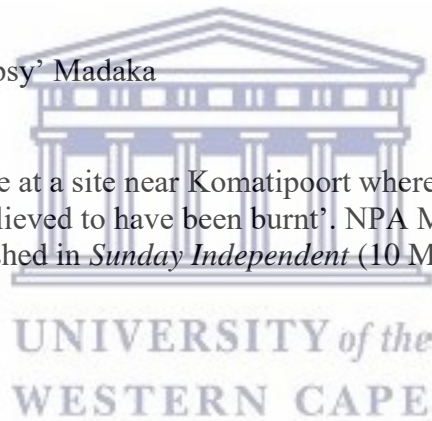
In many ways, the journey towards completion of this dissertation began in 2004 as a first year undergraduate History student at UWC. I was exposed to the rigours of intellectual thought and the stakes of asking questions. It is Leslie Witz and Premesh Lalu who first saw the potential in me as a student willing to abide with the difficult questions. I acknowledge and thank Premesh Lalu for his mentorship.

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In order for there to be any sense in asking oneself about the terrible price to pay, in order to watch over the future, everything would have to be begun again. But in memory, this time, of that “impure impure history of ghosts.” Can one, in order to question it, address oneself to a ghost? To whom? To him? To it, as Marcellus says once again and so prudently? “Thou art a Scholler; speake to it Horatio...Question it.”

The question deserves perhaps to be put the other way: Could one *address oneself in general* if already some ghost did not come back? If he loves justice at least, the “scholar” of the future, the “intellectual” of tomorrow should learn it and from the ghost. He should learn to live by learning not how to make conversation with the ghost but how to talk with him, with her, how to let them speak or how to give them back speech, even if it is in oneself, in the other in oneself: they are always *there*, specters, even if they do not exist, even if they are no longer, even if they are not yet. They give us to rethink the “there” as soon as we open our mouths [as soon as we type], even at a colloquim [even through a PhD dissertation]....

Thou art a scholar; speak to it, Horatio.

(Jacques Derrida, *Specters of Marx*, 221)



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A question of missing-ness

On the 30 August 2015 I was a passenger in a car driving towards a farm, Post Chalmers. The farm is 30km away from the small town of Cradock in the Eastern Cape Province of South Africa. Driving was Nicky Rousseau, a former researcher for South Africa's Truth and Reconciliation Commission (TRC) and a research consultant for South Africa's Missing Persons' Task Team (MPTT). The MPTT had been established in 2004 based upon recommendations from the TRC in its Final Report.¹ The MPTT's work is to locate, excavate, exhume and identify the physical remains of political activists, those whom the TRC categorized as victims of apartheid-era disappearances.²

Nicky had been present at Post Chalmers in 2007 when the MPTT located, excavated and exhumed the commingled burnt human fragments that were identified by the MPTT in 2009 as most likely the remains of anti-apartheid activist's Siphiwo Mthimkulu and Tobekile 'Topsy' Madaka, along with Champion Galela, Qaqawuli Godolozzi and Sipho Hashe. They had, in 1982 (Mthimkulu and Madaka) and 1985 (Galela, Godolozzi and Hashe), been abducted, interrogated, poisoned, and killed, with their bodies burned, disposed and concealed by apartheid security police.

The MPTT deals with two kinds of missing persons' cases involving apartheid-era extra-judicial killings. The first are cases of enforced disappearances

¹ *Truth and Reconciliation Commission of South Africa Report*, Vol 6 (Cape Town: Jutas, 1998-2003), 512-569. Hereafter TRC *Final Report*, Vol. 6.

² As part of its mandate, the TRC had to investigate 'enforced disappearances', but under the category of 'Abductions'. The TRC *Final Report* noted that it had recourse to a number of definitions of enforced disappearances, such as those offered by Amnesty International and 'The United Nations Working Group of Enforced or Involuntary Disappearances'. The TRC decided that it "finally defined the category 'Abductions' as 'including those persons who were forcible detained or arrested and last seen in the custody of the security forces or agents of the state, as well as those forcibly and unlawfully abducted by other known or unknown armed groups or parties.'" See TRC *Final Report*, Vol. 6, 514-515.

followed by killing - covert murders where apartheid security police secretly disposed of victims in a place and manner known only to them. The methods of disposal of these bodies varied and included the blowing up of bodies and the burning of bodies as means of concealment. The Post Chalmers investigation fell into this category. The second, and that which forms the bulk of the work of the MPTT, are cases where security forces, under the pretext of lawful killings such as in instances of 'riots' would execute 'suspects' instead of arresting them and those persons' killed bodies were left in public. Those bodies would be taken to mortuaries and enter the 'bureaucracy of death' before being buried in pauper graves.³ Included in these latter cases are political prisoners sentenced to capital punishment and hung by the apartheid state and their bodies buried in unmarked graves.⁴ While the MPTT has success in locating, excavating, exhuming and identifying the human remains of victims of apartheid-era disappearances – 145 at the time of writing this - there are persons whose physical remains remain missing.⁵

One such person is Sizwe Kondile. He was enforcedly abducted - disappeared - and killed, with his body disposed of through burning by apartheid security police in

³ See N. Rousseau, 'The Farm, the River and the Picnic Spot: Topographies of Terror' in *African Studies*, Vol. 68, No. 3 (December 2009), 351-369; N. Rousseau, 'Death and dismemberment: the body and counter-revolutionary warfare in apartheid South Africa' in E. Anstett & J.M Dreyfus (eds.) *Destruction and human remains: Disposal and concealment in genocide and mass violence* (Manchester: Manchester University Press, 2014), 204-225; N. Rousseau, 'Counter-Revolutionary Warfare: the Soweto Intelligence Unit and Southern Itineraries' in *Journal of Southern African Studies*, Vol. 40, No. 6 (2014), 1343-1361.

⁴ Between 1960 and 1990 in South Africa, 130 political prisoners were hung at the gallows. Since 2016 the MPTT has been working on the Gallows exhumation project. See B. van Laun, 'Bureaucratically missing: capital punishment, exhumations and the afterlives of state documents and photographs' in *Kronos* (2018) Forthcoming. See also B. van Laun, 'Administrative Death: Bureaucracy, capital punishment and governmentality in South Africa during the 1960s' (Unpublished PhD thesis, University of the Western Cape, 2018).

⁵ This number increases with every month. This latest figure comes from personal correspondence with Nicky Rousseau via MPTT head Madeleine Fullard. Though see also S. Smillie, 'Window of opportunity to find apartheid's missing victims closing unless old assassins tell all', *Daily Maverick* (20 April 2018) that explains the complexity of locating graves and the time sensitive nature, in so far as perpetrators are dying and/or failing to come forward, which determines the success of the work of the MPTT.

<https://www.dailymaverick.co.za/article/2018-04-20-missing-persons-window-of-opportunity-to-find-apartheids-missing-victims-closing-unless-old-assassins-tell-all/#.WtnxgyKB0Wp>
(Accessed 1 August 2018).

1981. Numerous attempts by the MPTT to locate his remains have been unsuccessful. Between the 30 June and 1 July 2016 I attended and witnessed the ‘spiritual repatriation’ of Sizwe Kondile in Komatipoort, on the border with Mozambique where it is believed Kondile was killed and his body burnt, and later a ‘symbolic burial’ at South Africa’s Freedom Park in Pretoria.⁶ Sizwe Kondile remains missing.

I had initially planned this dissertation to focus solely on the figuring of Sizwe Kondile as missing. This was because on re-reading the final chapter of my Master’s thesis on the practice of ‘necklacing’, I was and still am, as elaborated below, struck by the way he has been figured in a text titled *Every Step of the Way: The journey to freedom in South Africa* (2004).⁷ However, during one of our many conversations about my research, Nicky advised that I watch a documentary by filmmaker Mark Kaplan, *Between Joyce and Remembrance*.⁸

That documentary is about the enforced disappearance of Siphiso Mthimkulu and how the TRC process unfolded for his mother and son. In so doing, the documentary narrates Mthimkulu’s imprisonment in 1981, his illness upon release, his hospitalization where a diagnosis of thallium poisoning was made and the resulting loss of scalp hair, some of which his mother, Joyce Mthimkulu decided to keep. One of the most iconic moments of the TRC process was Joyce Mthimkulu holding up that fistful of hair with scalp attached at the 1996 TRC Human Rights Violation Hearing into the disappearance and murder of her son. The documentary shows that hair being interred in the backyard of the Mthimkulu family home in 2002. That same fistful of

⁶ I offer an account of my experience at the end of this dissertation.

⁷ Necklacing is a practice of placing a petrol soaked tyre around the neck of an individual before setting the tyre, and the individual, alight. It was most pronounced during the mid 1980s in South Africa where resistance to apartheid was intensified and victims of the practice were largely accused of working for the apartheid state as informers. See R. Moosage, ‘The Impasse of Violence: Writing necklacing into a history of liberation struggle in South Africa (Unpublished MA thesis: University of the Western Cape, 2010), Chapter 4. ; M. Morris, *Every Step of the Way: The journey to freedom in South Africa* (Cape Town: HSRC Press, 2004).

⁸ M. J. Kaplan, *Between Joyce and Remembrance*, directed and narrated by M. J. Kaplan (Grey Matter Media and Bullfrog Films, 2004).

hair with scalp attached was disinterred in 2009 by the Mthimkulu family and reinterred into a coffin that contained a steel box holding the commingled burned human fragments identified as most likely being those of Mthimkulu and ‘Topsy’ Madaka.

As we neared Post Chalmers, I recalled the guiding question of this dissertation. That question - both epistemological and ontological - relates to the constructing and constituting of forms of knowledge about apartheid-era disappearances. In other words, how do we know what we know about apartheid-era disappearances as these relate to the specificity of the figuring of Sizwe Kondile, Siphiwo Mthimkulu and ‘Topsy’ Madaka. How are histories invoked, evoked and conceptualized in seeking to account for apartheid-era disappearances. Stated slightly differently, the question I am concerned with in this dissertation relates to the ways in which a category of missing is articulated in histories of apartheid-era disappearances through histories seeking to account for apartheid and how that category is enabled and/or constrained through mediating practices, processes and discourses that provoke a question of missing-ness.

My reading of *Every Step of the Way* initially provoked the question guiding this dissertation. Written by journalist Michael Morris with Bill Nasson as the historical advisor, *Every Step of the Way* aimed at a wide audience, though specifically at high school teenagers, seeking to ‘brighten the study of history’. The Prologue, entitled ‘Fires’, began with the following epigraph:

It was going to be a long night, but the five men sitting around the braai [barbeque], talking and drinking beer, had the patience for it. If it took the whole night, well, they would just have to sit it out.

Morris continues and writes; “So they kept feeding the flames, and drinking, and talking...we know some of the stark facts of this braai [barbeque] in the bush near

Komatipoort on the Mozambican border in the winter of 1981.” Those “facts”, Morris writes, include that “we know that the five men were policemen. We know that three of them had travelled to this spot from the Eastern Cape that day....” And finally, according to Morris,

And we know that when they packed up to go, as the lowveld sky began to pale in the east, they left behind in the burnt-out coals of a second fire the ashes of a young man they had drugged and murdered early the previous evening. Sizwe Kondile had been kidnapped on the outskirts of the seaside hamlet of Jefferys Bay, bundled into a car and driven to his end.⁹

Siphiwo Mthimkulu and ‘Topsy’ Madaka also figure in *Every Step of the Way*. In a chapter about the TRC process titled ‘By any means’, the epigraph states: “All she had was some of his hair – a fistful of it, but just hair. Joyce Mtimkulu [sic] had kept this human remnant for more than 20 years.” Morris continues, “It was all that was left of her son, Siphiwo, in the physical sense. Everything else, the memory, the emotion, was intact.”¹⁰ Inserted in the middle of that page was an iconic photograph of Joyce Mthimkulu holding aloft a fistful of hair captured by photographer Jillian Edelstein.¹¹ The caption to the photograph in *Every Step of the Way* states; “For 20 years, Joyce Mthimkulu yearned to discover the facts of her son Siphiwo’s murder, an awful truth brought to light by the [TRC].”¹² A few pages later, Morris returns to the Mthimkulu ‘story’ and writes

Joyce Mthimkulu’s story is about that darkness [of apartheid]. Her son, Siphiwo, who was 21 and the father of two children, had been arrested and detained for six months. He was interrogated and tortured. The police wanted him dead, so, shortly before releasing him, they fed him rat poison, hoping he would die and it would look like a natural death. The poison didn’t kill him – in confined him to a wheelchair. And he lost his hair. It alarmed his mother, who kept some of it, sensing it was evidence of some awful secret. But Siphiwo’s incapacity wasn’t enough for the security police, who still saw the

⁹ M. Morris, *Every Step of the Way*, 1.

¹⁰ M. Morris, *Every Step of the Way*, 284.

¹¹ J. Edelstein, *Truth & Lies: Stories from the Truth and Reconciliation Commission in South Africa* (Johannesburg: M&G Books, 2001), 128.

¹² M. Morris, *Every Step of the Way*, 284.

wheelchair-bound activist as a threat. So three of them, Gideon Nieuwoudt, Gerrit Erasmus and Nic van Rensburg, kidnapped Siphiwo and a friend Topsy Madaka, took them to a disused police station at Post Chalmers near Cradock and interrogated and tortured them. The policemen then drugged them – so they said (though Joyce Mthimkulu could not believe they had an ounce of compassion in them) – and shot them execution-style in the back of the head before burning their bodies and dumping the remains in the Fish River.¹³

Almost as if forgetting that Sizwe Kondile had been introduced in the ‘Prologue’ to the text, the above is immediately followed by, “Another Eastern Cape activist and law graduate, Sizwe Kondile, met a similar fate in the same period. But he was drugged, shot and burnt to ash outside Komatipoort on the Mozambique border.”¹⁴

The question posed by Morris in the ‘Prologue’ is; “what do we do with these facts in 2004, and in the years to come?” For Morris, what “we” do with those “facts” is to remember them; “it is, ultimately the triumph of memory over forgetting.”¹⁵ Indeed, in the final chapter of the text, titled, ‘Remembering the future’ with an epigraph “Yesterday is history. It’s happened. It’s in the past, and there’s no getting away from it”, Morris reaffirms the importance of remembering because “what we choose to remember is a way of recommending choices for our tomorrow.”¹⁶ And just as the text opens with the scene of the braai [barbeque] introducing Sizwe Kondile to a history of “the journey to freedom in South Africa”, the final words of the text are,

There is an entirely unimaginable, and unthinkable quality to the night-long fire that burned Sizwe Kondile to ash in 1981, as much as to the lives and thoughts of the policemen who perpetrated the atrocity. These seem to belong to another country- that *other* country-yet they are features of the historical landscape South Africans still occupy. To overlook them is to remain in the shadowed world of forgetting. Remembering them is an act of optimism, a letting in of the light.¹⁷

¹³ M. Morris, *Every Step of the Way*, 288-289.

¹⁴ M. Morris, *Every Step of the Way*, 289.

¹⁵ M. Morris, *Every Step of the Way*, 1.

¹⁶ M. Morris, *Every Step of the Way*, 316.

¹⁷ M. Morris, *Every Step of the Way*, 322.

Kondile's charred corpse, his "ashes", frames the entire narrative of South Africa's 'long journey to freedom', its 'history', in *Every Step of the Way*. The text begins ('Prologue') with the "facts" of Kondile's remains being burnt and concludes ('End Piece') with the plea for a remembering thereof that must trouble the "unimaginable and unthinkable quality" to the event that places and figures Kondile into that history as a history of and after apartheid.

My sense is that there is something more to, as Morris narrates, the "entirely unimaginable and unthinkable quality to the night-long fire that burned Sizwe Kondile to ash in 1981." Despite framing the entire narrative of South Africa's "long journey to freedom" including a history of and after apartheid, not only are the physical remains of Sizwe Kondile missing, he himself is missing. So too is my sense of the figuring of Mthinkulu in *Every Step of the Way* that appears to be underscored by the "fistful of hair" that must be imagined and remembered as the only "human remnant in the physical sense" that his mother, Joyce Mthinkulu kept, "sensing it was *evidence* of some awful secret."¹⁸ There was no "human remnant in the physical sense" for the family of 'Topsy' Madaka to hold onto. Just as there is a call to imagine the unthinkable, which is now seemingly made thinkable through *Every Step of the Way*, Madaka appears to be forgotten- missed- in that call to imagination-as-remembrance.

Every Step of the Way is presented as a nationalist text aimed at remembering the past in a post-apartheid present, as the then Minister of Education, the late Kader Asmal, took pains to emphasise in the Foreword. One reviewer, Allan Cobley, argued that, "the book was written to fulfill the needs of a particular historical moment and a particular political purpose." For Cobley, "if nothing else, this book shows that a

¹⁸ M. Morris, *Every Step of the Way*, 288. My emphasis.

much wider renaissance in the discipline of history in South Africa over the next few years is necessary to ensure that the old mythologies of the South African past are not simply replaced by new ones.”¹⁹ In a re-thinking of *Every Step of the Way*, what strikes me is the emphasis placed on the idea that the South African ‘nation’ has to ‘imagine’ so as to ‘remember’ the burning of corpses in the early 1980s as the most extreme example of the horrors of apartheid perpetrated by functionaries of the apartheid state. Yet that imagination can only be affirmed by “the stark facts” that Morris presents.

“Stark facts”, however, are not self-evident and need to be understood in relation to their constituting archives. The power of ‘the’ archive as an “instituting imaginary”, according to Achille Mbembe, relies on a “trade with death”. This trade relies on the desire of ‘the’ archive striving to reassemble traces of the dead to testify that a life existed but in so doing, avoiding the ‘dispersing’ of those traces. Archiving, as Mbembe posits, “is a kind of interment, laying something in a coffin, if not to rest, then at least to consign elements of that life which could not be destroyed purely and simply.” Yet, as Mbembe continues to state, “these elements, removed from time and from life, are assigned to a place and a sepulchre that is perfectly recognisable because it is consecrated: the archives.” According to Mbembe, “putting together scraps and debris, and reassembling remains, is to be implicated in a ritual which results in the resuscitation of life, in bringing the dead back to life by reintegrating them in the cycle of time, in such a way that they find, in a text, in an artefact or in a

¹⁹ See A. G Copley, ‘Review: [Untitled]’ in *African Studies Review*, Vol. 49, No. 3 (Dec., 2006), 92-94. For other reviews see, A. J. B Humphreys, ‘Review: *Every Step of the Way: The Journey to Freedom in South Africa*’ in *The South African Archaeological Bulletin*, Vol. 59, No. 180 (Dec., 2004), 71. The text was lauded in numerous newspaper ‘reviews’. See for example T. Smith, ‘Our past through other people’s eyes’ in *Cape Argus* (21 May 2004) and J. Loos, ‘Lest we forget, a visit to our recent past’ in *Cape Argus* (25 June 2004). The text was also nominated for the Alan Paton Award for non-fiction. See B. Schoonakker, ‘Alan Paton Award’ in *Sunday Times* (10 July 2005).

monument, a place to inhabit, from where they may continue to express themselves.” Mbembe continues by positing that, “it may be that historiography, and the very possibility of a political community (*polis*), are only conceivable on condition that the spectre, which has been brought back to life in this way, should remain silent, should accept that from now on he may only speak through another, or be represented by some sign, or some object which, not belonging to any one in particular, now belongs to all.”²⁰

For Mbembe, “assigning them to this place [the archive] makes it possible to establish an unquestionable authority over them and to tame the violence and cruelty of which the ‘remains’ are capable, especially when these are left to their own devices.”²¹ However, this process is not merely one of ‘bringing the spectre back to life’ because the spectre is always haunting in that, as Jacques Derrida reminds us, the spectre is such that “one cannot control its comings and goings because it begins by coming back.”²² In so doing, the spectre disrupts the taming of the violence and cruelty of which the ‘remains’ are capable. More so, the spectre does not and will not allow that it be spoken for, rather it demands to be spoken of, spoken to and spoken with.²³ For indeed, there are traces, remnants, ‘debris’ of the (after)lives or rather, the spectres, of Kondile, Mthimkulu and Madaka that work in haunting not only the “institutional imaginaries” we refer to as archives, but also through determining how histories of and after – in the wake of - apartheid are thought, written and (re)presented.

²⁰ A. Mbembe, ‘The power of the archive and its limits’ in C. Hamilton et al (eds.), *Reconfiguring the archive* (Cape Town: David Philip, 2002), 25.

²¹ A. Mbembe, ‘The power of the archive and its limits’, 22.

²² J. Derrida, *Specters of Marx: The State of Debt, the Work of Mourning and the New International* trans by P. Kamuf (New York: Routledge, 2006), 11. See also J. Derrida, *Cinders*, trans. by N. Lukacher (Minneapolis: University of Minnesota Press, 2014).

²³ J. Derrida, *Specters of Marx*, xviii.

As Nicky and I drove towards Post Chalmers I recalled the constituting of the archive I had assembled around the enforced disappearances and killing of Kondile, Mthimkulu and Madaka. These include newspaper reports following their disappearances throughout the 1980s, transcripts and the Report of the ‘Harms Commission of Inquiry into Certain Alleged Murders’ that had investigated their disappearances in 1990, and its accompanying documentation that includes police dockets, affidavits, medical reports and the testimony of its main witness and self confessed perpetrator, Dirk Coetzee. My archive includes the transcripts of testimonies before the TRC’s Human Rights Violations Committee (HRVC) of the loved ones and comrades of Kondile, Mthimkulu and Madaka, the Amnesty hearings of perpetrators applying for amnesty, the Amnesty decisions regarding those perpetrators, the ways in which those testimonies were reported to the public via television shows and newspaper reports and the Final Report of the TRC.

I recalled why I refused to interview the loved ones of Kondile, Mthimkulu and Madaka because of my discomfort that doing so might amount to them reliving their experiences for my academic and intellectual endeavors. I recalled the forensic reports of the MPTT into the excavation and exhumation of the commingled burnt human fragments identified as most likely those of Mthimkulu and Madaka and newspaper reports reporting on the exhumation and subsequent reburial in 2009. I thought about how the fistful of hair as “evidence of some awful secret” was held up by Joyce Mthimkulu at the TRC’s HRV hearing into her son’s disappearance and killing and that that “evidence of some awful secret” was later placed into a steel box in a coffin that contained the commingled burned human fragments identified as those of Mthimkulu and Madaka.

I recalled my reaction to the death of Dirk Coetzee in 2013, who since the late 1980s had implicated himself in the killing and disposal of Kondile's dead body; and one particular obituary written in response to Coetzee's death by a close friend of Kondile, Vusi Pikoli. I recalled my informal discussions and email correspondence with MPTT head Madeleine Fullard, as well as my very brief informal discussion with Vusi Pikoli. And I recalled the forensic report of the MPTT that suggested the improbability of locating the remains of Sizwe Kondile.

Recalling Morris's question posed in the 'Prologue' of *Every Step of the Way*, "what do we do with these facts in 2004, and in the years to come?" that now includes the forensic 'facts' of exhumation and identification, my responses are formulated in the chapters that follow this Introduction. They are articulated through the ways in which I argue Siphiwo Mthimkulu is forensically missing (Chapter One), how 'Topsy' Madaka is missed as missing (Chapter Two), how Mthimkulu, Madaka and Sizwe Kondile are disciplined as missing (Chapter Three) and how Kondile as missing is figured as categorically missing (Chapter Four). In presenting these arguments, what is foregrounded throughout is a question of missing-ness.

A journey

Nicky Rousseau was the joint-supervisor, along with Premesh Lalu, of my Master's thesis (2010) and is a colleague in the Department of History at the University of the Western Cape (UWC). Our journey to Post Chalmers was preceded by our presence in East London at a workshop, *Red Assembly*. My presence at the workshop was not planned. We had previously spoken about a possible research trip to Post Chalmers. Indeed, many discussions were had about the exhumations and I was granted access to her research notes as a researcher with the MPTT as well as

documentation and photographs relating to the Post Chalmers investigation. A surreal experience while working through that archive was finding two entries in one of her diaries for 2007: one was for a consultation with me as an Honours student and two days later an entry marking a trip to Post Chalmers. It was thus once again a surreal experience when Nicky informed me a few days before the *Red Assembly* workshop that she was planning on re-visiting Post Chalmers as she was researching the history of the farm itself and that I would be welcome to accompany her. Through last-minute planning, I found myself on a flight from Cape Town to East London on the morning of the first day of the workshop.

Rousseau presented a paper on the second day of the workshop titled, 'Eastern Cape Bloodlines 1: Assembling the Human'. Her paper spoke to one of the abiding questions that the organizers posed to presenters. The workshop, organized around an installation by artist Simon Gush, asked presenters to relate their papers to that installation whilst asking, "what does it mean to assemble, what is the work of assemblage, how is work assembled?"²⁴ She responded to those questions through an examination of the work of exhumation as that process and practice unfolded at the Post Chalmers site and through subsequent forensic laboratory testing of the remains exhumed. Her paper spoke to the work and practice of exhumation through recovery and identification and if possible, individuating of human remains, which is a work of assembling –disassembling- reassembling that, and following Zoë Crossland, 'produces' the body.²⁵ This is part of a process of rehumanisation. For Rousseau, this process is a question of work as it relates to the work of exhumation as assemblage.

²⁴ See H.Pohlandt-McCormick, G. Minkley and L. Witz, 'Introduction: Red Assembly: East London Calling' in *Parallax*, Vol. 22, No. 2 (2016), 121-131.

²⁵ See. Z. Crossland, 'Of Clues and Signs: The Dead Body and its Evidential Traces' in *American Anthropologist*, 111, No. 1 (2009), 69-80.

Rousseau's paper, subsequently published in the journal *Parallax*, has as its point of departure a provocation offered by Suren Pillay, a colleague at UWC based at the Centre for Humanities Research, in his critique of the ways in which 'apartheid' and 'violence' has been figured through the work of the TRC.²⁶ Following one of the most forceful critiques of the TRC by Mahmood Mamdani, Pillay argues that, "understanding apartheid in the post-apartheid era has become a matter of proving and disproving individual responsibility for individualized suffering", and that the TRC occluded the structural violence of apartheid that "normalize[ed] one kind of violence while pathologising another." The search for human remains and the study of bodies of victims of human rights violations, suggests Pillay, is an attempt at "looking for the state on the body...its fingerprints and its presence" that is "the forensic work performed in the production of a counter-narrative to the state." In searching for "traces of the state that might have been left at the scene of violence", he argues, "death as a result of political violence in South Africa under apartheid has produced 'who' questions that simultaneously had readymade answers." The implications of this has been that 'apartheid' and 'violence' have been separated by the TRC through its individualizing move that has made accounting for such deaths a reckoning of the actions of individuals violating the human rights of other individuals that therefore limits critiques of apartheid as violence. Pillay seeks to "unsettle" this narrative of apartheid by asking questions of apartheid's violence anew.²⁷

²⁶ N. Rousseau, 'Eastern Cape Bloodlines 1: Assembling the Human' in *Parallax*. Vol. 22, No. 2 (2016), 203-218.

²⁷ S. Pillay, 'The Partisan's Violence, Law and Apartheid: The Assassination of Matthew Goniwe and the Cradock 4' (Unpublished PhD thesis: Columbia University, 2011), 42-44. See also M Mamdani, 'A Diminished Truth' in W. James & L. Van der Vijver (eds.), *After the TRC: Reflections on Truth and Reconciliation in South Africa* (Cape Town: David Philip Publishers, 2000), 58-61 and M. Mamdani, 'Amnesty or Impunity? A preliminary critique of the report of the Truth and Reconciliation Commission of South Africa' in *Diacritics* (fall-winter 2002), 32-59.

Following Pillay's provocation, the question posed by Rousseau is whether "exhumations with its focus on the individual body of 'spectacular' violence necessarily operate within the same logic, producing the same 'who' questions and answers?" Since the mid-1980s, and following the work of the Argentine Forensic Anthropology Team (EAAF) in Latin America and elsewhere, exhumations of the disappeared, the missing, have largely operated within contexts of transitional justice mechanisms and its humanitarian aims and claims. There is a question of to 'whom' the skeletal remains belong so as to return them to loved ones and it is the task of the work of exhumations and forensic practices and processes to answer that question. Rousseau underscores that in the aftermath of the TRC and its afterlife through the work of the MPTT, exhumation work is more about the retrieval of skeletal remains from formal or informal graves with the aim of verifying or establishing identity through forensic examination. But the task of exhumation and forensic work is also to, where possible, verify or establish cause of death and works towards verifying or identifying another 'who': a question of who is responsible for the death.²⁸ In Pillay's rendering it is this latter 'who' question that has readymade answers, which limits a critique of apartheid as violence. It is the former 'who' question that Rousseau is concerned with.

Referring to the specificity of the Post Chalmers investigation, Rousseau acknowledges that, "the MPTT too has been led to look for the bodies even though ten security policemen had confirmed the state's fingerprints in their admissions to the

²⁸ For a critique of transitional justice mechanisms through exhumations' work in the South African context, see C. Rassool, 'Human Remains, the Disciplines of the Dead, and the South African Memorial Complex' in D. R. Peterson, K. Gavua & C. Rassool (eds.), *The Politics of Heritage in Africa: Economies, Histories, and Infrastructures* (New York: Cambridge University Press, 2015), 139-145. See also N. Rousseau, 'Identification, politics, disciplines: missing persons and colonial skeletons in South Africa' in E. Anstett and J.M Dreyfus (eds.), *Human Remains and Identification: Mass violence, genocide, and the 'forensic turn'* (Manchester: Manchester University Press, 2015), 175-202.

TRC's Amnesty Committee" and that "located in South Africa's official prosecuting authority, the MPTT also operated in certain respects within an evidentiary paradigm of fingerprints, clues and alibis."²⁹ That forensic work "implicates history" in the production of a counter-narrative to the state, as Rousseau's article acknowledges, also suggests that the work of exhumation might be considered a "recovery project" and the body "as archive" to that project. Posing the question, Rousseau posits that if exhumations are understood as a "recovery project" that is "not dissimilar to recording and writing 'hidden histories', recuperating 'silenced voices'... would a scrutiny of the practice of exhumation replicate the well-worn critiques of recovery and social history?" Without the expectation of an affirmative response, Rousseau suggests that "viewing exhumation's work through the lens of corporealities has led [her] to conclude that attention to the corporeal amassed an excess: sedimented layers of violence, rather than the 'who questions with readymade answers' suggested by Pillay."³⁰ While acknowledging that Pillay, in his critique, has law and transitional justice as it relates to the TRC in his sights, it is the "considerable work" that exhumations do in the production of a counter-narrative to the apartheid state that is of interest in Rousseau's article. That "considerable work" includes the individuated identification of remains exhumed so as to restore personhood that is part of the process of rehumanisation - a "bloodline".

Our trip to Post Chalmers on the 30 August 2015 was not planned as Nicky had arranged to meet with the owner of the farm, Andre van Heerden (snr), the following day. We had arrived in Cradock early on that Sunday afternoon and upon entering the town, the cemetery of where Matthew Goniwe, Sicelo Mhlauli, Sparrow Mkonto and Fort Calata, the 'Cradock 4', are buried was pointed out to me. The

²⁹ N. Rousseau, 'Eastern Cape Bloodlines 1: Assembling the Human', 204.

³⁰ N. Rousseau, 'Eastern Cape Bloodlines 1: Assembling the Human', 204.

'Cradock 4' had disappeared seven weeks after the 'Pebco 3' (Champion Galela, Qaqawuli Godolozzi and Siphon Hashe) in 1985.³¹ The security police responsible for their disappearances had shot, stabbed, bludgeoned, burnt, and disposed of their remains by the side of a road. Pillay's argument briefly outlined above rests on the figuring of the assassination of the 'Cradock 4' and the ways in which they had variously been fashioned and made to emerge through legal and political discourse, in the former as "victims of human rights abuses" and in the latter "transformed from activists to absolute enemies of the [apartheid] state."³² In thinking through how to think 'bloodline' – or lineage - in relation to the killing and exhumation of the five men at Post Chalmers, Rousseau's article underscores that they are inscribed into "resistance histories" as are the 'Cradock 4' in that "through these deaths, these men become part of longer bloodlines, joining a pantheon of heroes who lost or 'gave up' their lives." Indeed, this is precisely how the 'Pebco 3' and Mthimkulu and Madaka (sometimes referred to as the 'Cosas 2') have been inscribed and is evident through the official state reburial of their remains on the 3 October 2009.³³ We decided to go the gravesite of the 'Cradock 4'.

Standing before the grave, I recalled a profound essay written by Michael Taussig, 'Walter Benjamin's Grave: A Profane Illumination'. Taussig recounts his journey in the spring of 2002 to a cemetery in Port Bou on the border between Spain and France where it is believed that Benjamin had been buried. He narrates accounts of a fake grave, accounts of a nameless Walter Benjamin, or fake named Benjamin Walter and accounts of a missing briefcase. Taussig's search for the grave, or fake grave, of Benjamin makes him ask, "When we get right down to it, why trust that any

³¹ Champion Galela, Qaqawuli Godolozzi and Siphon Hashe were members of the Port Elizabeth Black Civic Organisation (Pebco).

³² S. Pillay, 'The Partisan's Violence, Law and Apartheid', 44.

³³ Siphon Mthimkulu was a member, and 'Topsy' Madaka an 'associate' member, of the Congress of South African Students (Cosas).

grave contains what it's supposed to? ... Maybe none of the graves have the right body, or any at all?"³⁴

Walking around the monumental grave of the 'Cradock 4' and staring out at all the other graves in that cemetery shadowed by rolling hills, I too thought about how do I know whose remains, if any, are buried in the ground? And I questioned whether the commingled burned human fragments in a steel box, together with a fistful of hair that had some scalp attached, placed in a coffin and buried on the 3 October 2009 at Zwedi Cemetery in Port Elizabeth really did contain the 'remains' of Siphiso Mthimkulu and 'Topsy' Madaka? Who and what was buried? But I was not standing before their grave. I would soon, the following day, be at the place and space of where the seemingly unimaginable and unthinkable act of poisoning, killing and burning of their bodies took place: a space of death.³⁵

After checking into the same hotel in Cradock where in 2007 members of the MPTT had stayed, Nicky suggested we take a drive to Post Chalmers and it was during that drive that my thoughts had turned to *Every Step of the Way* as recounted above. One of the first things Nicky said to me as we pulled up to the entrance of Post Chalmers was 'see how close to the road the buildings on the farm are.' The implication of this "stark fact" was that the fire that consumed the bodies of the five men burned there would have been visible from the road. It also suggests that the security policemen present on those nights would not have been not concerned with being questioned by passers-by about why a fire was burning for approximately six-

³⁴ M. Taussig, 'Walter Benjamin's Grave: A Profane Illumination' in *Walter Benjamin's Grave* (Chicago: The University of Chicago Press, 2006), 4.

³⁵ For an elaborate discussion on 'the space of death' as "crucial to the creation of meaning and consciousness" and the 'space of death' as "preeminently a space of transformation: through the experience of death, life; through fear, loss of self and conforming to a new reality; or through evil, good" see M. Taussig, 'Culture of Terror – Space of Death: Roger Casement's Putumayo Report and the Explanation of Torture' in *Comparative Studies in Society and History*, Vol. 26, No. 3 (July 1984), 467-497.

eight hours: as Dirk Coetzee infamously testified to as the time it takes to burn a body on an open fire. My mind raced to recall the weather conditions of the night during which the bodies of Siphiwo Mthimkulu and ‘Topsy’ Madaka were burned: a chilly but approximate 12 degrees Celsius.³⁶ In light of what is known about the ‘events’ that transpired at Post Chalmers in 1982 and 1985 respectively, this “stark fact” of the closeness to the road and its implications seems somewhat imaginable and thinkable. Yet conjecture and implications aside, the thought stays with me.

In preparation for our visit to Post Chalmers the following day and recalling the above, I spent the night in my hotel room re-reading the forensic reports of the MPTT on the exhumation and extracts of the Amnesty Hearings of the perpetrators that detailed their versions of what transpired and how they disposed of the remains. Doing so, I asked myself whether I was operating within the very logic that Pillay underscores: asking questions about who and why that had readymade answers. There can be no denying that faced with my imminent presence at a place and space of killing and destruction of human remains, I was caught up in questioning my task as a ‘historian’ seeking to reckon with some abstract and difficult to place, let alone define, notion and question: missing-ness. I questioned what I was hoping to achieve by my presence at a space that, for me, would mark not the presence of commingled burnt human fragments retrieved, but the absence of persons who over the years since undertaking this research, I have come to refer to as ‘my guys’: Siphiwo Mthimkulu, ‘Topsy’ Madaka and Sizwe Kondile.

³⁶ They were either burned on the night of the 14th or 15th April 1982. While there was no weather station in Cradock in 1982, the data for the weather conditions, the minimum temperatures, on the 14th (11.5 degrees Celsius) and 15th (12.5 degrees Celsius) April 1982 were gathered from the weather station in Graaf Reinet, the closest weather station at the time to Cradock. See ‘Post Chalmers Investigation File’, email correspondence between Nicky Rousseau and Garth Sampson (South African Weather Service), 11 July 2007.

The following morning, we were again on the road to Post Chalmers. I was mostly silent, lost in thought of my anxieties and fears from the previous evening and missing the seeming comfort of contemplation afforded by the institutional site of the university. And like Taussig recalls from his journey, I too said to myself, “I am not making a pilgrimage.” But what was I doing? Was I part of an “incipient cult” caught up in the “drama” of the manner of death and disposal of human bodies and the subsequent retrieval of the fragments of those bodies that might have “overdetermined an event” where “the death [might] come to mean more than the life”? Was I “at once too sad and too sentimental” that would “amount to a type of gawking...a cheap thrill with the frisson of tragedy further enlivened by the calm and stupendous beauty of the landscape?” What would the “appropriate gesture be” when I got there to the place and space that marks the very missing-ness I am seeking to abide by? If as Taussig states, that “death is an awkward business. And so is remembrance”, I thought that so too is missing-ness.³⁷

Andre van Heerden and his wife Ruby met us at the front gate of the farm. I was introduced as a student researching the disappearances, killings and exhumation at Post Chalmers. Van Heerden opened the gate and drove up to the main house with us following behind. We got out of the car, and notebook and pen in hand; I followed Nicky and the Van Heerdens to the back of the main house. After some brief conversation and a tour of all the buildings on the farm, including the building that was used to house prisoners when Post Chalmers was a police station and that now serves as an abattoir, we were left to our own devices.

Drawing from a burgeoning literature on the work of exhumations and those who exhume, or as Adam Roseblatt puts it “those who put spade to ground” in

³⁷ M. Taussig, ‘Walter Benjamin’s Grave’, 6-7.

various post-conflict contexts, Rousseau's article touches on a series of engagements that relate to the body as evidence and the body for mourning that is produced first through a process of digging, sifting, separating, touching, smelling, and identifying human bone that is retrieved.³⁸ At Post Chalmers this process was more pronounced given the many animal bones present as a result of the many years of the farm housing an abattoir. Walking past what was the excavation and exhumation site to the banks of the Paul River (a tributary of the Fish River) where Post Chalmers is situated, there are numerous bones littering the bushes - animal bones. Testing the "calm" of the "stupendous beauty of the landscape" in which Post Chalmers is situated, a *bakkie* (pick-up truck) arrived with sheep that were herded into a pen outside the abattoir - waiting to be slaughtered.

Trying not to think about the impending death of the sheep, we made our way back to what was the excavation and exhumation site. The work of exhumation at Post Chalmers would, it was hoped, as Rousseau's article posits, culminate in producing the bodies for mourning and the producing of *this* person through individuated identification of the remains retrieved: identifying a 'who'. This process was a challenge. What had been retrieved from two fire pits (burn patches) and a septic tank was 260kg of assorted material, of which 12.5kg were later identified as commingled burnt human bone fragments that included over seventy tooth roots and crowns. Individuated identification of the human fragments retrieved was not possible. What was possible, through a consensus of osteological and odontological forensic testing, was the presence of the minimum number of individuals: five. This corresponded with the testimonies of the ten security policemen who had applied for

³⁸ See for example A. Rosenblatt, *Digging for the Disappeared: Forensic Science After Atrocity* (Stanford University Press: Stanford, California, 2015); L. Renshaw, *Exhuming Loss: Memory, Materiality and Mass Graves of the Spanish Civil War* (Left Coast Press, INC: Walnut Creek, California, 2015).

amnesty for the abductions and killings of the five men. As Rousseau puts it, “possibilities of individual identification were always improbable. Identification rested more on identifying these as the *group* being sought, but thus far this link had only been established by, and was tethered to, the killer’s TRC testimony.”³⁹ It is this tethering that has plagued me since undertaking this research.

Standing at what was the excavation and exhumation site at Post Chalmers, I recalled the “killer’s TRC testimony” and the tethering that marked the identification of the commingled burnt human fragments retrieved there. The TRC Report notes, “that the last moment in a victim’s life should be recorded for posterity through the voices and versions of those who killed them is of itself an act of violence. This needs to be acknowledged and remembered.”⁴⁰ Indeed!

And I recalled Taussig as he reads a line from Benjamin’s ‘Theses on the Philosophy of History’: “only that historian will have the gift of fanning the spark of hope in the past who is firmly convinced that *even the dead* will not be safe from the enemy if he wins.” Taussig reads this as “of a piece with his [Benjamin’s] philosophy of history as something in which every detail of a life counted, nothing was to be forgotten, the present had an ironclad obligation to the past, and running as a slender thread through all of this was the ever-so-faint possibility of redemption. ‘*Even the dead*’.”⁴¹ But what of the ‘missing’? Will even the ‘missing’ not be safe from the enemy if he wins? Will even the ‘missing’ and the missing-ness that marks them through their inscription into histories seeking to account for and after – in the wake of - apartheid not be safe? Where does the “ever-so faint possibility” of salvation and redemption lie for the missing if not through histories seeking to reckon with them

³⁹ N. Rousseau, ‘Eastern Cape Bloodlines 1: Assembling the Human’, 211-212.

⁴⁰ TRC *Final Report*, Vol. 2, 220.

⁴¹ M. Taussig, ‘Walter Benjamin’s Grave’, 4- 6.

that is also an account of and – in the wake of - apartheid but that is haunted by their missing-ness?

As Nicky pointed out what were the burn patches and the septic tank where the burned human fragments were retrieved, I again thought about her provocative question of whether exhumations are recovery projects in the vein of social history and whether “a scrutiny of the practice would replicate the well-worn critiques of recovery and social history.”⁴² While skirting around that question early on in her article, Rousseau implicitly returns to it when she asserts that, “the MPTT recovered not subjects, nor even bodies, but fragments, demonstrating not recovery but its impossibility.” What was produced through the work of exhumation at Post Chalmers and subsequent forensic testing, as Rousseau puts it, was “the group-as-such” – the ‘Pebco 3’ and the ‘Cosas 2’ that “corresponded to events.”⁴³ The success of the Post Chalmers excavation, exhumation and forensic testing rested on the tethering of the killer’s TRC testimony that was, in part, verified through “an assemblage of exhumers, dead body, family, things and disciplinary knowledges.”⁴⁴ These “disciplinary knowledges”, what Ciraj Rassool calls ‘the disciplines of the dead’ (forensic anthropology and those scientific disciplines associated with it), I thought, must explicitly include the discipline of history and its work.⁴⁵

Jenny Edkins posits that for those who search for the missing, those who miss the missing, “missing persons are missed for *who* they are – in all their specificity – not for *what* they are or what role they play.”⁴⁶ Staring at the septic tank and re-imagining burnt bodies being disposed of and the process of retrieval so as to produce

⁴² N. Rousseau, ‘Eastern Cape Bloodlines 1: Assembling the Human’, 204.

⁴³ N. Rousseau, ‘Eastern Cape Bloodlines 1: Assembling the Human’, 212.

⁴⁴ N. Rousseau, ‘Eastern Cape Bloodlines 1: Assembling the Human’, 213.

⁴⁵ C. Rassool, ‘Human Remains, the Disciplines of the Dead and the South African Memorial Complex’, 133-156.

⁴⁶ J. Edkins, *Missing: persons and politics* (Ithaca and London: Cornell University Press, 2011), 196.

bodies, it occurred to me that through a series of legal, political, forensic and historical displacements, the inscription of Siphiwo Mthimkulu, ‘Topsy’ Madaka and Sizwe Kondile into histories of apartheid-era disappearances suggests that they are missed not only for who they are, but for what they were. These displacements are, in part, indicative of processes and practices that Edkins refers to as “the politics of missing persons... what happens when people go missing - and the ways in which personhood is produced” that is “*a politics that misses the person*” because focus is on what they were.⁴⁷ It is difficult not to recognize “*a politics that misses the person*” fashioned through a regime of truth at work in relation to the tethering of the killer’s testimony before the TRC in accounting for Mthimkulu, Madaka and Kondile as disappeared persons, missing bodies and buried bodies, and the producing of ‘the group-as-such’ through the “considerable work” of exhumations as a work of assemblage.

And it was towards the discipline of history and the work of the historian that my thoughts drifted as I stood there where Siphiwo Mthimkulu and ‘Topsy’ Madaka’s dead bodies were burnt and disposed of in a septic tank not even a meter away. Yet, and like a flash of lightning in my mind’s eye, an image of Sizwe Kondile flashed before me. In some perverse and abstract way, I asked myself whether my presence at Post Chalmers was also a searching for Sizwe Kondile so as to ‘recover’ him, through his absence? Obviously I could not be there to search for his missing dead body. His remains are somewhere, if not anywhere, near the Mozambican border at Komatipoort. But perhaps, and following from Mbembe earlier, I was searching “to resuscitate [his] life, by reintegrating [him] in the cycle of time, in such a way that [he] find, in a text, in an artefact or in a monument, a place to inhabit, from where [he]

⁴⁷ J. Edkins, *Missing: persons and politics*, viii.

may continue to express [himself].”⁴⁸ But what was it about Post Chalmers - a space of death, a space marked by absence - and my presence there in that spectral moment that provoked Sizwe Kondile to come back, again and again, tempting me, taunting me, to address him?

Derrida notes that, “the subject that haunts is not identifiable, one cannot see, localize, fix any form, one cannot decide hallucination and perception, there are only displacements; one feels oneself looked at by what one cannot see.”⁴⁹ Was I mad enough to believe that the specters of Mthimkulu and Madaka -for there are always more than one, as Derrida reminds - had somehow conjured Kondile to impress an injunction upon me? An injunction to mourn? An injunction towards rendering some form of historical justice, whatever that may mean? An injunction “to learn to live, finally?” An injunction not to be late for the end of a history of apartheid, for the end of apartheid – in the wake of apartheid – to wonder if a history ‘after’ apartheid is rather about the ending and emergence of both a certain concept of history and apartheid? Perhaps. Then again, for a while before my journey to Post Chalmers, I had been reading Derrida’s *Specters of Marx* and was caught up in its spectral moment, which for me was a ‘competence without comprehension’ reading moment. Yet the thoughts persist.

Together with the flashing image of Kondile in my mind’s eye, was also Benjamin’s gaze of “*Even the dead*” and Theodor Adorno’s reading that, “the gaze of Benjamin’s philosophy was Medusan, meaning it turned to stone whatever it looked at...part of a larger strategy, namely, the need to become a thing in order to break the catastrophic spell of things.”⁵⁰ For Taussig, it is “important to recall such ideas” because strong narratives assert themselves to “wrest control” of death. Indeed, it is

⁴⁸ A. Mbembe, ‘The power of the archive and its limits’, 25.

⁴⁹ J. Derrida, *Specters of Marx*, 169-170.

⁵⁰ M. Taussig, ‘Walter Benjamin’s Grave’, 6.

“death that gives authority to the storyteller”, as he recalls Benjamin writing. Taussig posits that

We might even assert that this is what scares us about death yet tempts us as well, as if the story can be completed yet also amputated by the absence that is death, forever postponing the end to the story that was a life. We want that authority for our own story, nowhere more so when interpreting a death and, of course, its body.⁵¹

If, as Taussig asserts that “a gravestone or monument...is just such a story, just such an attempt” then what authority does missing-ness give the storyteller, there where there is no grave, no precise location of the literal space of death, forever marked as missing? How does the storyteller interpret a death without interpreting its body because there is no body, it is a buried but missing body? For the death of Sizwe Kondile is just as tethered to the testimonies of his killers who have sought to wrest control of his death. More importantly, that tethering is mediated through a number of discursive strategies and regimes of truth, just as control was wrested through the mediation of the work of forensics at the Post Chalmers excavation and exhumation.

Some of the killers who had testified before the TRC had also ‘testified’ before another commission of inquiry in 1990, ‘The Harms Commission of Inquiry into Certain Alleged Murders’. There they had denied any knowledge about and as to the fate of Mthimkulu and Madaka after their disappearance on the 14 April 1982. Another killer, Dirk Coetzee, challenged that denial. He testified that responsibility and accountability for the disappearances of Mthimkulu, Madaka and Kondile rested with members of an apartheid state hit squad, one of which he had led. He claimed that he was present and accomplice to the killing, burning and disposal of the remains of Kondile in 1981. Coetzee’s testimony and evidence was tested before the Harms

⁵¹ M. Taussig, ‘Walter Benjamin’s Grave’, 6.

Commission but was not verified. He was ridiculed and accused of lying by that Commission.

Coetzee testified again at the TRC in his bid for amnesty, which was granted, and re-asserted his knowledge over the events that transpired in 1981 and 1982 respectively. At the TRC, his 'knowing' was largely verified and became a part of what Morris in *Every Step of the Way* calls "the stark facts" that help constitute South Africa's teleologically constituted "long journey to freedom" that figures Mthimkulu, Madaka and Kondile in the ways I described above. I was thus left pondering a question formulated by Premesh Lalu in his text *The Deaths of Hintsa: Postapartheid South Africa and the Shape of Recurring Pasts*: "how could a form of evidence once used to cover up acts of violence be depended on to offer us an escape from the violence of the apartheid past?"⁵² My first encounter with a variation of this question was in 2004 as an undergraduate first year student in a first year History course at UWC and concerned an alleged missing skull.

Staged as a debate, two historians, Lalu and Leslie Witz, had to work through the implications of the 'recovery' of a skull in 1996 by a healer/diviner, Nicholas Gcaleka. He claimed that the skull was that of the Xhosa King Hintsa who had been killed in 1835 by a functionary of the British Imperial Army, for writing histories 'after' apartheid.⁵³ The debate was staged and performed in response to a framing question of whether Gcaleka can be considered a historian. Witz was to assume the position that Gcaleka could not be considered a historian. He argued that Gcaleka did not meet the 'requirements' of a historian. Witz proposed that a historian needed to be

⁵² P. Lalu, *The Deaths of Hintsa: Postapartheid South Africa and the Shape of Recurring Pasts* (Cape Town: HSRC Press, 2009), 7.

⁵³ UWC's first year History programme has a long tradition of staging debates so as to assist students at grasping the stakes of the work of history. See C. Cornell and L. Witz, 'It is my right to participate in the subject': Contesting Histories in the First Year Lecture Room' in *Social Dynamics*, Vol. 20, No. 1 (1994), 49-74.

trained in methods of research and analysis, collect evidence, present a narrative based on the evidence collected and finally analyse the evidence in the social, political and economic context of the times. Based on these requirements, Witz argued that Gcaleka did not meet any of them. Witz argued that Gcaleka was involved in presenting fiction and not a historical narrative in that Gcaleka did not provide a historical interpretation of the evidence and its context(s).

Lalu had to argue that all history is about a selection of evidence about the past so as to tell a ‘story’ and that the ‘story’ presented by Gcaleka was based on evidence and led to Gcaleka providing an interpretation not only of the killing of Hintsu, but an interpretation about postapartheid South Africa. Lulu had to disagree with not only the requirements as formulated by Witz, but more so, he had to question the very notion of what it means to be a historian and their claims on and to history, but also, I realize now and recalling Taussig’s reading of Benjamin cited above, the historian’s authority to wrest control of a death that must also be about a life.⁵⁴

Sitting in the front row of that lecture hall at UWC in 2004, listening and taking notes as Witz and Lulu performed the scripted debate, I recall writing down the question, ‘why not just exhume the grave of Hintsu and see if his skull is there?’ Surely such an act would go a long way in confirming the forensic tests that were conducted on the skull presented by Gcaleka and perhaps ‘prove’ irrefutably that Hintsu was not, and perhaps could not have been, beheaded after being shot and killed.⁵⁵ In hindsight however, I had not fully understood the implications of the debate. Indeed, much of my thinking in conceptualizing and writing this dissertation

⁵⁴ One of two epigraphs to Lulu’s text *The Deaths of Hintsu*, cites Roland Barthes work on Michelet, “History always tells how we die, never how we live.” See P. Lulu, *The Deaths of Hintsu*, ix.

⁵⁵ Sent to a laboratory at the University of Cape Town, physical anthropologists concluded that the skull Gcaleka recovered could not be that of the Xhosa King Hintsu. According to archival records that are largely based on a colonial commission of inquiry in 1836, Hintsu had been shot at close range shattering his skull. See P. Lulu, *The Deaths of Hintsu*.

has been informed by my subsequent reading of *The Deaths of Hintsa* and requires some elaboration.

Responding to the question of whether Gcaleka can be considered an historian through his text *The Deaths of Hintsa*, Lalu underscores the implications of its asking. One implication relates to the complicity of the disciplinary reason of the discourse of history at maintaining a distinction between history and historiography. Disciplinary reason is understood as “a sense of disciplinary power in the Foucauldian sense and the operation of academic disciplines.”⁵⁶ More specifically it is the grids of intelligibility through which a distinction between ‘history’ and ‘historiography’ is held. History, in the sense in which Lalu works with the category, is understood as the merging of forensic evidence supplemented by and with historical evidence. Historiography is understood by Lalu as the interpretation and analysis, or the ‘imaginary structure’, that is, the “mobilization of the factual domain as it frames various programmes of truth in the present of the historian.”⁵⁷ Asking the question as to whether Gcaleka can be considered a historian is necessarily to blur this distinction between history and historiography, which is a critique of the disciplinary reason of the discourse of history.

A related implication concerns the subject/object of history and the double bind of agency and constraint. This is captured in the phrase “subjection of agency” that “opposes notions of agency that lay claim to the will of the agent rather than viewing the formation of the subject’s agency as a product of a long-drawn-out discursive event.”⁵⁸ Asking the question of whether Gcaleka can be considered a historian is thus also to implicate the discipline of history in the “subjection of

⁵⁶ Lalu draws on the work of John Mowitt in this articulation of disciplinary reason. P. Lalu, *The Deaths of Hintsa*, 22-23, 256

⁵⁷ P. Lalu, *The Deaths of Hintsa*, 260.

⁵⁸ P. Lalu, *The Deaths of Hintsa*, 22.

agency” by marking the contours of Gcaleka’s conscription to the discourse of history.

Gcaleka’s invoking the ghost of Hintsisa through both his claim to ancestral knowledge and the act of believing to have returned Hintsisa’s skull provoked questions around the killing of Hintsisa. These questions concern how what was known about the killing of Hintsisa is known, including the forensic tests done on the skull that Gcaleka believed to be that of Hintsisa, and more importantly, what could be said and what was/is actually said about the killing of Hintsisa. Taken together, the in/distinction between history and historiography, the critique of disciplinary reason through marking the contours of its complicity in the subjection of agency, enables one to make sense of how Gcaleka and Hintsisa were both caught up in “the event of history” but also as Lalu argues, “failed to make the cut of history.”⁵⁹

The question of whether Gcaleka can be considered a historian or not is elaborated upon by Lalu in attending to a claim by Shula Marks that Gcaleka was/is “a sign of post-apartheid times.”⁶⁰ For Marks, “the episode goes to the heart of the rewriting of South African history, not as a single narrative, but rather as one which is able to incorporate conflict and contradiction, ambiguity and contradiction, oppression and the return of the repressed subject... unburied bones.” According to Marks, it raised crucial issues “about the meaning of history and the nature of evidence... about present-ing the past and representing it in the present; about history as public spectacle; about text and context.”⁶¹ It was the figure of Gcaleka, Marks

⁵⁹ P. Lalu, *The Deaths of Hintsisa*, 23.

⁶⁰ On the 12 March 1996 Marks presented the Seventh Annual Bindoff Lecture at the Queen Mary and Westfield College, University of London. The lecture was titled ‘Rewriting South African History or The Hunt for Hintsisa’s Head’. In that lecture Marks posited that her lecture was inspired by the “context” of a post-apartheid South Africa in which the “rewriting of South African history” was epitomised by Gcaleka’s claim to having returned the skull of Hintsisa.

⁶¹ S. Marks, ‘Rewriting South African History or The Hunt for Hintsisa’s Head’, Seventh Annual Bindoff Lecture (Queen Mary and Westfield College, University of London, 12 March 1996), 7-8.

posited, that called the above into question but also offered a way of rewriting South African history.

For Marks, and citing the notable historian Jeff Pieres, Nicholas Gcaleka is *vox populi* - a man of his time.⁶² What Marks seemed to be suggesting was that Gcaleka must be taken seriously in terms of the ‘context’ in which his claims were made. According to Marks, it is the ‘context’ of a post-apartheid present, a present marked by political, legal, and seeming economic transition, which demands a rewriting, an alternative South Africa history. That ‘context’, for Marks, is named as unfulfilled political and economic desires of the marginalised that she conscripts Gcaleka to be representative of.

Lalu disagrees with the positioning of Gcaleka by Marks. He states that, “the desire to present Gcaleka in terms of an identity that mediates the economic difficulties accompanying unfulfilled promises in the postapartheid period, as suggested by Marks, is displaced, in the [*The Deaths of Hints*a], with an inquiry into how his subalternity is an effect of, and an irreducible crisis for, a regime of truth and alternative histories.”⁶³ A rewriting of South African history, for Marks, is seen as a reinterpretation named as an alternative history desired through recourse to the ‘context’ of transition that also seemingly aims to mark a temporal break with the apartheid past. However, as David Scott argues in *Conscripts of Modernity*, “the way one defines an alternative *depends* on the way one has conceived the problem. And therefore, reconceiving alternatives depends in significant part on reconceiving the object of discontent and thus the longing that stimulates the desire for an alternative.”⁶⁴ It is thus not Marks ‘answer’ to the ‘problem’ posed by the ‘discovery’

⁶² S. Marks, ‘Rewriting South African History or The Hunt for Hints’s Head’, 25-26.

⁶³ P. Lalu, *The Deaths of Hints*a, 220.

⁶⁴ D. Scott, *Conscripts of Modernity: The Tragedy of Colonial Enlightenment* (Duke University Press, 2004), 6.

of Hintsa's skull by Gcaleka - namely that a rewriting of South African history as an alternative history should be conceptualised through materialist history that should preoccupy us. Rather, and borrowing from Scott again, what we should be preoccupied with is a reading "historically not just for the answers that this or that theorist produced but for the questions that are more or less the epistemological conditions for those answers." Reading historically, to clarify, is an "appreciation of prior understandings of the relation between pasts, presents and futures [which] is to think of different historical conjunctures as constituting different conceptual-ideological problem-spaces, and to think of these problem-spaces less as generators of new propositions than as generators of new questions and new demands."⁶⁵ It is this understanding of both reading and thinking historically that I read Lalu as calling for in his attending to the question of how Gcaleka became a "sign of post-apartheid times" and to the implications of asking whether Gcaleka can be considered an historian. The ghosts of Hintsa and his alleged missing skull, and the relation between colonialism's violence and apartheid's violence continue to haunt, and being at Post Chalmers only served to heighten such haunting. Indeed, as suggested, it might be that imagination itself is a category of history.

Leaving what had been the excavation and exhumation site at Post Chalmers, Nicky and I walked around the buildings on the farm once more, but my gaze was drawn to the sky. It was a bleak overcast day with scattered showers. Becoming annoyed at myself for continuously recalling Taussig's essay, the "stupendous beauty of the landscape" was soon becoming lost to me as was the "calm" that it promised. But what was I expecting being there? Paging through my notebook to get to a blank page to write down something Nicky had just said, I came across the name Dirk

⁶⁵ D. Scott, *Conscripts of Modernity*, 7.

Coetzee and the date 7 March 2014 scribbled on an otherwise blank page: “That was the date on which Coetzee had died”, I said to myself. It was a Thursday evening when I received a text message stating that he had died earlier in the day.

Nicky had sent me the text message and MPTT head Madeleine Fullard had in turn informed her. In the months preceding Coetzee’s death, I had made enquiries with Fullard as to the possibility of accompanying the team in their attempt to, once again, locate and recover the remains of Sizwe Kondile. Coetzee had been assisting the MPTT with the search and I was hoping that I might be able to interview him. At the time of receiving the text message, I was in the throes of working through the transcripts of Coetzee’s testimony before the Harms Commission. The night before, I had been working through his ‘unpublished manuscript’ titled ‘HITSQUADS - Testimony of a South African Security Policeman: The Full Story by Captain Dirk Coetzee’ (1990).

As immersed and entangled as I was with the ‘story’ of Dirk Coetzee, specifically his recounting(s) of his participation in the killing of Sizwe Kondile, I recall a sense of ambivalence, precariousness even, at questioning how Coetzee would be remembered, whether or not he would and could be missed, would and could be mourned, and by whom. I assumed his family would miss and mourn him, but I was really thinking about the families and loved ones of the persons’ whose lives had been taken, cut short, who were killed, because of the presence of Dirk Coetzee. I was thinking specifically of the mother of Sizwe Kondile, Charity Kondile, whose testimony, like so many of the mothers who appeared before the HRVC of the TRC... and that gives me pause. On the Sunday following Coetzee’s death, Leslie Witz alerted me to an obituary published in the *Sunday Independent*. Penned by Vusi Pikoli, an advocate and former head of South Africa’s National Prosecuting Authority

(NPA) and close friend of Sizwe Kondile, it was titled, 'Dear Dirk, I will not miss you.' Reading it, my pause that previous Thursday evening seemed warranted and justified.

Walking around the buildings at Post Chalmers, Nicky and I were once again struck by how close to the road the burn sites are. We decided, and I am still not sure why, to count steps to measure the distance: from the garage where Sipiwo Mthimkulu and 'Topsy' Madaka were held captive to a small gate called 'Isolasie kraal' – 86 steps; 40 steps from that gate to the road; 46 steps from the burn patch where their bodies were burnt to the entrance gate of the main house.

It was time to leave Post Chalmers. Nicky was in the car parked in front of the gate to the main house. I asked to go back to what was the excavation and exhumation site. She waited in the car. Walking back as it began to rain again, I asked myself once more, what is an appropriate gesture? I stood before the burnt patch identified as where 'my guys' dead bodies were burnt and my gaze was drawn to the septic tank. What is the appropriate gesture? Transfixed, I just stood there...I needed to leave... I wanted to stay longer. The rain broke the spell.

I walked back to the car. Nicky asked me to follow the car as she drove out to the main gate of the farm. She wanted me to count the number of steps from the main gate of the house to the main gate of the farm. I counted 280 steps.

Closing the gate behind the car, I walked to the passenger side to get in. Opening the door, I realized there can be no appropriate gesture. The missing are dead, but they are missing. Sizwe Kondile, Sipiwo Mthimkulu and 'Topsy' Madaka are missing. The fates of Mthimkulu, Madaka and Kondile might be redeemed but not recovered through recalling what was said and what could be said about them as disappeared persons, missing bodies and buried bodies. I cannot offer, nor do I want

to offer any notion of an alternative narrative. To reckon with them, to work towards something akin to an appropriate gesture then, for me, is to pose a question of missing-ness and abide by it.

Traversing a question of missing-ness

The argument of this dissertation calls for an abiding by missing-ness as it relates to the apartheid-era disappearances of Sphiwo Mthimkulu, ‘Topsy’ Madaka and Sizwe Kondile and the vicarious ways through which they have been produced and (re)figured as missing into a postapartheid present. The term ‘missingness’ is most commonly used in the field of statistics where it denotes the manner in which data is missing from particular samples.⁶⁶ Recently though within the Humanities and Social Sciences disciplines the term has come to be used, as I elaborate below, to index the ways in which missing persons are socially and politically constituted subjects and the ways in which the condition of their being missing has social and political implications in various (inter)relational contexts. The point is that it is not merely the physical absence of a person that renders her/him missing from any particular social or political context. In this sense, the term ‘missingness’ is designated to account for a wide category of missing persons that is not limited to victims of enforced disappearances and is used to elaborate on being missing as a particular phenomenon.⁶⁷

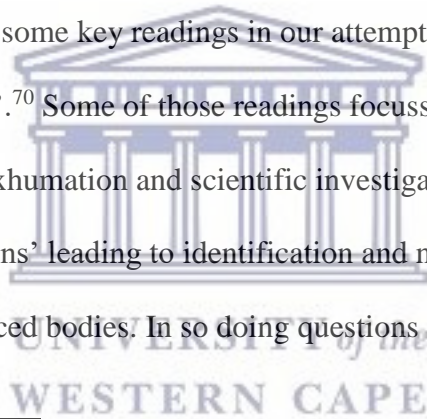
My traversing a question of missing-ness has productively and challengingly been informed through the ‘Forensic History’ project based in the History Department

⁶⁶ See for example S. J. Fernstad, ‘To identify what is not there: A definition of missingness patterns and evaluation of missing value visualisation’ in *Information Visualisation* (2018). <http://journals.sagepub.com/doi/abs/10.1177/1473871618785387#articleCitationDownloadContainer> (Accessed 3 September 2018).

⁶⁷ See for example J. Edkins, *Missing: Persons and Politics*; H. Parr and N. Fyfe, ‘Missing geographies’ in *Progress in Human Geography* (2012), 1-24; E. Stewart, ‘Missingness: The Social Realities of Physical Absence’ in *Illness, Crises & Loss*, (2018), 1-9.

at UWC led by Nicky Rousseau.⁶⁸ The project (2015-2017) involved investigating political killings, specifically those preceded by enforced disappearances in South Africa between 1960-1994, the mandate of the TRC. Together with a cohort of postgraduate students, we held numerous reading groups seeking to conceptually unpack what a notion like ‘forensic history’ entails that is not merely positivist in its orientation. All our research projects in one way or another works towards a conceptual understanding of ‘forensic history’ and the questions such an understanding might raise.⁶⁹

The ‘Forensic History’ project took as its point of departure an engagement with the work done by the TRC and the subsequent work of the MPTT. In doing so, we identified and engaged some key readings in our attempt to grapple with what we meant by ‘forensic history’.⁷⁰ Some of those readings focussed on the practices and processes of excavation, exhumation and scientific investigations surrounding the ‘recovery’ of human remains’ leading to identification and naming of exhumed human remains into produced bodies. In so doing questions of personhood,



⁶⁸ The project was funded through South Africa’s National Research Foundation.

⁶⁹ The culmination of the Forensic History project was a series of two workshops held in February-March 2018 at UWC. A selection of papers presented at those workshops will be published in a special issue of the journal *Kronos* due out in early 2019.

⁷⁰ Some of these readings included J. D Aronson, ‘The Strengths and Limitations of South Africa’s Search for Apartheid-Era Missing Persons’ in *The International Journal of Transitional Justice*, Vol. 5 (2011), 262-281; Z. Crossland, ‘Of Clues and Signs: The Dead Body and its Evidential Traces’ in *American Anthropologist*, Vol. 111, Issue 1 (March 2009), 69-80; Z. Crossland, ‘Evidential Regimes of Forensic Archaeology’ in *Annu. Rev. Anthropology*, Vol. 42 (2013), 121-137; J. Edkins, ‘Preface’ and ‘Introduction’ in *Missing: Persons and Politics*; T. Keenan, ‘Getting the dead to tell me what happened: Justice, prosopopoeia and forensic afterlives’ in Forensic Architecture (eds.) *Forensis: The Architecture of Public Truth* (Sternberg Press, 2014), 35 -54; T. Keenan, ‘Counter-forensics and Photography’ in *Grey Room*, 55 (Spring 2014), 58-77; T. Keenan and E. Weizman, *Mengele’s Skull: The Advent of a Forensic Aesthetics* (Sternberg Press, 2012); T. W. Laqueur, ‘The Dead Body and Human Rights’ in Sweeney, S. T & Hodder, I (eds.), *The Body* (Cambridge: Cambridge University Press, 2002), 75-93; N. Rousseau, ‘The Farm, the River and the Picnic Spot: Topographies of Terror’, 351 – 369; N. Rousseau, ‘Death and Dismemberment: The Body and Counter-Revolutionary Warfare in Apartheid South Africa’; N. Rousseau, ‘Eastern Cape Bloodlines I: Assembling the Human’; M. Sanders, ‘Remembering Apartheid’ in *Ambiguities of Witnessing: Law and Literature In The Time Of A Truth Commission* (Stanford, California: Stanford University Press, 2007), 34-58; TRC *Final Report*, Vol. 6, Sections’ 4 – 5; E. Weizman, ‘Introduction: Forensis’ in Forensic Architecture (eds.) *Forensis: The Architecture of Public Truth* (Sternberg Press, 2014), 9-32; K. Verdery, *The Political Lives of Dead Bodies: Reburial and Postsocialist Change* (New York: Columbia University Press, 2000).

rehumanisation, materiality and agency were raised. In our second year (2016) we began questioning the very notion of ‘forensics’ as it relates to ‘fields’ and ‘forums’, evidence as always being a question that is both for and of ‘something’, which inevitably raised the question of context and its relation to history through its claims on discourses such as transitional justice, humanitarian work, memorialisation, politics (to name a few) and most importantly, to questions around history itself as a discipline and a practice.

Building and expanding on the work we had done in 2015 and 2016, we began to re-think the ways in which we understood categories such as enforced disappearances, abductions, missing persons, missing dead bodies, ‘the missing’, agency, materiality, context and evidence. In 2017 we continued this line of nuanced critical engagement of ‘forensic history’ that asked us to think more carefully about questions and notions of missing, missing persons, absence, loss, presence, materiality, agency, temporality, memory, politics, history and forensics.⁷¹ In so doing, our aim was to arrive at an articulation of a notion that many of us had evoked but one that we are still grappling to introduce as a question and the implication(s) of posing such a question: namely, missing-ness.

⁷¹ Some of the texts were read included L. Renshaw, ‘Missing Bodies Near-at-Hand: The Dissonant Memory and Dormant Graves of the Spanish Civil War’ in M. Bille, F. Hastrup, T. F. Sorensen (eds.) *An Anthropology of Absence: Materialisations of Transcendence and Loss* (New York: Springer, 2010), 45-62; P. S. Cassia, ‘Guarding Each Other’s Dead, Mourning One’s Own: The Problem of Missing Persons and Missing Pasts in Cyprus’ in *South European Society & Politics*, Vol. 11, No. 1 (March 2006), 111-128; J. Fontein, ‘Remaking the dead: uncertainty and the torque of human materials northern Zimbabwe’ in F. Stepputat (ed.) *Governing the dead: sovereignty and the politics of dead bodies* (Manchester University Press, 2014); L. Major, ‘Unearthing, untangling and re-articulating genocide corpses in Rwanda’ in *Critical African Studies*, Vol. 7, No. 2 (2015), 164-181; L. White, ‘The Traffic in Heads: Bodies, Borders and the Articulation of Regional Histories’ in *Journal of Southern African Studies*, Vol. 23, No. 2 (June 1997), 325-338; R. E. Cyr, ‘Testifying Absence in the Era of Forensic Testimony’ in *Int J Polit Cult Soc* (2013) 26, 93-106; L. Douglas, ‘Mass graves gone missing: Producing knowledge in a world of absence’ in *Culture & History Digital Journal* 3(2) (December 2014), 1-12; S. Schuppli, ‘Entering Evidence: Cross Examining the Court Records of the ICTY’ in Forensic Architecture (eds.) *Forensis: The Architecture of Public Truth* (Berlin: Sternberg Press, 2014), 279-314; M. Taussig, ‘Walter Benjamin’s Grave: A Profane Illumination’; S. M. Smith, ‘The Afterimages of Emmett Till’ in *American Art*, Vol. 29, No. 1 (Spring 2015), 22-27.

My deployment of missing-ness in the chapters that follows is put to work in underscoring notions of history and its relation to a category of missing persons in South Africa as they emerge and are figured through various discursive strategies constituted by/through apartheid's violence and iterations thereof. Missing-ness in the ways in which I deploy it in part indexes the obliteration of physical bodies and the dislocation of personhood through physical acts of apartheid's violence and iterations of its discourses as well as attempts at recovering physical remains and a restoring, through relocating, of personhood.⁷² It is also deployed, and importantly so, to index various discourses and discursive strategies, practices and processes, complicit in and implicated by history and its discourses. A question of missing-ness understood in this way clearly requires that what is named as apartheid is not only registered in its effects, implicitly confusing an effect for a cause, but also through what escapes the discourses of its, apartheid's, naming. It is precisely as a category that sits uneasily in these discourses that a question of missing-ness acquires the full force of its implications for any attempt, even in its (im)possibility, at coming to terms with apartheid. Indeed, abiding by a question of missing-ness is to acknowledge, though without foregoing, a working through of the conditions of (im)possibility that so marks any history of the missing. The productivity of deploying missing-ness and an abidance to it in the ways I will argue however is precisely in not explicitly naming it, but rather by holding onto its elusiveness by marking the contours of discourses on which it simultaneously touches upon and is constitutive of.

To better grasp some of the stakes involved in my argument, it is useful to turn to a brief discussion of the work of Ewa Domanska who questions approaches to the

⁷² The notion and beginnings of a theorization on rehumanisation, as it relates to South Africa and the repatriation of human remains, specifically that of the colonial dead housed in a number of European museums, has been offered by C. Rassool, 'Re-storing the Skeletons of Empire: Return, Reburial and Rehumanisation in Southern Africa' in *Journal of Southern African Studies*, Vol. 41, No. 3 (2015), 653-670.

dead body (or ‘disappeared’) as evidence of crime and/or as an object of mourning through an analysis of the Argentine ‘disappeared’.⁷³ She argues that these approaches ‘dehumanize’ the dead (or ‘disappeared’) further by treating them as ‘objects’. The status of the ‘disappeared’ or ‘missing’ is ambivalent in the sense of both not knowing whether they are alive or dead and/or of wanting to maintain this ‘not-knowing’ (positions held by some of the Mothers of the Disappeared in Argentina). For ambivalence rests in the sense of a past that continues to haunt the present, a past that will not and cannot be laid to rest. Given this ambivalence, Domanska suggests that it might be better to focus on the body itself, bringing to the fore ontological questions as opposed to only epistemological ones. Approaching the ‘disappeared’ thus can be shifted by thinking of the temporal notions of presence and absence not as opposites (a staple of the conventional historian’s craft), but as a ‘non-absent past’, a past that will not go away.⁷⁴

As a means of transcending the limit of the dichotomous classification of presence and absence as it relates to missing dead bodies (or the ‘disappeared’ in Argentina), the notions of the ‘non-absent’ and ‘non-present’ past, for Domanska, are more useful.⁷⁵ These secondary concepts of the ‘non-absent’ past, understood as a ‘past whose absence is manifest’ and the ‘non-present’ past, understood as that ‘presence which is not manifest’ (a certain preoccupation with the past), is more useful for Domanska as it relates to contemporary debates about historical

⁷³ Between 1976 and 1983, it is estimated that about 30 000 individuals were ‘disappeared’ in Argentina. See A. C.G.M Robben, ‘How Traumatized Societies Remember: The Aftermath of Argentina’s Dirty War’ in *Cultural Critique*, 59 (Winter 2005). See also Robben, ‘State Terror in the Netherworld: Disappearance and Reburial in Argentina’ in A.C.G.M. Robben (ed.), *Death, Mourning and Burial: A Cross-Cultural Reader* (Victoria: Blackwell Publishing, 2004).

⁷⁴ Domanska argues that by focussing on the ‘non-absent’ past, “we avoid the desire to presentify and represent the past, and instead we turn to a past that is somehow still present...the non-absent past is the ambivalent and liminal space of “the uncanny”; it is a past that haunts like a phantom and therefore cannot be so easily controlled or subject to a finite interpretation.” E. Domanska, ‘Towards the Archaeontology of the Dead Body’ in *Rethinking History*, Vol. 9, No. 4 (December 2005), 405.

⁷⁵ E. Domanska, ‘Towards the Archaeontology of the Dead Body’, 404.

knowledge.⁷⁶ She argues that by focussing on the ‘non-absent’ past, “we avoid the desire to presentify and represent the past, and instead we turn to a past that is somehow still present...the non-absent past is the ambivalent and liminal space of “the uncanny”; it is a past that haunts like a phantom and therefore cannot be so easily controlled or subject to a finite interpretation.”⁷⁷ Indeed, this resonates with Derrida’s notion of the spectre and spectral time and its relation to mourning and justice in *Spectres of Marx*, an argument used by Berber Bevernage in his work on the relation between mourning and history.⁷⁸

For Domanska though, approaching the missing or disappeared should be done from a space or be located in what she terms the ‘non-absent’ past, a space and time that because of its ambivalence and liminality, a past whose absence is manifest, she argues will protect the missing or disappeared from “the all-encompassing discourses of the living”.⁷⁹ Domanska connects this to what she views as a shift in interest, in the late 1990s from a ‘narrativist philosophy of history’ concerned with questions around historical narrative, discourse, text and representation, to an interest in the materiality of ‘things’ or the call for a ‘return to things’. This went alongside an interest in the ‘presence of the past’, rather than its representation and in what ‘remains’ rather than in what is lost in history.⁸⁰ She connects this to a shift from an interpretive or textual paradigm to what is termed a ‘posthumanist’ interest. However,

⁷⁶ Domanska understands these, as “the possibility of presentifying and representing the past involv[ing] the question of whether it is possible to attain knowledge about something that no longer exists” is preoccupied with the past as ‘non-present’. Another way of formulating this is whether there can be ‘history’ without ‘evidence’? Indeed this is a question, or rather an assertion that, “without evidence and sources there can be no history” which is ‘taught’ to first year history students at the University of the Western Cape where I am a tutor and lecturer in the History Department. I present that ‘assertion’ as a question to my students.

⁷⁷ E. Domanska, ‘Towards the Archaeontology of the Dead Body’, 405.

⁷⁸ See B. Bevernage, *History, Memory, and State-Sponsored Violence: Time and Justice* (New York & London: Routledge, 2012), 131-167.

⁷⁹ E. Domanska, ‘Towards the Archaeontology of the Dead Body’, 403.

⁸⁰ E. Domanska, ‘Historians must have virtues: a conversation with the Polish historian and theorist of history’ in *Rethinking History*, Vol. 15, No. 3 (September 2011), 420. See also E. Domanska, ‘The Material Presence of the Past’ in *History and Theory*, Forum: On Presence, Vol. 45 (October 2006), 337-348.

this shift does not imply the end of questions around historical narrative, discourse, text and representation. Rather, I argue, they function as a target of critique in a way that David Scott has termed, a ‘problem space’, a space where a shift in critiquing given responses to a set of questions is shifted to re-examining the conditions of the emergence of those specific questions in the first place.⁸¹

It seems to me that in wanting to locate the ‘disappeared’ in the ‘non-absent past’ and indeed, of locating the missing of post-conflict and post-traumatic societies such as the victims of apartheid-era disappearances in this temporal space that refuses to be past, one is still left with questions relating to not only the forms of knowledge constructed about those missing bodies, but also questions relating to imagined bodies in their missing-ness. For indeed, and this is the paradox in Domanska’s approach, it seems to me that it is precisely because of the “all-encompassing discourses of the living”, that the non-absent past of the ‘disappeared’, the missing, are maintained and/or perpetuated as expressed through the work of the TRC and its afterlife through the work of the MPTT. The politics of the living and the politics of the dead, more so the politics of the missing dead, are inextricably bound. Can we thus think and locate the missing of apartheid-era disappearances outside of the context in which they were produced as missing when the very ambivalence of their haunting is directly tied to the conditions of their emergence as ‘missing?’

What Domanska underscores is the persistent haunting of the missing dead through the work of mourning in attempting to achieve some sense of historical justice. Domanska’s call of taking more seriously a past that is non-absent provokes a re-thinking of not only the work that missing dead bodies do, but also in relation to the work of history and its relation to memory as expressed by Mark Sanders in his

⁸¹ See D. Scott, *Refashioning Futures: criticism after postcoloniality* (Princeton: Princeton University Press, 1999), 8.

suggestion that for loved ones who requested the TRC to assist in locating the remains of their missing loved ones, “apartheid is a proscription on mourning.”⁸²

I understand Domanska as arguing for not only a return to ‘things’ in the sense of materiality as traces of the past, but also her call for a return to the ‘real’ that is implicated in conceptions of justice, whether juridical or ‘historical justice’. The dead cannot speak for themselves, neither can the missing, but neither should the dead and missing be spoken for. More so, the dead body in its presence is the remains that have been located and buried; whereas for the missing body in its presence as *Every Step of the Way* suggests, it is imagination that is called upon to supplement memory through the ambivalence and liminality that is brought about through the status or naming of being disappeared or missing, in other words, the missing-ness of the missing.

Indeed, writing about enforced disappearances in Argentina, Cyprus and “missing bodies near-at hand” in Spain, Layla Renshaw suggests that the category disappeared “has a particular potency” in that the power of the category “lies in the vacuum of information that surrounds it which the imagination fills in with greater horrors.” Compounding this is the inherent category of missing therein that lends itself to ambiguity and ambivalence in that it “contains an inherent suspense of an unknown fate, and implies a liminal status demanding resolution.” The resolution demanded is a presencing, in various forms, of the absence of missing persons’. Yet there is a seeming distinction between the statuses of missing persons’, concealed bodies and missing bodies. The status of the dead as having missing bodies in their “particularity and power as an affective and political category of deaths outside the

⁸² M. Sanders, *Ambiguities of Witnessing*, 35.

norm” points to the integral nature of their categorization as missing.⁸³ The bodies of the ‘missing’ are, and do, matter.

As bodies of matter that do matter, the status of missing persons, concealed bodies and missing bodies through encounters with a, recalling *Every Step of the Way*, seemingly unimaginable and unthinkable past underscores the ways in which, as Renshaw posits, “three different categories of victims of conflict [and] violence: the buried body; the missing body; and the disappeared person, all of which may be positioned differently on the axis of presence and absence” may become conflated. There is a “potentiality inherent in the instability of the missing body” that, as Renshaw suggests, might be diminished.⁸⁴ It is this potentiality that I suggest also persists in the imagination of the dead and missing’s presence that flourishes in the body’s absence but that might not necessarily be diminished by the body’s re-materialisation.

Jenny Edkins, in varying contexts, underscores the difficulty – impossibility- at specifying what makes “a person” who is ‘missing’ “irreplaceable”, the “person-as-such”. She argues that, “ it is not this or that characteristic that is missed, this or that function that is no longer performed, but something singular, something unfathomable: maybe even the person’s unfathomability in relation to our own.” Thus for Edkins, “the person cannot be pinned down: *the person is missing*. It is in a sense that very ‘missingness’ that makes the person irreplaceable.”⁸⁵ This notion of ‘missingness’ resonates with the liminal status that Renshaw points to of those

⁸³ L. Renshaw, ‘Missing Bodies Near-at-Hand: The Dissonant Memory and Dormant Graves of the Spanish Civil War’, 49-53. See also L. Renshaw, *Exhuming Loss: Memory, Materiality and Mass Graves of the Spanish Civil War*.

⁸⁴ L. Renshaw, ‘Missing Bodies Near-at-Hand’, 47, 49-50.

⁸⁵ J. Edkins, *Missing: persons and politics*, viii-ix. See also E. Stewart, ‘Missingness: The Social Realities of Physical Absence’, 1-9.

categorized as missing and their inherent instability as a fate unknown.⁸⁶ Missing-ness however, is not merely a descriptor that suggests a state of being, or indeed not being. For within “that very ‘missingness’ that makes the person irreplaceable”, is an inherent potentiality that asks to be put to work.

Edkins larger project involves a critique of contemporary politics as it relates to biopolitics, understood in the Foucauldian sense of the shift in control from person to population and an engagement with various interventions by scholars such as Giorgio Agamben as well as reading what she regards as ‘western’ politics’ that “misses the person” through a psychoanalytic lens. For Edkins, there are four ways in which ‘the person is missing’ in contemporary politics – ontically, ontologically, politically and biopolitically⁸⁷ - problematising what is meant by “missing persons”, particularly in relation to the apartheid-era disappearances of Mthimkulu, Madaka and Kondile. Citing examples and instances such as the disappeared of South America, those missing in action during wars’ and “people whose fate remains unconfirmed after what we call terrorist attacks... [New York 9/11 and London 2005]”, Edkins posits that “we might call these instances where people are ontically ‘missing’: people move out of a context in which they are part of their recognized social or symbolic system.”⁸⁸ Yet, Edkins continues and states,

[t]hose who are dead are not ‘missing’, generally, in this sense. They have corpses; their remains have been buried or cremated according to the rites and rituals that obtain, they have a resting place; their relatives can ‘move on’, or at least that is the common perception. Of course the dead are not infrequently referred to as ‘lost’, which disturbs this account; they remain a presence of some significance in the lives of those who survive them. On the whole, though, the missing are different from the dead. They are not there, they cannot be found, but they are not yet confirmed as dead. They have no corpses, no death certificates (for the most part), and time for those who are

⁸⁶ See also for example D.J. Eshelman, ‘Writing Chandra Levy: Real Life, Ritual and Revision’ in *Text and Performance Quarterly*, Vol. 31, No.1 (January 2011), 50-67.

⁸⁷ J. Edkins, ‘Time, Personhood, Politics’ in G. Buelens, S. Durant and R. Eaglestone (eds.) *The Future of Trauma Theory: Contemporary Literary and Cultural Criticism* (New York: Routledge, 2014), 131.

⁸⁸ J. Edkins, ‘Time, Personhood, Politics’, 129.

their relatives or friends is in some sense suspended: life *cannot* go on. The missing are not alive, but nor are they dead. We might wonder whether they are between two deaths, a symbolic death and an actual biological death. However, they are neither symbolically dead (they still have a place in the social or symbolic order, as long as there are people who are searching for them), nor actually dead, or at least we do not know whether they are dead or not.⁸⁹

For Edkins, the ‘missing person’ offers a productive way of re-thinking the status of ‘the missing’ as “the person-as-such” that “is not generalizable.”⁹⁰ Indeed, Edkins posits that for those loved ones who search for the missing, those who miss the missing, “missing persons are missed for *who* they are – in all their specificity – not for *what* they are or what role they play.”⁹¹

The TRC recognized 477 persons as victims of apartheid-era disappearances. ‘Abductions and enforced disappearances’, the category under which Mthimkulu, Madaka and Kondile entered the lexicon of the TRC, involved detention, torture, interrogation, release, abduction, poisoning, killing, burning of the corpse and disposing of charred remains by apartheid’s security police. Based on TRC investigations and corroboration and/or information from Amnesty applications, these ‘missing persons’ would variously be categorized under the four categories of gross violations of human rights (‘abduction’, ‘torture’, ‘severe ill-treatment’ and ‘killing’), including the associated violation of ‘corpse’, “violating a corpse after death” - understood as providing context for the gross violation(s) as ‘event’.⁹² Coded and re-coded through these quasi-judicial and juridical categories, the status of Mthimkulu, Madaka and Kondile as ‘missing persons’, I will suggest, was reduced to a notion of

⁸⁹ J. Edkins, ‘Time, Personhood, Politics’, 129.

⁹⁰ J. Edkins, *Missing: persons and politics*, 194.

⁹¹ J. Edkins, *Missing: persons and politics*, 196.

⁹² The *Report*, in a footnote, noted that, “it is unfortunately not possible to give an accurate number of such cases. In a number of instances where disappearances were solved through investigations or amnesty applications, the data was re-coded to reflect the outcome of the investigation. For example, if a missing person was found to have been killed, the coding was frequently changed from disappearance to killing.” See TRC *Final Report* Vol 6, Footnote 3, 519. See also TRC *Final Report*, Vol. 5, ‘Appendix 1: Coding Frame for Gross Violations of Human Rights’, 15-23.

context through displacements of what I am calling their missing-ness. These displacements, I will show in the Chapters that follow, particularly Chapter Two, are not limited to critiques of transitional justice mechanisms. They are, in part, indicative of processes and practices that Edkins refers to as “the politics of missing persons... what happens when people go missing and the ways in which personhood is produced” that is, “*a politics that misses the person.*”⁹³

A guiding question in what follows relates to what and who is recovered during investigations into locations of killings and disposal of corpses, exhumations and subsequent identification processes and practices based on forensic analyses culminating in reburial. In other words, and more succinctly, what kind of personhood might exist beyond the dead body and how is this personhood produced? Many victims of apartheid-era disappearances remain missing; their physical remains have not and cannot be located. This includes the physical remains of Sizwe Kondile, who remains missing. Being unable to locate, exhume, identify and rebury the physical remains of the missing has rendered the work of mourning for family members of victims incomplete. However, as I will argue in Chapters One, Two and Four, it is more than the recovery of physical remains at stake in relation to claims of restoring personhood for the question might be to whom is personhood restored? To the missing? To the families of the missing? To an imagined South African nation? What is meant by personhood in relation to the missing? Is personhood for the missing reduced to the event of their missing-ness? In relation to Edkins notion of “missingness”, the restoring of personhood to the missing is inextricably bound to her notion of the “person-as-such” in contemporary ‘western politics’ that underscores the

⁹³ J. Edkins, *Missing: persons and politics*, 2.

multiple relations between the missing and those who miss them.⁹⁴ In relation to South Africa, and as pointed out by Sanders, though not unproblematically so as I underscore in Chapter Four, this also points to a collective remembering of apartheid that names apartheid “a proscription on mourning.”⁹⁵

Attempts at recovering physical remains through exhumations and claims of restoring personhood to the missing are obviously not the exclusive domain of history. It is rather a collaboration of discursive strategies deployed through the work of what Rassool calls ‘the disciplines of the dead’. These include most prominently forensic anthropology as the discipline that dominates production or rather ‘knowing’ on and of the ‘missing’. Recently, it is history that is regarded as “the more appropriate discipline of the dead [that] has been called upon to provide evidence and verification for the nation’s dead.”⁹⁶ I will illustrate how the discursive strategies of the ‘disciplines of the dead’ emerge and have recourse to discourses on transitional justice, law and memorialization that stake claims to and on history in figuring ‘the missing’. In other words, I aim to show in Chapter Three how a particular historiography on the ‘missing’ in South Africa emerges. In so doing, I will argue that the ‘missing’ are disciplined through attempts at fixing them to particular subject positions largely in service to a post-apartheid ‘South African nation’. Though, as Edkins reminds, “the person is missing.” One of the questions that thus emerges is to ask whether missing-ness is a pre-requisite for constructions of a ‘South African nation’ as *Every Step of the Way* seems to imply.

⁹⁴ Edkins draws on the work of Judith Butler. See J. Butler, *Prekarious Life: The Power of Mourning and Violence* (Verson, 2006); J. Butler, *Frames of War: When is Life Grievable* (Verso, 2010).

⁹⁵ M. Sanders, *Ambiguities of Witnessing*, 35.

⁹⁶ Rassool argues that it is the “critics of physical anthropology” that make this claim. Of course, given that Rassool’s chapter is a critique of physical anthropology, renamed as forensic anthropology, it may be safe to assume that Rassool is making this claim. See C. Rassool, ‘Human remains, the disciplines of the dead and the South African memorial complex’, 20.

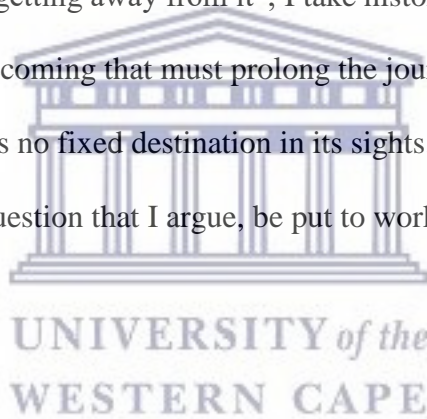
This signals a simultaneous call for and critique of, following Lalu as discussed above, history-historiography and iterations of its deployment in figuring the missing-ness of Mthimkulu, Madaka and Kondile. Indeed, as Michel De Certeau states on the ambivalence of historiography in that “it is the condition of a process and the denial of an absence; by turns it acts as the discourse of a law (historical saying opens a present to be made) and as an alibi, a realistic illusion (the realistic effect creates the fiction of another history).” And thus historiography “oscillates between ‘producing history’ and ‘telling stories’, but without being reducible to either one or the other.”⁹⁷ The discourse of history is one of absence that is often masked as a discourse of presence that underscores history’s ambivalence as the work of the present-absent. The work that missing-ness performs therefore relates to the ways in which it is constitutive of the discourses on absence (including the work of evidence, the work of and for mourning) that mark the interstitial space of absence and presence, or rather of not knowing and knowing in figurations of the missing. This call for and critique of history, in other words, is also a call for an abiding by missing-ness. Formulated thus, to activate missing-ness is to ask how history reckons, explains, accounts and recounts in figuring the missing. Stated slightly differently, the missing-ness of Mthimkulu, Madaka and Kondile is a call to pause by reckoning with history. To abide by their missing-ness is therefore to argue that they not too hastily be consigned to a proverbial ‘ash’ heap of history but that they, as missing, be endured and reckoned with, abided by. To abide, and drawing on the work of Qadri Ismail who in a different context argues for an abiding, is to,

‘wait, stay’; ‘pause, delay’; ‘tarry over’; ‘remain (after others have gone)’; ‘continue’; ‘sojourn...dwell’; ‘to stand firm by...hold onto...remain true to’; ‘to endure...encounter, withstand, or sustain’; and finally to ‘suffer’ even. [to abide] means to display a commitment to attending to...concerns [as it relates

⁹⁷ M. de Certeau, *The Writing of History* (New York: Columbia University Press, 1988), 102.

to the missing]...to intervening within its debates, to taking a stand...it means to display patience, to stay with it, endure it, work with it, even if it appears...unbearable, unending, unendurable.⁹⁸

To abide by missing-ness is in a sense to be abided by the missing through the question of missing-ness provoked. Missing-ness thus, as I evoke the term, works to foreground a process of becoming that is its potentiality. This is to point to the lack and excess, the potentiality, which haunts histories seeking to account for apartheid in its wake. As an abstract noun, the suffix ‘-ness’ in missing *-ness* serves to signal such lack and excess, an instability, as a condition and symptom of being, missing. While Morris in *Every Step of the Way* asserts that, “Yesterday is history. It’s happened. It’s in the past, and there’s no getting away from it”, I take history as always that which is to come, as a process of becoming that must prolong the journey, if not assert that history is a journey that has no fixed destination in its sights. Articulating it thus is to affirm missing-ness as a question that I argue, be put to work and must be abided by.



Chapter outline

In Chapter 1, ‘Forensically missing’, I take as my point of departure the outcome of the Post Chalmers investigation as it relates to the translatability of a fistful of hair with scalp attached in a small wooden box and commingled burnt human fragments in a soldered steel box placed together in a coffin for the historian seeking to articulate a question of missing-ness. It is concerned with asking after the histories enabled, afforded, provoked, constrained or allowed by the contents of the coffin as it relates to Siphiwo Mthimkulu and the category of missing that so provokes a question of missing-ness. In asking after such histories, the question posed relates to

⁹⁸ Ismail writes in the context of Sri Lanka and seeks to account for its history, its violence and its peace. See Q. Ismail, *Abiding by Sri Lanka: On Peace, Place and Postcoloniality* (Minneapolis: University of Minnesota Press, 2005), xxx.

the forensic figuring, through its constitutive sites of fields and forums, of human substances as constitutive of a person categorized as missing. My abiding interest is to think the contents of a coffin that both masks and enables relations between human remains, mediators and forums as it relates to the specificity of Siphiwo Mthimkulu. A forensic sensibility expressed as a discourse in which claims are made on behalf of both the fistful of hair with scalp attached and the commingled burnt human fragments in various fields and forums mark this history. It is this marking that warrants a critical engagement with forensics, as a practice, as a process and as a discourse. It is through engaging a grid of intelligibility marked by forensics that a question of missing-ness as it relates to the human remains of the missing person is at one and the same time provoked, enabled and constrained. In other words, I am concerned with how the constituent sites of forensics, namely fields and forums, relate to each other in figuring missing person's through a number of iterations marked by the discourse of forensics so as to underscore a figuring of the person, Siphiwo Mthimkulu, as forensically missing.

In Chapter 2, 'Missing the missing', I take as my point of departure the official government sanctioned Provincial funeral in the wake of those exhumed and identified during the Post Chalmers investigation. It concerns specifically Tobekile 'Topsy' Madaka and the ways in which I argue he is missed as missing through a process of missing the missing. This process of missing the missing can be located within a politics of the dead, a politics of the missing and a politics that misses the missing. My abiding interest here is to work through how Madaka is produced as missing body and recovered body, yet through that process missed as missing. The chapter asks how a biography of Madaka as missing, at once historical and political, is produced and scripted through a politics of the missing as a politics that misses the

missing through engendering notions of rehumanisation and personhood inscribed within a funerary script normative to a history of apartheid's missing dead as constitutive of a re-imagining of the nation. In so doing, this chapter delineates how 'Topsy' Madaka is missed as missing - is the missing- as- such. 'Topsy' Madaka, I argue, is produced as missing but missed as missing by being subjected to a history as a subject of and to apartheid within a discourse of nation that struggles to call into question the very concept of the event of apartheid.

In Chapter 3, 'Disciplining the missing' I am prompted by a provisional and seemingly simple question of how it was that the Harms Commission found Dirk Coetzee's 'allegations' to be unverifiable, as 'lies'. A few years later, during the TRC process, Coetzee's 'allegations' regarding the disappearances of Mthimkulu, Madaka and Kondile were found to be verifiable. My inquiry begins by asking after the relation between the historian, the judge and a perpetrator, the witness Coetzee. I describe how Harms first discredited Coetzee as a reliable witness, and thereafter, how Harms presented his own versions so as to account for the disappearances of Kondile, Mthimkulu and Madaka. I argue that it is necessary but insufficient to merely engage how we conceive the relation of the judge and the historian to questions of evidence, context and history. I argue it would constrain an elaboration of an examination of the disciplining of the missing that must also account for the judge's anatomy of disappearances. Through a reading of the Harms Commission Report I show that Kondile, Mthimkulu and Madaka were cast as the object of historical discourse through a process of "judicial historiography" constituted by "an abuse of contextual proof", which provokes a question of 'who lied?' Yet, I argue that asking and abiding by the question 'who lied?' as the question had been posed throughout the Harms Commission process and thereafter, cannot adequately engage

the implications of Harms refuting of Coetzee's 'allegations' for a writing of history that must reckon with the disciplining of the missing. This is so because it will not register what is not said in the disciplining of the missing. I argue that a 'telling more' as it relates to the disciplining of the missing requires a re-thinking and re-reading historically of the administrative apparatus of the commission of inquiry itself, specifically within apartheid South Africa. Such a re-thinking and re-reading enables an elaboration in so far as what both Coetzee and Harms could say and what they actually said about Kondile, Mthimkulu and Madaka as missing was the very condition of possibility at disciplining the missing. This can be gleaned when considering the genealogy of a particular kind of commission of inquiry in apartheid South Africa. A telling more then is to consider the Harms Commission as resonating with, albeit a variation of, apartheid's 'Tumult Commissions'. Through a reading of the genealogy of apartheid's Tumult Commissions, and by entertaining a provocation of not abiding to a who lied question that enables a telling more, the historians' anatomy of disappearances is left with a question that seeks not to present an alternative narrative of the way in which the Harms Commission disciplined the missing, but rather pose a question that foregrounds apartheid itself as a question and a problem that must account for the disciplining of the missing.

In Chapter 4, 'Categorically missing', I take as my point of departure the obituary written by Vusi Pikoli in reaction to the death of Dirk Coetzee. I suggest that the obituary be read as a text that enacts the work of mourning in so far as it is a text in and of mourning that underscores a reckoning at work in remembering and grieving Sizwe Kondile as missing alongside what seems to be a prescription on the grievability of the life of Coetzee. Following Judith Butler, this underscores the

precarity and precariousness of the obituary.⁹⁹ I proceed to discuss the ways in which accounts of Kondile as missing victim and Dirk Coetzee as perpetrator are constituted through an intertwined narrative of incomplete accusations and insufficient exonerations that figures Kondile to the categories ‘informer’ and ‘traitor’ and is constitutive in naming and denying the eventfulness of Kondile produced as missing. In so doing, I underscore a question of mourning and a question of the worst, of the worse than not being able to mourn. Through the specificity of Kondile produced as missing and maintained in that state, I suggest that what is at stake in the precarious obituary written by Pikoli is an asking anew of apartheid, of “what it was” and “what it *is*”, of remembering apartheid that complicates Mark Sanders notion that “apartheid *is* a proscription on mourning”. It might be possible to think apartheid, for to think apartheid is also to remember apartheid, more akin to a notion of “there shall be no mourning” following Jacques Derrida’s reading in ‘Lyotard and Us’.¹⁰⁰ I argue in this chapter that we abide by - endure and reckon with- the question of missing-ness that the figuring of Sizwe Kondile gives rise to.

What all four chapters point to and raise the question of, recalling Morris’s question posed in the ‘Prologue’ of *Every Step of the Way*, “what do we do with these facts in 2004, and in the years to come?” that now includes the forensic ‘facts’ of exhumation and identification, is the question posed so articulately by Premesh Lalu: “how could a form of evidence once used to cover up acts of violence be depended on to offer us an escape from the violence of the apartheid past?”¹⁰¹ The implication of asking this question is to also ask a question of history *after* apartheid? History in the wake of apartheid? In relation to all that you are about to read, to think and work

⁹⁹ J. Butler, *Precarious Life*; J. Butler, *Frames of War*.

¹⁰⁰ J. Derrida, ‘Lyotard and Us’ in P. Brault and M. Naas (eds.), *The Work of Mourning* (Chicago: University of Chicago Press, 2001).

¹⁰¹ P. Lalu, *The Deaths of Hintsa*, 7.

through, I contend that the appropriate response is to affirm missing-ness as a question that I argue, be put to work and must be abided by.



Forensically missing

On the 3 October 2009 two coffins were interred at Port Elizabeth's Zwide Cemetery. One coffin contained a soldered closed steel box with the comingled burnt human fragments identified by South Africa's Missing Persons Task Team (MPTT) as more than likely those of Sipho Hashe, Qaqawuli Godolozzi and Champion Galela (referred to as the 'Pebco 3'). The second coffin contained, and also in a soldered closed steel box, the comingled burnt human fragments identified by the MPTT as more than likely those of Siphiwo Mthimkulu and Tobekile 'Topsy' Madaka (referred to as the 'Cosas 2'). In the days leading up to the interment, the Mthimkulu family had dis-interred a fistful of hair belonging to Siphiwo Mthimkulu that they had buried in their backyard in 2002.¹ To the coffin containing the comingled human fragments identified as those of Mthimkulu and Madaka, was re-interred Siphiwo's hair.²

I wish to recall Michael Taussig's provocative question in his essay, 'Walter Benjamin's Grave': "when we get right down to it, why trust that any grave [coffin] contains what it's supposed to?" Taussig continues to state that, "one of the most important events in life, namely death, is so shrouded in secrecy and fear that most of us would never dare to check."³ While writing in a context of rumors' regarding Benjamin's grave and contents thereof as possibly being "fake", the significance of Taussig recalling Benjamin's work here is that it underscores the ways in which "strong narratives assert themselves to wrest control of death." It is death that gives

¹ M. J. Kaplan, *Between Joyce and Remembrance*, directed and narrated by M. J. Kaplan (Grey Matter Media and Bullfrog Films, 2004).

² See P. Sokana, 'Remains of Pebco 3 identified' in *City Press* (20 April 2009). In this newspaper report, Mzolisi Mthimkulu, a spokesperson for all the families concerned, stated that the hair would be reburied with what was found by the Missing Persons Task Team.

³ M. Taussig, 'Walter Benjamin's Grave: A Profane Illumination' in M. Taussig, *Walter Benjamin's Grave* (Chicago and London: The University of Chicago Press, 2006), 4-5.

authority to the storyteller as Benjamin once suggested.⁴ However, as Taussig posits, “we might even assert that this is what scares us about death yet tempts us as well, as if the story can be completed yet also amputated by the absence that is death, forever postponing the end to the story that was a life.” Indeed, “we want that authority for our own story, nowhere more so than when interpreting a death and, of course, its body.”⁵

The point of departure for this chapter relates to the translatability, or rather interpretability, of a fistful of hair with scalp attached in a small wooden box and commingled burnt human fragments in a soldered steel box placed together in a coffin for the historian seeking to articulate a question of missing-ness. Such an interpreting might be understood as an attempt at completing a story. Yet this story is amputated by an absence not merely of a death, but one that, as I argue in this chapter, provokes a question of missing-ness.

Asking this question is to think along the lines of what Joost Fontein and John Harries call “the vitality and efficacy of human substances.” They are concerned with “the ways in which the stuff of the body – organs, bones, blood, skin, hair and flesh – become socially animate in relational processes of making and unmaking various kinds and categories of person.” In other words, they point to questions of embodiment, materiality and material agency that human remains and human substances as “leaky, fleshy, messy material stuff, which flows, mutates, dissolves and decays”, evokes and provokes.⁶ For Fontein and Harries the “vitality and efficacy of human substances” is to be found in ‘its’ indeterminate but nonetheless “excessive

⁴ See W. Benjamin, ‘The Storyteller: Reflections on the Works of Nikolai Leskov’ in D.J Hale (ed.), *The Novel: An Anthology of Criticism and Theory 1900-2000* (Malden, Mass.: Blackwell Publishing, 2006), 369.

⁵ M. Taussig, ‘Walter Benjamin’s Grave’, 4-6.

⁶ J. Fontein & J. Harries, ‘Editorial: The vitality and efficacy of human substances’ in *Critical African Studies*, Vol. 5, No. 3 (2013), pp. 115-126. See also L. Major and J. Fontein, ‘Editorial: Corporealities of violence in southern and eastern Africa’ in *Critical African Studies*, Vol. 7, No. 2 (2015), 89 -98.

potentiality.”⁷ This builds on a formulation of a guiding question offered by Cara Krmpotich, Fontein and Harries: “what [is it] about human bones and bone that provokes emotional, political, visceral and intellectual responses from those who encounter them.” Their attention is drawn to “the very properties, processes and techniques through which bones and bone are constantly constituted and negotiated as persons or things, subjects or objects, meanings or matter.” The central question that Krmpotich et al thus pose “is not ‘what do people do with bones?’ but rather ‘what do bones do to people?’” More specifically, the question posed is “what do bones [the “stuff of the body”] enable, afford, provoke, constrain or allow?”⁸

This chapter is indeed concerned with asking after the histories enabled, afforded, provoked, constrained or allowed by the fistful of hair with scalp-attached together with the commingled burnt human fragments as it relates to Sipiwo Mthimkulu and the category of missing that so provokes a question of missing-ness. In so doing however, the provocation of the question ‘what does the stuff of the body do’ in this chapter serves to underscore a sense of the immateriality that haunts the move to materiality in so far as the recourse to causality is itself constitutive of an absence.

In asking after such histories, the question this chapter seeks to pose relates to the forensic figuring of human substances as constitutive of a person categorized as missing. The conventional understanding of the notion of forensics refers to the application of scientific knowledge and technological means to investigate and establish ‘facts’ in a court of law. Forensics, as understood broadly by Eyal Weizman however, concerns “the public claims that can be made on behalf of objects/spaces in

⁷ J Fontein & J. Harries, ‘Editorial: The vitality and efficacy of human substances’, 117-118.

⁸ C. Krmpotich, J. Fontein & J. Harries, ‘Preface: The substance of bones: the emotive materiality and effective presence of human remains’ in *Journal of Material Culture*, Vol. 15, No. 4 (2010), 371- 373.

forums such as courts *or other publics*.⁹ Forensics, as a process and practice, is not simply about “science but about physical objects as they become evidence, things submitted for interpretation in an effort to persuade.”¹⁰ Forensics as a discourse then involves “a relation between an object, a mediator and a forum”, categories that are dynamic.¹¹ In this chapter I engage narratives enabled and masked by and through the practice and discourse of forensics that seek to wrest control of every detail of the life of the missing person, Siphiwo Mthimkulu, through the presentation of the material and immaterial traces of Mthimkulu as missing.

My abiding interest is to think the contents of a coffin that both masks and enables relations between human remains, mediators and forums as it relates to the specificity of Siphiwo Mthimkulu. In other words, I am concerned with how the constituent sites of forensics, namely fields and forums, relate to each other in figuring missing person’s through a number of iterations marked by the discourse of forensics. Underscoring the mediation of the discourse of forensics in asking the question “what do bones do to people” is to underscore, I argue, a figuring of the person, Siphiwo Mthimkulu, as forensically missing.

A forensic sensibility expressed as a discourse in which claims are made on behalf of both the fistful of hair with scalp attached and the commingled burnt human fragments in various fields and forums mark this history. It is this marking then that warrants a critical engagement with forensics, as a practice, as a process and as a discourse. It is through engaging a grid of intelligibility marked by forensics that a

⁹ Cited in T. Keenan, ‘Getting the dead to tell me what happened: Justice, prosopopoeia, and forensic afterlives’ in Forensic Architecture (Project), *Forensics: The Architecture of Public Truth* (Berlin: Sternberg Press, 2014), 35. Italics my emphasis.

¹⁰ T. Keenan and E. Weizman, *Mengele’s Skull: The Advent of a Forensic Aesthetics* (Sternberg Press, 2012), 28.

¹¹ T. Keenan and E. Weizman, *Mengele’s Skull*, 28.

question of missing-ness as it relates to the human remains of the missing person is at one and the same time provoked, enabled and constrained.

A forensic embrace

Over the past few decades there has been an increase in scholarship around the material remains of political violence in the aftermath of atrocities and mass death. One of the key concerns has been that of what happens to the bodies of such violence, what Elizabeth Anstett and Jean-Marc Dreyfus refer to as “the specific fate of dead bodies after life and the variety of techniques and technologies used for their location and identification.”¹² In a rather aptly titled Introduction to one of a series of edited volumes based on a research project inquiring into ‘corpses of mass violence and genocide’, Anstett and Dreyfus pose the questions, ‘why exhume? Why identify?’

They suggest that decisions to locate and exhume and decisions to identify exhumed remains, which are not always in tandem, “always depends on the political (and sometimes geopolitical) context, such as the national politics of amnesty or the local politics of memory.” It also depends; they suggest further, “on unique and complex social contexts that allow (through the emergence of consensus) or else prevent (when divisions persist) the search for victims remains.”¹³ The significance of the application of scientific knowledge and technological means, in the search for bodies and their identification through investigations of genocides, war crimes, human rights abuses and various instances of political violence, thus comes to the fore. This significance has led to the emergence of what scholars refer to as the ‘forensic turn’.

¹² E. Anstett and J.M Dreyfus, ‘Introduction: why exhume? Why identify?’ in E. Anstett and J.M Dreyfus (eds.), *Human Remains and Identification: Mass violence, genocide, and the ‘forensic turn’* (Manchester: Manchester University Press, 2015), 2.

¹³ E. Anstett and J.M Dreyfus, ‘Introduction: why exhume? Why identify?’, 5.

The 'forensic turn' has been defined, "firstly" as "the arrival of forensic pathologists and anthropologists on the scene of mass violence and genocide as the decisive agents of practices in the search for bodies." Anstett and Dreyfus continue and posit that "this forensic turn is largely globalized, facilitated by the movement of professionals throughout the world, bringing their expertise - and their equipment - to the four corners of the globe and sometimes participating in the training of local teams."¹⁴ The emergence of the 'forensic turn' in this formulation, as Zuzanna Dziuban notes in "mapping" the 'forensic turn', thus "translates, first and foremost, into a quick expansion of the geographical scope of forensics to investigate material legacies of violence."¹⁵ This quick expansion in the domain of the material legacies of violence, as various scholars underscore in varying articulations, is framed by legal, historical and humanitarian objectives that often compete with one another through the mediations of the 'forensic turn' in post-conflict geographical spaces.¹⁶

In the South African context, responses to 'why exhume? Why identify' has productively been articulated and enabled by Nicky Rousseau, who Anstett and Dreyfus introduce as "herself an agent in the transition to justice in South Africa [who] takes advantage of her dual affiliation as a researcher and member of the

¹⁴ E. Anstett and J.M Dreyfus, 'Introduction: why exhume? Why identify?', 4.

¹⁵ Z. Dziuban, 'Introduction: Forensics in the Expanded Field' in Z. Dziuban (ed.) *Mapping the 'Forensic Turn': Engagements with Materialities of Mass Death in Holocaust Studies and Beyond* (new academic press: Vienna, 2017), 14.

¹⁶ See for example Z. Crossland, 'Evidential Regimes of Forensic Archaeology' in *Annual Review of Anthropology*, Vol. 42 (2013), 121-137; C. Moon, 'Human rights, human remains: forensic humanitarianism and the human rights of the dead' in *UNESCO* (John Wiley & Sons Ltd: Oxford, 2016), 50-63; A. D. Alonso, P. D. Galbraith and B. Nienass, 'Bringing the dead back into society: An interview with Mercedes Doretti' in *social research*, Vol. 83, No. 2 (Summer 2016), 511-534; F. Ferrandiz and A.C.G.M. Robben (eds), *Necropolitics: Mass Graves and Exhumations in the Age of Human Rights* (University of Pennsylvania Press: Philadelphia, 2015); A. Rosenblatt, *Digging for the Disappeared: Forensic Science After Atrocity* (Stanford University Press: Stanford, California, 2015) and L. Renshaw, *Exhuming Loss: Memory, Materiality and Mass Graves of the Spanish Civil War* (Left Coast Press, INC: Walnut Creek, California, 2015) and V. Sanford, *Buried Secrets: Truth and Human Rights in Guatemala* (New York: Palgrave Macmillan, 2004); I. Rojas -Perez, *Mourning Remains: State Atrocity, Exhumations, and Governing the Disappeared in Peru's Postwar Andes* (Stanford University Press, 2017).

[TRC].”¹⁷ Rousseau locates her responses with a focus on the “practice” of exhumation not within the dominant “and rather well-worn tracks of transitional justice literature”, but rather “on the borders” thereof so as to underscore the “instrumentalities, interventions, and transformations” of the ‘forensic turn’ in South Africa. The reason for such an approach, Rousseau argues, is that while locating, exhuming and identifying human remains associated with genocides, war crimes, human rights abuses and various instances of political violence are significant “in the panoply of transitional justice measures”, she sees “surprisingly little critical attention from within the transitional justice field.” Her reading suggests that,

Existing studies, with some exception, can be characterized by an ‘inside’ literature concerned to document and develop the transitional justice field, often directed towards identifying ‘best practice’ and refining an appropriate ‘toolkit’. Counterposed to this is a literature often having much in common with the growing critiques of humanitarianism and human rights, in which transitional justice is seen to be a technique of rule, often allied to nationalist and/or a global neo-liberal politics with its associated depoliticizing effects.¹⁸

Rousseau therefore opts to focus on “practice”, which “bring[s] to view, not only the body of exhumation, but a range of other agencies or ‘mediating interpretants’ who do, interpret, and study the work of exhumation...and to think these *together*.”¹⁹

These ‘mediating interpretants’ include exhumation teams, families, the media and scholars, all of whom have varying stakes in the legal, historical and humanitarian objectives that the ‘forensic turn’ seemingly promises. Rousseau is also interested in the politics of dead bodies, and she focuses on particular “funerary scripts” of reburial evident after exhumations and identification that underscore the ways in which, as

¹⁷ E. Anstett and J.M Dreyfus, ‘Introduction: why exhume? Why identify?’, 11.

¹⁸ N. Rousseau, ‘Identification, politics, disciplines: missing persons and colonial skeletons in South Africa’ in E. Anstett and J.M Dreyfus (eds.), *Human Remains and Identification: Mass violence, genocide, and the ‘forensic turn’* (Manchester: Manchester University Press, 2015), 175.

¹⁹ N. Rousseau, ‘Identification, politics, disciplines’, 175.

Katherine Verdery has expressed, dead bodies animate certain kinds of politics.²⁰ In doing so, Rousseau engages not only the questions, but also the implications of posing the questions ‘why exhume? Why identify?’

By including scholars as ‘mediating interpretants’ and thus herself, Rousseau draws attention to “the disciplinary knowledge that they [she] bring[s] to bear and the body produced through practices of exhumation.”²¹ For Rousseau, this brings into view what Ciraj Rassool has termed, the ‘disciplines of the dead’- anthropology, archaeology and the field of genetics – those disciplines associated with the dead human body.²² In short, Rousseau seeks not to disentangle politics and disciplines, but rather “extend these concepts to include the politics that arise within and between individuals, disciplines, and institutions concerned with exhumation and the ways in which the dead body (or, depending on one’s view, those speaking in the name of the dead) compels, ‘disciplines, those around it to react in certain ways.’”²³ Based on this approach Rousseau enables a productive response to ‘why exhume? Why identify?’ in that the implications of posing those questions are underscored as she reflects on the emergence of the practice of exhumations through the work of the TRC and its afterlife through the ongoing work of the Missing Persons’ Task Team (MPTT).

²⁰ See K. Verdery, *The Political Lives of Dead Bodies: Reburial and Postsocialist Change* (New York: Columbia University Press, 1999).

²¹ Rousseau is drawing on the work of, amongst other scholars, Zoe Crossland, who argue that through the processes and practices of excavation, exhumation and identification, human remains are not merely recovered, but through the mediation of forensic experts and other actors, bodies are produced. See Z. Crossland, ‘Of Clues and Signs: The Dead Body and Its Evidential Traces’ in *American Anthropology*, Vol. 111, Issue 1 (2009), 69-80.

²² C. Rassool, ‘Human Remains, the Disciplines of the Dead and the South African Memorial Complex’ in D. Peterson, K. Gavua and C. Rassool (eds.), *The Politics of Heritage in Africa: Economies, Histories and Infrastructures* (Cambridge: Cambridge University Press, 2015), 133-156. Rassool, a critic of the discipline previously known as physical anthropology due to its colonial legacies of racial classification that continue to manifest itself in various mediations, but which now is re-classified as forensic anthropology, suggests that it might be the discipline of history that is “the more appropriate discipline of the dead.” (156). I engage Rassool’s argument, particularly that of the place of the discipline of history within ‘the disciplines of the dead’, in the following chapter ‘Missing the missing’ of this dissertation.

²³ N. Rousseau, ‘Identification, politics, disciplines’, 176.

Whilst not part of its mandate, between March 1997 and June 1998, fifty exhumations were conducted by the TRC.²⁴ As an exercise and enactment within an emerging and burgeoning discourse on transitional justice and the role of exhumations therein, the TRC's foray with these early exhumations were not without critical self-reflection. Problems were highlighted by an internal audit, and Rousseau was part of the team who conducted the audit, of the fifty exhumations that had been carried out.²⁵ Rousseau posits that the TRC's foray with exhumations "took place in something of a legal and forensic vacuum."²⁶ The "legal vacuum" relates to exhumations not being part of the TRC's mandate that saw the TRC having to negotiate the legal constraints of its mandate while seeking to fulfill its mandate in terms of truth-telling, justice and reparations. For instance, Rousseau points out that investigators did not "follow formal legal procedures, seeking permission for individual exhumations from provincial premiers, rather than local magistrates."²⁷ As I elaborate in the next chapter of this dissertation, the implication of this, and that which has come to characterize the 'forensic turn' in South Africa and elsewhere, was/is that exhumations were/are mediated by a politicization of remains exhumed – dead body politics – and of the re-burial process both during and after exhumation and identification.²⁸

The "forensic vacuum" to which Rousseau refers relates largely to the absence of proper and standardized forensic practice as was noted in the internal audit by the TRC. Rousseau recalls that, "no exhumations involved forensic anthropologists or archeologists, a pathologist oversaw some exhumations in one region, while members

²⁴ *Truth and Reconciliation Commission of South Africa Report*, Volume 2 and 6 (Cape Town: Juta, 1998, 2003), 543-554, 550-559. Hereafter TRC Report Vol. 2 and Vol. 6

²⁵ See TRC Report Vol. 6, 550 – 565.

²⁶ N. Rousseau, 'Identification, politics, disciplines', 178.

²⁷ N. Rousseau, 'Identification, politics, disciplines', 178.

²⁸ N. Rousseau, 'Identification, politics, disciplines', 180-185. See also K. Verdery, *The Political Lives of Dead Bodies*.

of a police forensic laboratory assisted in others, largely to oversee the excavation and to take photographs.” More so, “most excavations involved a front-end loader, assisted by local grave diggers, who also assisted the police forensic unit to remove skeletal remains.”²⁹ In some instances there were misidentification of remains exhumed with families receiving incorrect remains. In another instance the TRC received the, what Rousseau refers to as “technical advice”, of the Argentine Forensic Anthropology Team (EAAF), the world’s first professional war crimes exhumation team formed under the guidance of renowned forensic anthropologist Clyde Snow in 1984.³⁰ Significantly then, according to Rousseau, is that while the TRC’s exhumation work “coincided with the internationalisation of exhumation and missing persons’ work”, it was “not party to [the] multiple and unfolding debates about technologies and techniques, authority and power” that so characterizes the work of exhumations and the ‘forensic turn’.³¹

Referring to the events of the first half of the 1990s in the former Yugoslavia and in Rwanda and the work of the International Criminal Tribunals of Yugoslavia and Rwanda, Rousseau notes some of those debates. These included “the place of the families in exhumation practice” and whether “DNA testing should routinely be done on exhumed human remains.”³² Such debates point to questions of why bodies are exhumed, which bodies can be and are identified, the legal and political implications

²⁹ N. Rousseau, ‘Identification, politics, disciplines’, 179.

³⁰ In 1998 there were fifteen sets of human remains exhumed at Boskok farm near Rustenburg. The TRC had expected to only find two sets of human remains instead of the fifteen. While the identification of two of the skeletal remains exhumed were confirmed as being victims of politically motivated killings and their remains were returned to their families, there was doubt as to the identity of the other thirteen. With the “technical advice” of two members of the EAAF, it was concluded that the remains were those of hospital patients and not political activists. Their remains were thus re-interred. See TRC Report Vol. 6, 555. For a riveting account of the emergence of the EAAF and the work of Clyde Snow, see C. Joyce and E. Stover, *Witnesses from the Grave: The Stories Bones Tell* (Ballantine Books, 1992). See also the EAAF’s current website for an account of its work and various projects:

<http://www.eaaf.org>

(Accessed 23 June 2017)

³¹ N. Rousseau, ‘Identification, politics, disciplines’, 178-179.

³² N. Rousseau, ‘Identification, politics, disciplines’, 179.

that mediate questions of memory and historical record, and also technical inter-disciplinarity between experts that raise “issues of resources and expertise” in arriving at identification.³³

The exhumations carried out by the TRC were in part a humanitarian response to family members, mainly women, requesting assistance from the TRC in locating physical remains of their loved ones, often expressed by the phrase “just one bone to bury” so as to exact some form of ‘closure’. However, the TRC’s investigations into the secret burial of activists that led to exhumations and identification were not solely in response to pleas by family members, but also partly as a result of conjoining its truth-telling function with its legal provocation of amnesty in exchange thereof. For instance, the first exhumation that was carried out by the TRC on the 12 March 1997, the remains of Phila Portia Ndwandwe who was an MK operative abducted by security police in 1988, happened, as Rousseau puts it, “fortuitously following disclosures by security police, applying to the TRC for amnesty.”³⁴ The 5 May 1997 exhumation and forensic examinations of the remains of Ntombikayise (Ntombi) Priscilla Khubeka, an MK operative abducted, tortured, killed and later buried in a pauper’s grave in May 1987, challenged perpetrator testimonies that she had died of a heart attack due to her weight.³⁵

When Khubeka’s remains were exhumed in a pauper’s grave at Charlottedale Cemetery, Stanger, and a “spent 7.65 bullet fell from the skull, indicating she had been shot in the head”, the version of perpetrators that she had died of a heart attack due to her weight was challenged. While initially a post-mortem of the remains

³³ See for example A. Rosenblatt, *Digging for the Disappeared* and L. Renshaw, *Exhuming Loss: Memory, Materiality and Mass Graves of the Spanish Civil War*.

³⁴ N. Rousseau, ‘Identification, politics, disciplines’, 177.

³⁵ See TRC Report Vol.6, 551-554. See also M. Fullard and N. Rousseau, ‘Truth, Evidence and History: A Critical Review of Aspects of the Amnesty Process’ in C. Villa-Vicencio and E. Doxtader (eds.), *The Provocations of Amnesty: Memory, Justice and Impunity* (Institute for Justice and Reconciliation: David Philip Publishers, 2003.), 195-216.

seemed to confirm that the remains were those of Khubeka, DNA testing from samples of bone and teeth failed due to the deterioration of the remains and thus the question of positive identification remained. Her skull was then sent to Dr P. Venezis, Regius Professor of Forensic Medicine and Science, and Head of Department at the University of Glasgow. Dr. Venezis, an expert on a facial identification technique that uses video/photo superimposition, concluded that, “the skull-to-photo superimposition... carried out revealed an excellent match in all respects with the photographs examined.”³⁶ The perpetrators challenged this finding and demanded that the skull be re-examined by another expert, this one based at the SAPS Forensic Science Laboratory in Pretoria. The expert, a Sergeant TM Briers, confirmed the finding of Dr. Venezis and found no contradictions. This led to the Amnesty Committee finding the forensic evidence “compelling” and led to the refusal of amnesty to four of the perpetrator applicants.³⁷

‘Why exhume? Why identify?’ The TRC’s foray into exhumations and identificatory forensics according to Rousseau, “‘spoke’ to [its] mandate in many ways” in that more than just “provid[ing] official acknowledgement of human rights violations as an important truth commission function, [it] reaffirm[ed] a rights bearing citizen.” More so, “the materiality of exhumations and associated images provided a more powerful enactment” of the “ritual acknowledgment to each victim in every public hearing.” Thus “by returning the physical remains to the care of the family, the TRC went beyond recommending reparation, as its mandate prescribed, to *enacting* reparation.”³⁸ In so doing, the TRC’s foray into exhumations and identification of missing persons’, whom Rousseau also refers to as the “unjustly dead or [and]

³⁶ TRC Report Vol. 6, 552. While the Khubeka case is not cited, for a discussion on how the process is carried out, See P. Vanezis, M. Vanezis, G. McCombe, T. Niblett, ‘Facial reconstruction using 3-D computer graphics’ in *Forensic Science International*, 108 (2000), 81-95.

³⁷ See TRC Report Vol. 6, 551-554.

³⁸ N. Rousseau, ‘Identification, politics, disciplines’, 178.

buried”, extended a promise of closure and produced a “nationalist discourse and the need for best practice [that seemingly confirms] the script suggested by the dominant literature on transitional justice and exhumation.”³⁹ That script however, as Rousseau argues through engaging the work of Rassool, is disrupted when examining and attempting to account for colonial violence and its racial-scientific knowledge as the ‘forensic turn’s’ ever-shifting temporal reach attempts to claim the skeletal remains of the colonial dead and re-inscribe them in particular ways.⁴⁰ The point then is that it is not self-evident that embracing the ‘forensic turn’ in exhuming remains and naming bodies so as to put them to rest *will* put to rest apartheid’s violence together with its ongoing colonial legacies.⁴¹

It is not always evident, as Thomas Laqueur posits, whether the named bodies of the dead “will serves as both a *corpus delicti* – ‘a body or substance of a crime which ordinarily includes two elements: the act and the criminal agency of the act’ – and as the balm of closure.”⁴² Of course bodies exhumed and identified can serve both as bodies of evidence and bodies for mourning (which is not equivalent to “the balm of closure”) as Rousseau suggests.⁴³ Though the uncertainty also relates to contradictory statements and competing truth claims, as emerged through the work of the TRC, which places in tension as Laqueur argues, “truth for the purposes of remembering, more broadly truth as some sort of individual communal therapy...and medico-juridical truth, which grounds legal and political action.”⁴⁴ The missing

³⁹ N. Rousseau, ‘Identification, politics, disciplines’, 180, 185.

⁴⁰ N. Rousseau, ‘Identification, politics, disciplines’, 185-187; 189; 194-196. See also P. Lalu, *The Deaths of Hintsa: Postapartheid South Africa and the Shape of Recurring Pasts* (Cape Town: HSRC Press, 2009), 4-10.

⁴¹ For an argument that resonates with this, albeit in the context of Spanish mass grave exhumations, see B. Bevernage and L. Colaert, ‘History from the grave? Politics of time in Spanish mass grave exhumations’ in *Memory Studies*, Vol. 7, No. 4 (2014), 440-456.

⁴² T. W Laqueur, ‘The Dead Body and Human Rights’ in S. T Sweeney and I. Hodder (eds.), *The Body* (Cambridge: Cambridge University Press, 2002), 92.

⁴³ N. Rousseau, ‘Identification, politics, disciplines’, 188.

⁴⁴ T. W Laqueur, ‘The Dead Body and Human Rights’, 92.

person exacerbates such a tension. This tension however, might be unpacked if considering that at its emergence, the ‘forensic turn’ saw the introduction of the object, human remains, in war crimes trials that sought to bypass the fallibility of witness testimony and the suspicions of the document (as the Nuremburg and Eichman trials revealed).⁴⁵

It was not merely that new forms of evidence such as human remains were introduced, but as Thomas Keenan and Eyal Weizman argue, “they did nothing less than shift the conditions by which evidence became audible and visible, the way juridical facts were constructed and understood.”⁴⁶ The point, as they underscore is “that objects and things have begun to appear in the context of war crimes investigations does not simply mean that we have acquired better seeing or listening skills, or that the forums of discussion have been liberally enlarged.” Rather it is that “the very entry of bones and other things into these forums has changed the meanings and the practices of the process itself.”⁴⁷ Significantly however, is that,

[t]he shift in focus from the living to the dead, from the witness to the bones or the missing person, from memory and trauma to a forensic aesthetics, also erodes the otherwise clear distinction between subjects and things. Human remains are...the kind of things from which the trace of the living subject cannot be easily erased – it lingers and haunts it.⁴⁸

The advent of the ‘forensic turn’ then, in seeking to solve the problems associated with human testimony, also invites doubt over conflicting interpretations of material evidence. Forensics, as Weizman argues in *Forensis*, a text that seeks to interrogate the ‘forensic turn’, cannot “overcome the complexities of the subject, the ambiguity of language and the frailty of witness memory.”⁴⁹ In this sense, the relation between the

⁴⁵ T. Keenan and E. Weizman, *Mengele’s Skull*, 12-13.

⁴⁶ T. Keenan and E. Weizman, *Mengele’s Skull*, 13.

⁴⁷ T. Keenan and E. Weizman, *Mengele’s Skull*, 70.

⁴⁸ T. Keenan and E. Weizman, *Mengele’s Skull*, 70.

⁴⁹ E. Weizman, ‘Introduction: Forensis’ in Forensic Architecture (Project), *Forensis: The Architecture of Public Truth* (Berlin: Sternberg Press, 2014), 10.

‘forensic turn’ and the ‘era of the witness’ as Dziuban posits, needs to be “conceptualized as a complex process through which the (discursive) role of the witness is extended onto materiality and the myriad of non-human actors that surrounds us.”⁵⁰ Yet forensics, as Dziuban puts it, is “called upon as a means to ‘establish definitive and reliable evidence’ – be it a gas chamber, an execution site, or the outline of a grave” and citing Erik Klinenberg, this meant getting “to the dead bodies, the corpses whose materiality cannot be denied.”⁵¹ Indeed, the ‘forensic turn’ foregrounds the forensic expert and her scientific methods and evidential regimes of truth in translating the material legacies of violence. Yet, human remains do not talk easily and require the expertise of the forensic expert, her act of *prosopopoeia* (the mediated speech of inanimate objects), so as to ensure that both its materiality and the producing of an identity are not denied but affirmed, albeit through the mediation of legal, historical and humanitarian objectives the forensic embrace enables.

For Keenan and Weizman, the ‘advent of a forensic aesthetics’, that which they argue is constitutive of the ‘forensic turn’, has its emergence in mid-1980s Latin America. The facial identification technique of video/photo superimposition that was used to confirm the identity of Khubeka, as noted earlier, can be traced to its use in the identification of Nazi war criminal Josef Mengele’s remains that were exhumed in 1985, Sao Paulo, Brazil.⁵² Writing about the Mengele investigation, Keenan and Weizman argue that the investigation “ironically...helped consolidate the interdisciplinary process for the identification of missing people, a set of techniques and operations which has since restored the names and identities of thousands of

⁵⁰ Z. Dziuban, ‘Introduction: Forensics in the Expanded Field’, 27.

⁵¹ Z. Dziuban, ‘Introduction: Forensics in the Expanded Field’, 19.

⁵² Richard Helmer, a German amateur photographer, merging a videography of photography with the science of pathology, deployed the technique there. The search for Mengele to be arrested and tried for war crimes was complicated when it was claimed that he had drowned and his body had been buried. Helmer’s facial identification technique proved central to the identification of Mengele.

bodies.” It was ironic in that the war criminal Mengele, known as the ‘Angel of Death’ for the inhumane experiments he conducted on persons’ during WW11, was in a sense, but for very different reasons, “just one more missing person in South America at a time when the whereabouts of all too many *desaparecidos* were being sought.”⁵³

Prior to the Mengele forensic investigation, Clyde Snow had been in Argentina and beginning to investigate the remains of the disappeared in its ‘dirty war’ while training the group of forensic anthropologists who would form the EAAF. Indeed, these early exhumations and practices and processes of identification in Argentina has been referred to as the “cradle” of the ‘forensic turn’.⁵⁴ Keenan and Weizman argue that the ‘forensic turn’ in terms of “contemporary war crimes forensics began in Brazil with the perpetrator-fugitive and in Argentina with the victims-disappeared...it was methodological proximity that allowed the techniques developed for the former to suit the latter so well.”⁵⁵ For in both instances, Mengele in Brazil, and missing persons’ in Argentina, the primary question asked of the remains exhumed were ‘Who are you?’⁵⁶

In conventional cases of the deployment of forensic science such as in police investigations it is cause of death that needs to be established so as to determine whether a crime has been committed or not. There the primary questions asked of

⁵³ T. Keenan and E. Weizman, *Mengele’s Skull*, 19-20. The irony pointed out by Keenan and Weizman has continued in that since the 1985 investigation, Mengele’s remains had been unclaimed and stored in a blue plastic bag in Sao Paulo’s Legal Medical Institute. In 2016 permission was granted for Mengele’s remains to be used to teach a new generation of forensic anthropologists in identification techniques. See No Author (NA) ‘Nazi doctor Josef Mengele’s bones used in Brazil forensic medicine courses’ in *theguardian* (11 January 2017). <https://www.theguardian.com/science/2017/jan/11/josef-mengele-bones-brazil-forensic-medicine>

(Accessed 3 January 2018).
⁵⁴ Z. Dziuban, ‘Introduction: Forensics in the Expanded Field’, 22.

⁵⁵ T. Keenan and E. Weizman, *Mengele’s Skull*, 61.

⁵⁶ See T. Keenan and E. Weizman, ‘Mengele’s Skull’ in *Cabinet*, Forensics, Issue 43 (Fall 2011).

http://www.cabinetmagazine.org/issues/43/keenan_weizman.php

(Accessed 1 January 2018).

See also T. Keenan and E. Weizman, *Mengele’s Skull*, 18.

remains are ‘What happened?’ and ‘How did you die?’ Identity of the victim is usually known or quickly established. In cases of identifying the remains of missing persons’ however, the question of ‘Who are you?’ is primary and leads the forensic investigation.⁵⁷ Asking this question of bones exhumed believed to be those of a missing person is responded too through a biography of the bones, what Clyde Snow termed an osteobiography.⁵⁸

Tracing a biography of a life lived imprinted on bones is not only concerned with the moment of death, “but the entire history of a life – a sequence of illnesses, incidents, accidents, along with conditions of nutrition, labour, and habit – that is fossilized into the morphology and texture of bones.”⁵⁹ The osteobiography, Clyde Snow posits, is then compared with the missing person and “in that way [forensic experts] gradually come down to eliminate more and more deceased until we identify the person we wanted to find.”⁶⁰ Not only concerned with the moment of death, identificatory forensics is a process of corroborating the events of a life lived through what is known about the missing persons’ life (photographs, dental records, hospital records, mortuary records, family testimonies, DNA samples from relatives), with the imprints of that life as it had been recorded on the bones. The forensic expert then, always seeks the same answer, that of confirming identity.

When persons’ are missing and “no witnesses come forward”, the forensic expert translates their bones, that of the missing person, and it is their bones that are the only witness. According to Keenan and Weizman, the mass grave that Adam Rosenblatt argues is the “site par excellence of forensics”, shifts the location from the paradigmatic space of testimony – that of the camp – and in so doing “marks a change

⁵⁷ T. Keenan and E. Weizman, *Mengele’s Skull*, 18-19.

⁵⁸ T. Keenan and E. Weizman, *Mengele’s Skull*, 19.

⁵⁹ T. Keenan and E. Weizman, *Mengele’s Skull*, 19.

⁶⁰ Cited in T. Keenan and E. Weizman, *Mengele’s Skull*, 19.

of protagonist.”⁶¹ This change of protagonist, Keenan and Weizman argue, is that of “from survivor, the living but traumatised victim as witness, to the missing person, the disappeared, whose status – dead or alive – is still pending, and must be determined by science.”⁶² The missing person then, even whose status is confirmed as dead, still has a ghostly agency, “an immateriality that is not simply present but which nonetheless has effects, and even demands responses.”⁶³ It is in this sense that the tension pointed out by Laqueur as I cited earlier, might be made sense of.

For when there are trials, or truth hearings in the context of truth commissions such as the TRC, verdicts are demanded and in so demanding, truth claims are made, contradictory statements are made and it is evidence that is required, including that of forensic evidence. It is in so doing that the missing dead are located and identified. The ‘forensic turn’ then, a forensic embrace, in relation to that of the missing person, can be described as one of intimate connection - the agency of the missing person and the practice of forensics – in its successes and its limitations.⁶⁴ It is to this intimate connection that I now turn in the hope of interpreting a fistful of hair with scalp attached in a small wooden box and commingled burnt human fragments in a soldered steel box placed together in a coffin.

The Post Chalmers Investigation

On the 17 April 2009 South Africa’s National Prosecuting Authority (NPA) issued a Statement published on the South African government website with the title, ‘Prosecuting Authority on Pebco 3 final investigation report’ and the sub-title ‘Pebco

⁶¹ Keenan and Weizman are referring to the work of Shoshana Feldman, Lanzmann’s *Shoa* and Agamben’s *Homo Sacer* work, that sees the camp as the paradigmatic space of testimony, whether possible or not. See T. Keenan and E. Weizman, *Mengele’s Skull: The Advent of a Forensic Aesthetics*, 62.

⁶² T. Keenan and E. Weizman, *Mengele’s Skull*, 61-62.

⁶³ T. Keenan and E. Weizman, *Mengele’s Skull*, 63.

⁶⁴ T. Keenan and E. Weizman, *Mengele’s Skull*, 63-65.

three families receive final investigation report'. It opens by stating that, "The (NPA) is satisfied that human remains that were found at Post Chalmers farm were probably those of Siphiwo Mthimkulu and Champion Galela, who disappeared on 14 April 1982, as well as those of the Pebco three (Sipho Hashe, Qaqawuli Godolozé and Champion Galela who disappeared on 8 May 1985)." It continues by stating that, "The [MPTT] of the NPA today met with and presented its final report to members of families providing its findings and reasons for its conclusion. The report was accepted by all the families concerned."⁶⁵ Despite the title and sub-title of the NPA Statement suggesting the investigation was solely around the 'Pebco 3', the opening paragraph qualifies this by naming Siphiwo Mthimkulu. Immediately obvious as well is the double naming of Champion Galela and the initial omission of Topsy Madaka's name, though he is named later in the NPA Statement.⁶⁶

What follows in the NPA Statement is an almost verbatim rendering of a six page Report compiled by the MPTT titled 'The Search For Missing Activists At Post Chalmers Near Cradock Eastern Cape' (August 2009), which "provides a brief narrative overview of the outcome of [the] investigation."⁶⁷ It is this Forensic Report that was presented and explained to family members, some of whom were present at Post Chalmers while the exhumation process was underway. The paragraph following

⁶⁵ Statement Issued by the NPA, 'Prosecuting Authority on Pebco 3 final investigation report' (17 April 2009).

<http://www.gov.za/prosecuting-authority-pebco-three-final-investigation-report>
(Accessed 11 December 2017).

⁶⁶ The MPTT was initially mandated in 2006 with only locating the remains of Hashe, Qaqawuli and Galela (the Pebco 3) at the behest of then Minister of Justice and Constitutional Development, Bridget Mabandla. In an update to the Minister it was however pointed out by the then National Director of Public Prosecutions, Adv. Vusi Pikoli, that the Post Chalmers site was also the location of the 1982 murders of Siphiwo Mthimkulu and Topsy Madaka. See Memo to the Minister for Justice and Constitutional Development: 'Pebco 3 and Looksmart Ngudle Cases Update', From Adv. VP Pikoli – National Director Public Prosecutions (30 November 2006), p. 2. Post Chalmers Case File. Ngudle was an ANC member detained in 1963. Security police alleged that he had hung himself whilst in police custody and that they had buried his remains without the permission of the family. Family members made requests to the TRC for assistance in tracing the grave and his remains.

⁶⁷ Missing Persons Task Team, Report: 'The Search for Missing Activists at Post Chalmers near Cradock Eastern Cape' (August 2009). Hereafter referred to as MPTT Post Chalmers Report.

that which is cited above, and which both the NPA Statement and the MPTT Report underscore is that,

Security police perpetrators had indicated to the [TRC] through amnesty applications that the two groups were taken in 1982 and 1985 respectively to the Post Chalmers farm (an old abandoned police station outside Cradock). There they were interrogated, shot dead and their bodies burnt on wood and diesel fires after which their ‘ashes’ were removed and thrown into the Fish River. The MPTT sought to recover all and any forensic material that could verify or dispute this information, with the goal of recovering human remains of the five activists.⁶⁸

The NPA Statement then, based on the MPTT Report, narrates the excavation and exhumation of the remains at Post Chalmers, the types of forensic testing done on the remains so as to establish identification and its findings in verifying or disputing perpetrator information.

Returning for a moment to the forensic embrace I discussed earlier, the MPTT, as explained in the Introduction to this dissertation, was formed in 2004-5 following recommendations from the TRC. Its mandate is to examine all unresolved and unsolved cases of missing persons where the fate of the person is known, she/he is dead, but the location of their body is unknown as identified by the TRC. The MPTT has modelled itself closely to that of the EAAF in locating, exhuming and identifying human remains and “sees the physical and forensic work of exhumation and identification as one aspect of a wider collaborative and restorative process with families.” For Rousseau, this enjoins “the body of evidence to the body [for] mourning, although somewhat ironically, given the MPTT’s location in a prosecutorial service, [the body for mourning] has dominated.”⁶⁹ The emergence of the MPTT has seen the rectification of many of the problems identified by the TRC’s audit into its early exhumations, particularly that of the misidentification of human

⁶⁸ Statement Issued by the NPA, ‘Prosecuting Authority on Pebco 3 final investigation report’ and MPTT Post Chalmers Report, 1.

⁶⁹ N. Rousseau, ‘Identification, politics, disciplines’, 188.

remains. The MPTT has thus sought to ensure forensic expertise and best practice in all the cases it works on. With early assistance from the EAAF in terms of training, the MPTT is a modest team of forensic experts and when needed, the expertise of other forensic experts are called in. The expertise of the MPTT and of forensic experts would be pushed to its limits in the Post Chalmers investigation.

The MPTT Final Report on Post Chalmers, on which the NPA Statement is based, notes that archeological experts located two fire sites by identifying rubification of the soil, a reddening through several layers of soil as a result of the intensity of the fires. The NPA Statement notes that these “corresponded to the information obtained from the TRC, from current investigations, and from a documentary prepared by a private film maker Mark Kaplan.” An underground septic tank “comprising two interconnected compartments that was between the two fire sites was drained and found to contain quantities of human bone, fire residue and artefacts.” In total “260 kilograms of assorted material was removed from the Post Chalmers site for further examination.” Of that, 12.6 kilograms were identified as burnt human fragments that were recovered from the fire sites and the underground septic tank.⁷⁰ The NPA Statement does not include a breakdown of the assorted material recovered, but the MPTT Report does.

The MPTT Report narrates what had been excavated at both fire sites (what the MPTT labeled as Burn Patch 3 and 4) and in the septic tank (labeled Septic Tank 1 and Septic Tank 1-2) after those had been drained and sieved. Interspersed with the 12.6 kilograms of commingled burnt human fragments exhumed at both fire sites and the two compartments in the septic tank were 11.05kg wood and charcoal, 1.88kg

⁷⁰ Statement Issued by the NPA ‘Prosecuting Authority on Pebco 3 final investigation report’ (17 April 2009).

rubber tyre and 5.9kg metal, all of which were “associated with the fire.”⁷¹ The artifacts excavated at the respective four sites included items such as bullets, shoelace lets, metal buttons, a belt buckle, glass fragments, burnt tyre fragments, wrist watch fragments and other assorted metal items. The MPTT Report continues and states that, “the remaining weight quantity was made up of surrounding soil collected with the above items.” None of the artifacts, including those found in the septic tank (burnt shoe fragments, shoelace lets, wristwatch fragments, zipper fragments, keys, bullets, fabric), could be “conclusively” associated with the persons’ sought and thus were not able to aid in identification of the remains exhumed.⁷²

Forensic anthropological (osteological) and odontological examinations were conducted on the commingled burnt human fragments exhumed. Claudia Bisso, a former member of the EAAF, and a full time member of the MPTT, initially conducted the forensic anthropological examination. Later, a leading international expert on burnt remains, Prof. Steve Symes from Mercyhurst College, USA, examined the commingled burnt human fragments. Both the NPA Statement and the MPTT Report note further that professionals and postgraduate students from the Universities of Cape Town, Witwatersrand and Pretoria assisted with the examinations under the direction of Prof Symes and Prof Alan Morris, who is based at UCT.⁷³ But before the team of experts could begin the process of osteobiography through the osteological and odontological examinations in seeking to respond to the

⁷¹ MPTT Post Chalmers Report, 2.

⁷² MPTT Post Chalmers Report, 2, 3.

⁷³ Statement Issued by the NPA ‘Prosecuting Authority on Pebco 3 final investigation report’ (17 April 2009). For an account of the Post Chalmers investigation and his role therein, as well as an account of the TRC’s early exhumation practice and subsequent work of the MPTT, see A. Morris, *Missing & Murdered: A Personal Adventure in Forensic Anthropology* (Cape Town: Zebra Press, 2011), 143-158. For an examination of the ways in which popular accounts of the work of forensic anthropologists are rendered, such as that of Morris, see Z. Crossland, ‘Writing Forensic Anthropology: Transgressive Representations’ in Z. Crossland and R. A. Joyce (eds.) *Disturbing Bodies: Perspectives on Forensic Anthropology* (School for Advanced Research Press, 2015), 103-120.

question ‘Who are you?, the examinations had to identify *what* human remains had been exhumed.

The NPA Statement notes that 70 teeth, roots and crowns, were recovered and examined by forensic odontological expert Prof Vince Philips at the Dental Faculty of the University of the Western Cape. The Statement notes further that both the odontological and osteological examinations “reached similar conclusions regarding the minimum number of individuals [MNI] that were represented in the recovered human remains, as well as their gender and age range.”⁷⁴ This is elaborated on in the MPTT’s May 2008 Preliminary Report, which notes the following with regards to the osteological analysis:

The bone fragments were separated and those that were identifiable as belonging to a particular bone were put in anatomical position. The fragments that were too small to be identified with certainty were allocated a possible anatomical position (cranium, long bones, arms, legs, spongy bones, etc). There was also a large quantity of bone fragments that could not be identified as belonging to a particular bone. Although most parts of the skeleton were represented in the bone fragments, certain large areas that are usually the last to burn, such as the pelvis, were not noticeably present. This is not consistent with the pattern expected from bodies that were burned and left untouched in the burn site. It is therefore possible that some of the big bone fragments, such as the pelvis, were removed from the place, after the bodies were burned. This conclusion corresponds to some extent with the testimonies given to the [TRC] by the perpetrators. Loss of bone took place through (a) the fire burning itself (b) erosion over time in the sites (c) during excavation (d) ongoing disintegration after excavation. We estimate that we have much less than 50% of the total skeletal remains.⁷⁵

The MPTT’s Preliminary Report continued with its conclusions by noting that, “regardless of the possible removal of some of the bone fragments by the perpetrators, we are still able to conclude the presence of at least four adult individuals.” It continues by corroborating the osteological findings with the odontological findings

⁷⁴ Statement Issued by the NPA ‘Prosecuting Authority on Pebco 3 final investigation report’ (17 April 2009).

⁷⁵ ‘Preliminary Report: Post Chalmers Excavation – Missing Persons Task Team – National Prosecuting Authority (May 2008), 3-4. Hereafter MPTT Preliminary Report

by noting that, “the fact that the burned bone analysis only provides evidence for a minimum number of 4 individuals does not disqualify the conclusions of a [MNI] of 5, obtained from the dental analysis. Rather, it supports 80 percent of the findings.”⁷⁶

Scientifically answering the question ‘Who are you?’ of the commingled burnt human fragments exhumed at Post Chalmers could only be responded to as a minimum number of five adult male individuals, three within an age range of between 30-50 and two within an age range of 20-30. A bone DNA expert, Dr Niel Leat, examined the burnt human fragments. He concluded that DNA extraction was not possible. However, the NPA Statement notes that, “one small bone sample has been retained for future possible DNA testing.”⁷⁷ Individual identification was not possible with current technology at the time.⁷⁸ With “much less than 50% of the total skeletal remains” of the five individuals exhumed at Post Chalmers and scientifically examined, the osteobiography could but only reveal limited imprints of lives lived. There was only so much that the commingled burnt human fragments could tell.

In asking and responding to the forensic question ‘Who are you?’ of the commingled burnt human fragments exhumed at Post Chalmers, the investigation had to re-turn to the testimonies and evidence of the perpetrators as corroborating evidence. Thus in its Final Report, the MPTT notes that Burn Batch 3, a shallow pit that measured

roughly 2x3 metres with a depth of approximately 20 cm contained the remains of a minimum of three adult males aged between 30 and 50. This corresponded to data regarding the PEBCO 3 and was in the broad physical location pointed out to the TRC by one of the perpetrators, Gideon Nieuwoudt... We are of the view that all gathered data supports the assertion that these are the residual remains of the PEBCO 3.⁷⁹

⁷⁶ MPTT Preliminary Report, 4.

⁷⁷ Statement Issued by the NPA ‘Prosecuting Authority on Pebco 3 final investigation report’ (17 April 2009).

⁷⁸ Statement Issued by the NPA ‘Prosecuting Authority on Pebco 3 final investigation report’ (17 April 2009).

⁷⁹ MPTT Post Chalmers Report, 3.

Burn Patch 4 and the Septic Tank compartments were concluded to be the sites of where the remains of Mthinkulu and Madaka were burnt and where those had been disposed of. The fire site

was a shallow surface fire event that contained very few human remains, collectively weighing only 0.1 kg. This fire site corresponded to a site identified by one of the perpetrators in video documentary footage as being the site of the burning of Siphwo Mthinkulu and Topsy Madaka. It was evident that the contents of the fire were no longer there... The two tank compartments [of the septic tank] contained the burnt bone fragments and teeth of at least two adult male individuals aged in their twenties. This corresponds to Mthinkulu and Madaka. It is therefore highly probable that the human remains and residue of the fire in Burnt Patch 4 were placed or pushed into these septic tanks due to their convenient proximity.⁸⁰

In the Post Chalmers investigation the questions of ‘What happened?’ and ‘How did you die?’ were seemingly responded to through the testimonies of perpetrators who had applied for amnesty at the TRC. Yet, as part of its aim of either verifying or disputing perpetrator testimony, the investigation noted some discrepancies with the TRC evidence.

The discrepancies include that it would have been impossible for the burnt remains to be placed into black plastic bags, as claimed by the perpetrators, because the ‘ashes’, if doused with water, “the vast fire residue would have been extremely heavy.” More so, “the bodies were not ‘ashes’ but still significant bone fragments.” The amnesty applicants had denied that tyres were used as an accelerant in the fire and denied drinking alcohol during the burning of the bodies. However, quantities of burnt tyres were recovered in both fire sites and the septic tank compartments as well as broken bottle glass pieces that “potentially indicat[es] otherwise.” The MPTT also notes that it was claimed that wood was gathered from the surrounding trees and

⁸⁰ MPTT Post Chalmers Report, 3.

bushes on the farm, but that “a preliminary visual examination of recovered burnt wood fragments suggests that pre-cut wood was used.” Perhaps most haunting of the MPTT findings relates to Burn Patch 3, where the MPTT concluded the bodies of the Pebco 3 were burnt. No mention was made in the amnesty applications or during the testimonies of who dug the fire pit.⁸¹ Certainly, the questions, ‘What happened?’ and ‘How did you die?’ remain.

Identificatory forensics, like all empirical sciences, is a matter of calculated probability.⁸² Absolute certainty is a misnomer within the practice of and a critical discourse on forensics.⁸³ The final paragraph of the NPA Statement asserts that, “The NPA left nothing to chance and explored all forensic and scientific investigative methods currently available in order to confirm its findings and conclusions.”⁸⁴

Of importance in citing the above are the NPA and MPTT’s stated aims of either verifying or disputing perpetrator information; the “goal” of recovering human remains”; the NPA’s “satisfaction” that the remains exhumed at Post Chalmers were “probably” those of the five activists; the presenting and accepting of the MPTT Report by the families concerned; and the public notification of the outcome of the investigation by the NPA through its Statement. Notwithstanding the specificity of the Post Chalmers investigation, the significance of what the above exemplifies is an articulation of what Weizman would term a ‘public truth’.

What Weizman terms a ‘public truth’ is related to the etymology of the word forensics, which emerges from the Latin *forensis* that pertained to the forum. While the Roman forum “to which forensics pertained was a multidimensional space of

⁸¹ MPTT Post Chalmers Report, 4 and Statement Issued by the NPA ‘Prosecuting Authority on Pebco 3 final investigation report’ (17 April 2009).

⁸² T. Keenan and E. Weizman, *Mengele’s Skull*, 16-17, 22-23.

⁸³ This belief has been promoted by what is termed the ‘CSI effect’. See for example N. J Schweitzer and M. J. Saks, ‘The CSI Effect: Popular Fiction About Forensic Science Effects the Public’s Expectations About Real Forensic Science’ in *Jurimetrics*, Vol. 47, No. 3 (Spring 2007), 357–364.

⁸⁴ Statement Issued by the NPA ‘Prosecuting Authority on Pebco 3 final investigation report’.

politics, law and the economy”, Weizman underscores that the word forensics “has undergone a strong linguistic drift” in that the forum has come to “refer exclusively to the court of law” and forensics “to the use of medicine and science within it.” This drift, according to Weizman, has led to the loss of a critical dimension of forensics and its constitutive sites of fields and forums, “its potential as a political practice.”⁸⁵

While the field of forensics is generally understood as the site of investigation and the forum a place where the results of the investigation are presented and contested, Weizman argues that, “both sites must be understood to be more than mere locational designations.” He argues that, “the field is not only a neutral, abstract grid on which the traces of a crime can be plotted out, but itself a dynamic and elastic territory, a *force field* that is shaped by but also shapes conflict.” Similarly the forum is a “composite apparatus...constituted as a shifting triangulation between three elements: a contested *object or site*, an *interpreter* tasked with translating ‘the language of things’, and the assembly of a public gathering.”⁸⁶ At stake in restoring the potential of forensics for Weizman is an interrogation of the constitutive sites of forensics.

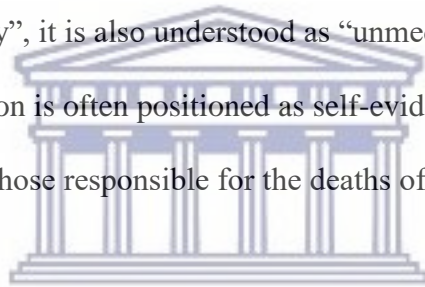
What the MPTT Final Report and its verbatim rendering through the NPA Statement reflects is a ‘public truth’ constituted by the fields and forums of the Post Chalmers investigation, including the presentation of its findings through the NPA Statement. This ‘public truth’ is one that encapsulates a forensic embrace, a deployment of scientific practice in the locating, excavating, exhuming and identifying human remains within a context of human rights and humanitarian investigations. In so doing, it reflects what Keenan, writing about ‘justice, *prosopopoeia* and forensic afterlives’ posits as an “interpretive labour and the

⁸⁵ E. Weizman, ‘Introduction: Forensics’, 9.

⁸⁶ E. Weizman, ‘Introduction: Forensics’, 9.

possibility of a retelling of that process, but equally by a fundamental lack of absolute certainty, a debateability that makes [it] properly, or etymologically at least, forensic.”⁸⁷ What constitutes the ‘public truth’ reflected through the NPA Statement and the MPTT Final Report can thus only be understood by re-examining the production of its evidence and its practices of evidence making.

Forensic evidence, as material fact, might be understood as gathered to both “reconstruct the specifics of a single event” and to “uncover the broad patterns of human behavior”. Indeed, as Zoe Crossland underscores, “ [forensic] evidence is situated within different regimes that govern what is allowed to enter in as material fact and how it is evaluated.” While forensic evidence is tasked with establishing “fact in a situation of uncertainty”, it is also understood as “unmeditated and certain” and the “evidence of exhumation is often positioned as self-evident, able to challenge the lies and mistruths told by those responsible for the deaths of those exhumed.” For Crossland therefore:



Forensic evidence (or a material fact) stands as a sign of something, and this relationship is in turn deployed in the service of a particular end. Excavated bodies and artifacts are used as ‘evidence of’ to point to past events and, in so doing, deployed as ‘evidence for’ different goals, whether legal, scientific, historical or personal. From this perspective it is necessary to think critically about not only the ways in which the dead are presented as factual evidence, but also the modalities through which they become evidence both of and for something.⁸⁸

It is this notion of thinking through forensic evidence, as both of and for ‘something’ that is useful for understanding the ‘public truth’ exemplified by the NPA Statement. It is even more important so as to assist in understanding how the commingled burnt human fragments in a soldered steel box in a coffin came to be identified as Topsy

⁸⁷ T. Keenan, ‘Getting the dead to tell me what happened: Justice, prosopopoeia, and forensic afterlives’, 39-40.

⁸⁸ Z. Crossland, ‘Evidential Regimes of Forensic Archaeology’ in *Annual Review of Anthropology* Vol. 42 (2013), 125, 126.

Madaka and Siphiwo Mthimkulu. This despite the acknowledged limitation of scientific identificatory forensics at both asking and answering ‘Who are you?’ of the commingled 0.1kg of burnt human fragments found at a burn site, and the commingled 6kg of burnt human fragments disposed of in a septic tank at Post Chalmers.

Writing about the difficulty in identifying commingled remains, Sarah Wagner argues that “commingled remains are not just ‘mixed up’ in the same way a single skeleton haphazardly jumbled on an examination table with dirt and debris can be regarded as ‘mixed up’.” The quandary is trying to identify not only *what* is exhumed, in terms of skeletal remains, but also in terms of *who* is exhumed: “What is lost [with commingling] is not merely the anatomical order and organisation of the body but also, critically and specifically, the wholeness and separateness of the individual.”⁸⁹

Rousseau, who was a former investigator with the MPTT, present at the Post Chalmers site in 2007 while the excavations and exhumations were taking place and who saw the investigation to its ‘end’, posits on reflection that,

the team of bone experts separated identifiable bone from fragments impossible to name. Identified bones were placed in anatomical position on three tables corresponding to BP 3, ST 1 and STI-2 [the sites where the remains were exhumed from]. These resembled bizarrely distorted human bodies; some sections of the skeleton packed densely, others barely visible. The work was painstaking, a jigsaw puzzle to be assembled with no accompanying picture, washed in greys, charcoals and blacks.⁹⁰

Rousseau continues and explains how human burn expert Dr Symes took the team through the “science of fire” and explained how certain parts of the body are shielded when burnt as the body takes a “‘pugilist stance’ –crouched, hands up as though

⁸⁹ S. Wagner, ‘The Quandaries of Partial and Commingled Remains: Srebrenica’s Missing and Korean War Casualties Compared’ in F. Ferrandiz and A.C.G.M Robben (eds.), *Necropolitics: Mass Graves and Exhumations in the Age of Human Rights* (Philadelphia: University of Pennsylvania Press, 2015), 121. See also Z. Crossland, ‘Of Clues and Signs: The Dead Body and Its Evidential Traces’.

⁹⁰ N. Rousseau, ‘Eastern Cape Bloodlines 1: Assembling the Human’ in *Parallax*, Vol. 22, No. 2 (2016), 212.

boxing.” The point being that “shielded bones are last to fracture and disintegrate, thus least damaged and most recognizable.” For Rousseau,

looking down at the strange anatomical shapes on the table[s], it was clear that little remained of the pelvic area. These were precisely common shielded parts and their absence suggested some human remains had probably been removed from the site, and dumped elsewhere, perhaps in the Fish River as indicated by amnesty applicants.⁹¹

Resolving commingling of remains for forensic scientists, Wagner posits, “is not simply ‘unmixing’ the remains and restoring anatomical order”, they are also “seeking to rebuild individuals, trying to address loss of life and identity, alongside loss of physical, corporeal integrity.”⁹² Yet in the Post Chalmers investigation, as Rousseau posits, “possibilities of individual identification were always improbable” and that “identification rested more on identifying these as the *group* being sought, but [that] this link had only been established by, and was tethered to, the killers TRC testimony.” When identification was established through corroboration with the killers TRC testimony, it “was better than the team had hoped: corresponding to events, two *groups-as-such*.”⁹³ In the case of Topsy Madaka and Siphwo Mthimkulu, it was the 14-16 April 1982 *event* of their abduction, interrogation, sedation, killing and disposal of their bodies by Port Elizabeth security policemen at Post Chalmers that figures and produces them as the identified *group-as-such*.

Gerrit Erasmus, the division commander of the Port Elizabeth security branch, testified at the TRC that he had authorised the operation. Gideon Nieuwoudt had testified at the TRC that he had shot Madaka after sedating both Madaka and Mthimkulu on the 15 April 1982. Nicolaas Janse van Rensburg testified that he had shot Mthimkulu. Hermanus du Plessis testified to being present at Post Chalmers.

⁹¹ N. Rousseau, ‘Eastern Cape Bloodlines 1: Assembling the Human’, 212.

⁹² S. Wagner, ‘The Quandaries of Partial and Commingled Remains’, 121.

⁹³ N. Rousseau, ‘Eastern Cape Bloodlines 1: Assembling the Human’, 211-212.

Gideon Nieuwoudt testified to purchasing the diesel used as an accelerant for the fire. All three men testified to placing the dead bodies of Madaka and Mthimkulu on a pile of branches and wood after which the bodies were doused with the diesel. They testified it took between six and eight hours to burn the bodies. While subsequently disputed by the MPTT, they testified that on the morning of the 16 April 1982 they collected the 'ashes', placed them into black bags, and threw it into the Fish River.

It is by drawing on the work of Jenny Edkins, who argues that each and every missing person counts and that accountability should be for the "person-as-such", that Rousseau deploys a neologistic inversion by referring to the *group-as-such*.⁹⁴ In so doing though Rousseau perhaps implicitly implicates herself in a "staging", which Keenan in a different context posits can be thought of as "a non-naïve commitment to a notion of the truth." In other words, "the truth of the matter has a chance of appearing later, maybe much later, in forums the existence of which we do not yet even suspect. And a great deal of work goes into preparing that stage."⁹⁵ Thus, Rousseau argues

[d]espite failing to produce individual identification, this [the producing of the *group-as-such*] can be read as a moment of stabilization, facilitating the return of mortal remains, enabling the healing and closure on which the claims of transitional justice rest. Yet, the MPTT recovered not subjects, nor even bodies, but fragments, demonstrating not recovery but its impossibility.⁹⁶

It is, however, worth underscoring that, as Weizman points out, "the present forensic sensibility seeks to bypass human testimony, especially that of the victims of violence, precisely because the memory of violent events, often complicated by trauma, is seen to be marked by the very irrationality, sometimes madness, of the

⁹⁴ See J. Edkins, *Missing: Persons and Politics* (New York: Cornell University Press, 2011).

⁹⁵ T. Keenan, 'Getting the dead to tell me what happened: Justice, prosopopoeia, and forensic afterlives', 52.

⁹⁶ N. Rousseau, 'Eastern Cape Bloodlines 1: Assembling the Human', 213.

perpetrator, and thus, to a certain extent, to mirror it.”⁹⁷ Somewhat paradoxically then, the forensic calculated probability of identification at Post Chalmers rested on the perpetrators’ preemptive impeding of the production of the evidence of their crimes, a counter-forensic practice in the professional meaning of the term.⁹⁸ The Post Chalmers investigation thus cannot be understood without underscoring that it was the political agency of perpetrators as witnesses that embraced the forensic fallibility and fragility of the agency of the missing person, which identified them as both the group sought and the *group-as-such* produced.

“Yet the MPTT recovered not subjects, nor even bodies, but fragments, demonstrating not recovery but its impossibility” argues Rousseau. Earlier in her paper she asks, “what constitutes a body? How much?” These might be moot questions, particularly when recalling witness pleas at the TRC for “just one bone to bury”. Indeed, after posing the questions, Rousseau notes that, “at a TRC hearing, Joyce Mthimkulu held up a fistful of her son’s hair that she had kept as evidence...later she had buried the hair, the only remainder of her son’s physical body, in a burial ceremony in her yard.” This stark reminder leads Rousseau to suggest, “the fragments subsequently recovered at Post Chalmers were more reminders than remainders.”⁹⁹ Yet, seeking to interpret a fistful of hair with scalp attached in a small wooden box and commingled burnt human fragments in a soldered steel box placed together in a coffin, perhaps suggests that together, they are both equally reminders and remainders. It is thus to a matter of hair that I now turn.

⁹⁷ E. Weizman, ‘Introduction: Forensis’, 10.

⁹⁸ See T. Keenan, ‘Counter-forensics and Photography’ in *Grey Room*, No. 55 (Spring 2014), 68.

⁹⁹ N. Rousseau, ‘Eastern Cape Bloodlines 1: Assembling the Human’, 209.

A matter of hair and a forensic aesthetic

The anatomy and physiology of human hair is a complex matrix. As matter, as an organic material, hair is a derivative of the epidermis, the skin. Hair consists of two separate structures: the follicle in the skin and the hair shaft that is visible on the surface of the body that makes up its microscopic and macroscopic structure. The molecular structure of hair consists of synthesised keratin proteins. There are various types of hair follicles situated across the human body. These include scalp hair, pubic and axillary hair and phalangeal hair. Scalp hair contains hair follicles that are

arranged in the follicular unit composed of one to four terminal hairs and one to two vellus hairs, sebaceous gland, and encircled the same arrector pili muscle. Each hair grows steadily, approximately 1cm per month and continuously for 3-5 years (anagen phase). Growth then stops and is followed by a brief catagen phase and a 2-4 month telogen phase, during which hair is shed. With the onset of the anagen phase, new hair starts to grow from the same follicle.¹⁰⁰

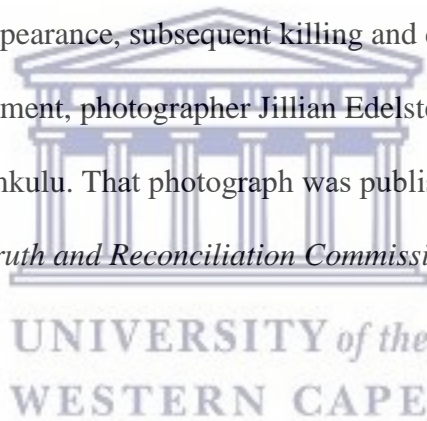
This is the life cycle of human hair as organic matter. And matter, as Eyal Weizman argues, “when it is informationally enriched by the ability of contemporary science to recode the processes it has undergone and the contacts imprinted on it – becomes akin to photographs.” Matter, Weizman continues “ever saturated by its environment is turned by the forensic process into an image, a thing-image.” He continues and posits that, “actual photography is one of the processes that allows matter to become legible as image.”¹⁰¹ The matter of hair that I engage in what follows is such that its legibility as image is marked by an ambiguity that underscores a forensic aesthetic through its rendering and replication.¹⁰²

¹⁰⁰ B. Buffoli et al, ‘The human hair: from anatomy to physiology’ in *International Journal of Dermatology*, Vol. 53 (2014), 337.

¹⁰¹ E. Weizman, ‘The Image is the Bone!’ in T. Keenan and T. Zolghadr (eds.) *The Human Snapshot* (LUMA Foundation, Centre for Curatorial Studies, Bard College: Sternberg Press, 2013), 193-194.

¹⁰² I use the word replication following Michel Frizot who argues that “photography reproduces itself: a negative allows us to make an unlimited number of images of different sizes and textures. Personally, I prefer the notion of replication.” See M. Frizot, ‘Who’s Afraid of Photons?’, trans. by K. Timby in J. Elkins (ed.) *Photography Theory* (New York: Routledge, 2006), 272.

On the 26 June 1996, months after being denied, through a legal injunction, to present her testimony at the TRC, Joyce Mthimkulu, the mother of Siphiwo Mthimkulu, presented her testimony at a Human Rights Violations Commission (HRVC) hearing in Port Elizabeth. During her testimony, and unexpectedly for those in the audience and the commissioners, she removed from a plastic bag a clump of hair that she had kept for over twenty years, which appeared to still have some of the scalp attached, and raised it to show to the Commission. That moment, broadcast on national television and internationally, has become iconic in the visual imagery and history of the TRC. The hair, Joyce Mthimkulu claimed, belonged to her son Siphiwo, and had fallen out as a result of poisoning by the security police whilst he was held in detention prior to his disappearance, subsequent killing and disposal of his body.¹⁰³ Seeking to capture that moment, photographer Jillian Edelstein subsequently photographed Joyce Mthimkulu. That photograph was published in Edelstein's *Truth & Lies: Stories from the Truth and Reconciliation Commission in South Africa* (2001).



¹⁰³ See Testimony of Joyce Mthimkulu, Human Rights Violation Hearing, Port Elizabeth (26 June 1996) available on <http://www.justice.gov.za/trc/hrvtrans/hrvpe2/mtimkhul.htm> (Accessed 2 June 2018).



Figure 1: 'Joyce Mthimkulu, Zwide, Port Elizabeth, February 1997.' Photograph by Jillian Edelstein¹⁰⁴ (University of Cape Town Digital Archive)¹⁰⁵

Whilst the caption makes no mention of the hair that is held up by Joyce Mthimkulu in the photograph, two texts on the adjoining page do. The first text, prefaced with a date, 12 February 1997, begins with “Mrs Mthimkulu held up her son’s hair, which looked as if it was still attached to part of his scalp. Her husband sat in the corner, his head bowed. The front room of a modest township room” The text continues by stating that, “it was in this room that Gideon Niewoudt would come to ask the family’s forgiveness.” This first text suggests that the photograph was taken in the Mthimkulu family home on the 12 February 1997 and that upon reflection, Edelstein underscores, as she narrates, the infamous encounter between Niewoudt and the family, particularly the son of Sipiwo Mthimkulu, Sikhumbuzo, who, and captured

¹⁰⁴ J. Edelstein, *Truth & Lies: Stories from the Truth and Reconciliation Commission in South Africa* (Johannesburg: M&G Books, 2001), 128.

¹⁰⁵ See http://www.digitalcollections.lib.uct.ac.za/islandora/object/islandora%3A760/print_object (Accessed 19 January 2018).

on film, threw an object at Nieuwoudt's face, leaving him bleeding and aborting "the peace-making enterprise."¹⁰⁶

The second text, directly below the first, summarily re-hearses the now well documented circumstances of Sphiwo's detention, poisoning, abduction together with 'Topsy' Madaka, their interrogation, drugging, killing and disposal of remains by members of apartheid's security police. The only mention of hair in the second text is that "Joyce kept a chunk of Sphiwo's hair, which fell out after he had been fed rat poison during his first abduction by the security police."¹⁰⁷ The caption to the photograph is thus seemingly insufficient without its accompanying texts in rendering the photograph legible as it relates to a matter of hair.¹⁰⁸

Edelstein, in wondering why people agreed to be photographed by her, posits that it seemed to her that "they were grateful to have had the opportunity to share their experiences and to make public their painful stories."¹⁰⁹ This notion is reinforced and elaborated on by Michael Ignatieff's 'Introduction' to Edelstein's collection of photographs. He spends a fair amount of time re-hearsing the 'story' of Joyce Mthimkulu's presence at the TRC's HRV and Amnesty hearings. After asking readers to look at the above photograph of Joyce Mthimkulu, and then looking at a photograph of Gideon Nieuwoudt, also taken by Edelstein, Ignatieff underscores Joyce Mthimkulu's "disgust" at the end of the Amnesty hearing where Nieuwoudt testified. Ignatieff, who states that he sat next to Joyce Mthimkulu during the hearings, writes that, "[w]hen it was over, she was disgusted. He had not said

¹⁰⁶ J. Edelstein, *Truth & Lies*, 128. See also Mark Kaplan, 'Between Joyce and Remembrance'

¹⁰⁷ J. Edelstein, *Truth & Lies*, 128.

¹⁰⁸ This resonates with a point made by Susan Sontag, namely that photographs by themselves cannot be interpreted. What are required are captions and written analyses. In short, she argues that photographs and images can only affect us but not provide an understanding of that which we see in the image. In other words photographs and images on their own lack narrative coherence. See S. Sontag, *Regarding the Pain of Others* (New York: Farrar, Straus and Giroux, 2003).

¹⁰⁹ J. Edelstein, *Truth & Lies*, 12.

anything. She believed nothing. Why? I asked. It seemed like a pretty thorough recounting of the story, and he had been cross-examined at length by lawyers representing the family. So what was missing?”¹¹⁰

What was missing, Ignatieff informs the reader, is that Joyce Mthimkulu did not believe Nieuwoudt’s testimony about poisoning her son at Post Chalmers with a sleeping pill before killing him. According to Ignatieff, “it was the little detail of the sleeping pill she couldn’t stand. How could a man like Nieuwoudt claim that he had any kind of care for his victim?” The point that Ignatieff underscores upon reflection of that moment is that Joyce Mthimkulu knew the “factual truth” that her son had been ‘disappeared’ before the TRC began its work in that she knew that he had been taken to Post Chalmers and killed. Yet, and more than that knowing, Ignatieff ponders: “You would think, if you were listening to the story of your own son’s death, that you wouldn’t want every last detail. Joyce made me realize you do want every last detail... as it was. As it really was.”¹¹¹

It is possibly in this sense that Ignatieff prefaces his discussion on Edelstein’s collection by stating that, “the great thing about fine photography is that it prevents abstraction...Edelstein’s pictures take us back to the way it really was...[the] detail [of which] is essential to any understanding of what abstractions like truth, justice and reconciliation actually mean.” He continues and states that, “Edelstein has preserved the reality of the process [of the TRC] so that we will remember that truth and reconciliation were the work of individuals, who refused to live with silence, with lies, with equivocations and excuses.”¹¹² To an extent I am sympathetic to Ignatieff’s point about Edelstein’s photographic collection in *Truth and Lies* that I read him arguing for as its testimonial and evidentiary status. However, I share, as Thomas

¹¹⁰ M. Ignatieff, ‘Introduction’ in J. Edelstein, *Truth & Lies*, 19.

¹¹¹ M. Ignatieff, ‘Introduction’ in J. Edelstein, *Truth & Lies*, 19.

¹¹² M. Ignatieff, ‘Introduction’ in J. Edelstein, *Truth & Lies*, 15.

Keenan posits in ‘Counter-forensics and Photography’, Allan Sekula’s wariness of the “realist restriction of photography to testimonial status” and Sekula’s “interest in how and when it happens.”¹¹³

Through engaging Sekula’s exploration of the relationship between “photography, evidence, and humanism – and with it, the politics of human rights”, Keenan arrives at a question that asks whether images can do more than resist both “the masking of domination” and the “compensations of compassion”? In responding to this question, Keenan argues that Sekula would offer a response in the affirmative, but one through a “complicated argument” regarding indexicality, realism and indeterminacy as it relates to the evidentiary status of images in terms of photographs as witness and testimony. Keenan posits that, and in following Sekula, “we need to understand the evidence provided by the photograph not in terms of its relation to the reality it presents, as if the photograph offered a proof that was not only indexical but decisive or definitive. Rather, photographic evidence must be considered in terms of the forum or the debate into which its testimony is entered.”¹¹⁴ In other words, images as photographic evidence need to be considered in terms of what Sekula names as its “conditions” or its “presentational circumstances.”¹¹⁵

Ignatieff’s evoking of the photograph of Joyce Mthimkulu holding a fistful of her son’s hair, with his recalling of the above, and Edelstein’s accompanying texts’ opposite the photograph meant to elaborate on its caption, affirms what Mark Sanders posits: “the image is, as it was, impossible to avoid.”¹¹⁶ Its impossibility to avoid is tethered to a ‘story’ of Siphiwo Mthimkulu’s disappearance and subsequent killing

¹¹³ T. Keenan, ‘Counter-forensics and Photography’ in *Grey Room*, No. 55 (Spring 2014), 65.

¹¹⁴ T. Keenan, ‘Counter-forensics and Photography’, 65.

¹¹⁵ T. Keenan, ‘Counter-forensics and Photography’, 65-66.

¹¹⁶ M. Sanders, *Ambiguities of Witnessing: Law and Literature in the Time of a Truth Commission* (Johannesburg: Wits University Press, 2007), 43.

together with a painful reminder that the hair shown in the image was the only human remnant, a physical bodily remainder of Siphiwo Mthimkulu, which his mother had.

Yet, the impossibility to avoid the image *replicated* here above resonates with the impossibility to avoid its “conditions”, the “presentational circumstances” of which inspired Edelstein to pose the photograph: Joyce Mthimkulu holding aloft a clump of hair with pieces of scalp visible, when she testified at the TRC. That said, one needs to heed Sekula’s point when he posits that:

In an archive, the possibility of meaning is ‘liberated’ from the actual contingencies of use. But this liberation is also a loss, an *abstraction* from the complexity and richness of use, a loss of context. Thus the specificity of ‘original’ uses and meanings can be avoided and even made invisible, when photographs are selected from an archive and reproduced in a book. (In reverse fashion, photographs can be removed from books and entered into archives, with a similar loss of specificity.) So new meanings come to supplant old ones, with the archive serving as a kind of ‘clearing house’ of meaning.¹¹⁷

While Sanders *does not* replicate, in his text, Edelstein’s photograph of Joyce Mthimkulu, his reading of what he calls the ‘forensic performance’ of the “forensic urgency” of her testimony is productive. According to Sanders, “televisual editing and photographic re-creation have pared from it [Edelstein’s photograph] the surrounding testimony that gives it an ambivalence.” For Sanders, a focus on Joyce Mthimkulu’s testimony through reading its transcript, together with the visual presentation of her presenting the clump of her son’s hair with scalp attached at the TRC, allows one to view Edelstein’s photograph as “no longer simply an image of accusation or an iconic moment of identification between mother and dead struggle-hero son.”¹¹⁸ In this formulation of Sanders, an implicit question arises that recalls Keenan’s: whether Edelstein’s photograph resists both “the masking of domination” and the “compensations of compassion”?

¹¹⁷ A. Sekula, ‘Reading An Archive: Photography between labour and capital’ in L. Wells (ed.) *The Photography Reader* (London and New York: Routledge, 2003), 444-445.

¹¹⁸ M. Sanders, *Ambiguities of Witnessing*, 43.

According to Sanders, “when the transcript of her testimony is consulted, and the ambivalent situation of this moment restored...traits assume their place at the conjunction of narrative and graphic presentation of evidence, and the painful labour of mourning.”¹¹⁹ To unmask the ambivalence, and thus its restoration, Sanders cites the following from Joyce Mthimkulu’s testimony, what he calls the “forensic urgency” of her presenting the clump of hair with scalp attached as evidence:

Mrs. Mthimkulu: He continued to lose his hair. I would like to show you his hair. Really we have to bring evidence and exhibitions so that if you make your investigations, you should have a clear picture of what happened. This is Siphiso’s hair, this is the scalp, attached to the hair.

That person is not at home, we all know that if you cut a person’s hair, you don’t cut the scalp, but I want you today to see Commission, that we have this hair together with his scalp attached to the hair. I want the Commission to witness what I’ve brought here today so that they should know the effect of poison used on my son.

...I don’t know why did I keep this hair, I do not [know] why I could keep it for quite a long time, but I said to myself, let me keep this so that one day something might happen so that I can be able to show this to the people. That is why I am grateful today.¹²⁰

Sanders reads in this moment three traits that restore the ambivalence of the moment, and the ambivalence masked by the image taken by Edelstein. The first trait is Joyce Mthimkulu’s physical presenting of the clump of hair with scalp attached as she states, “we have to bring evidence and exhibitions so that if you make your investigations, you should have a clear picture of what happened. This is Siphiso’s hair, this is the scalp, attached to the hair”. In this sense, *seeing* the hair will assist the commission in fulfilling its mandate of establishing as clear a picture of what happened.

¹¹⁹ M. Sanders, *Ambiguities of Witnessing*, 43. I engage the question of mourning raised by Sanders in Chapter 4 of this dissertation, ‘Categorically missing’.

¹²⁰ Cited in M. Sanders, *Ambiguities of Witnessing*, 44. See also Testimony of Joyce Mthimkulu, Human Rights Violation Hearing, Port Elizabeth (26 June 1996) available on <http://www.justice.gov.za/trc/hrvtrans/hrvpe2/mtimkhul.htm> (Accessed 10 March 2015)

The second trait that Sanders reads in the moment of Joyce Mthimkulu's testimony is that it "remind[ed] one of what Mikhail Bakhtin, reading Dostoevsky's novels, calls hidden contestatory dialogue, we can almost hear her, implicitly addressing not the commissioners but also the imagined advocates for the perpetrator's." For Sanders then it is as if she is conducting "a brief cross-examination of herself":

[Imagined advocates]: With respect, Mrs Mthimkulu, how do we know that the hair you are showing us fell from your son's head? Could you not have shorn it from his head yourself? How do we know that you are supplying us with a true picture?

[Citing from her testimony, her response:]

Mrs Mthimkulu: This is Siphiso's hair, this is the scalp, attached to the hair. That person is not at home, we all know that if you cut a person's hair, you don't cut the scalp, but I want you today to see Commission, that we have his hair together with his scalp attached to the hair. I want the Commission to witness what I've brought here today so that they should know the effect of the poison which was used on my son.¹²¹

This second trait, linked to the first, recalls the ushering in of a 'forensic aesthetic', as argued by Keenan and Weizman, in which the distinction between a witness and a piece of evidence, subject and object, is undone. According to their argument regarding the 'advent of a forensic aesthetics' in their engagement with the Mengele investigation, prior to it evidence had been seen as merely presented and a witness interrogated. Yet through that moment and since, the experiences of forensic experts in war crimes investigations challenged and undid such an understanding as they are called to testify in various forums. Forensic experts, such as forensic anthropologists, present physical human matter as evidence, for instance a skull, or a set of bones, claiming, as Clyde Snow is renowned for stating, "bones make good witnesses" and

¹²¹ M. Sanders, *Ambiguities of Witnessing*, 44-45.

although “they speak softly, they never lie and they never forget.”¹²² In so stating, the subject-object distinction is undone.

The implication of such acts of *prosopopeia*, gestures of anthropomorphism, acts of personification that treats inanimate things as if they are human, according to Keenan and Weizman, is that it “also renders them more than human.” They suggest that because humans “after all, do forget and they do lie”, such objects are not merely subjectified. Rather “it becomes something different, a sort of super-subject...or haunted object.”¹²³ It might be suggestive, if not provocative, to think about the clump of hair with scalp that appears to be attached held up by Joyce Mthimkulu, as both super-subject and haunted object, through her both speaking for, and asking of, the hair to speak for itself.

In such a reading, Joyce Mthimkulu holds up the hair and states, ‘I am the expert in the matter of *this* hair’ and ‘I know the identity of whom the hair belongs to, “This is Sphiwo’s hair, *this* is the scalp, attached to the hair. That person is not home, we all know that if you cut a person’s hair, you don’t cut the scalp.”

And yet, as Keenan and Weizman underscore, “Isn’t it a rather big thing to ask of a bone [or a clump of hair with scalp still attached], first, to speak, and secondly – when and if it does speak – not to lie?”¹²⁴ The implication of this seemingly absurd question by its very posing is that it is not about the subjectified object, or in this case, the clump of hair with scalp that appears to still be attached, carrying an objective truth. Rather the point is that through presenting the hair, together with the accompanying witness/expert testimony of Joyce Mthimkulu, the ambivalence that so marks her testimony and its masking in Edelstein’s image is enabled. The matter of Sphiwo’s hair, presented through the “presentational circumstances” marked by a

¹²² Cited in T. Keenan and E. Weizman, *Mengele’s Skull*, 66.

¹²³ T. Keenan and E. Weizman, *Mengele’s Skull*, 66.

¹²⁴ T. Keenan and E. Weizman, *Mengele’s Skull*, 66.

political and quasi-judicial forum constituted as the TRC, served as a particular material, physical aesthetic, one that might be understood through the multidimensional concept of forensic aesthetics.

Keenan and Weizman argue that the advent of a forensic aesthetics, and here in the case of the Mengele investigation, be read as, “an arduous labor of truth construction, one employing a spectrum of technologies that the forum provides, and all sorts of scientific, rhetorical, theatrical, and visual mechanisms.” They continue by arguing that, “it is in the gestures, techniques, and turns of demonstration, whether poetic, dramatic, or narrative, that a forensic aesthetics can make things appear in the world.”¹²⁵ Reflecting on the argument, Weizman posits that, “forensic aesthetics is not only the heightened sensitivity of matter or of the field, but relies on these material findings being brought into a forum.” Forensic aesthetics then “comes to designate the techniques and technologies by which things are interpreted, presented, and mediated in the forum, that is, the modes and processes by which matter becomes a political agent.”¹²⁶ Re-reading the moment in which the matter of hair emerged as a forensic aesthetic then also resonates with the third trait Sanders underscores.

This third trait, according to Sanders, is that the word ‘poison’ “operates as a ‘switch-word’ in Joyce Mthimkulu’s testimony, marking an ambivalence in relation to her son and his politics.”¹²⁷ Sanders cites the following exchange, between Joyce Mthimkulu and TRC commissioner Dumisa Ntsebeza as he leads her testimony:

Mrs Mthimkulu: ...Whilst continuing his education at Jabavu [high school], he was expelled because of this poison [which I regard as his political activities]

Mr Ntsebeza: There is a lot of poison that we are going to discuss about here. It is the other one that killed him. Which poison are you talking about now?

¹²⁵ T. Keenan and E. Weizman, *Mengele’s Skull*, 67.

¹²⁶ E. Weizman, ‘Introduction: Forensis’, 15.

¹²⁷ M. Sanders, *Ambiguities of Witnessing*, 45.

Mrs Mthinkulu: Thank you very much, I am glad that you've corrected me. What I mean is political involvement. Sipiwo was very much involved, he was a staunch member of the organization, we realized that we couldn't do anything, he seemed to be addicted.¹²⁸

For Sanders, “verbal ambiguity is removed for an instant, only for it to reenter to cloud and complicate the matter” in the above exchange. He posits that by reading the transcript of Joyce Mthinkulu's testimony it is evident that she and her husband had not been sympathetic towards Sipiwo's political activism. Sanders proceeds to offer a suggestive reading of the above moment in Joyce Mthinkulu's testimony that is just prior to the “forensic performance” of her holding up the hair with scalp attached:

Ntsebeza's attempt to have her disaggregate the ‘lot of poison that we are going to discuss about here’ and distinguish clearly between ‘this poison [which I regard as his political activities],’ and ‘the other one that killed him’, only leaves matters more confused. Having apparently made a coherent distinction between two kinds of poison... in response to Ntsebeza, whom she says has ‘corrected’ her, she in effect says: ‘What I mean is the political involvement.’ The reasonable answer to Ntsebeza's observation and question, ‘It is the other one that killed him. Which poison are you talking about now?’ might be: I do not know. But this is the realm of fact-finding, and it is necessary to establish which matter is under discussion. If we apply the either/or logic of forensic inquiry – or rather accept that in the psychic domain touched by that inquiry it could be both/and – and take Joyce Mthinkulu's reply as it stands, her exhibition of her son's hair a few minutes later, ‘so that [the Commission] should know the effect of the poison which was used on my son,’ fails to demonstrate unequivocally that the sole poisoners were the police. To her mind, politics was also a poison. It, ultimately, made Sipiwo's hair fall out. The videotape [broadcast on national television] is never edited to tell this particular story.¹²⁹

Following the above, Sanders returns to eliciting Edelstein's photograph of Joyce Mthinkulu. The suggestiveness of the above is that it “makes it possible to see her holding up his [Sipiwo's] hair as a reparative symbolic gesture. Miming the comrade's raised fist, the raised fist Sipiwo would have made each time he sang ‘Nkosi Sikelel' iAfrika’, she strives to make the loved object whole, and to undo the

¹²⁸ M. Sanders, *Ambiguities of Witnessing*, 45.

¹²⁹ M. Sanders, *Ambiguities of Witnessing*, 45-46.

damage she has done to it in her grief.”¹³⁰ Restoring the ambivalence then, as Sanders does, is to underscore the personal and political pose that Edelstein’s photograph enacts and provokes. In so doing, it is possible that Edelstein’s photograph cannot resist both the “masking of domination and the compensations of compassion”. Though, restoring the ambivalence masked by the photograph allows one to delve deeper into a matter of hair that so marks Siphwo Mthimkulu’s figuring as forensically missing through the seeming promise of a counter-forensic practice.

A counter-forensic practice

In a short essay titled ‘Photography and the Limits of National Identity’ Allan Sekula poses a question of the relation between “photography, national identity, extermination and forensics.” This question is raised for Sekula through the work of photographer Susan Meiselas on Kurdistan that prompts a “highly cautious, even suspicious view of photographs representing [a national identity].”¹³¹ Meiselas’s project, *Kurdistan: In the Shadow of History*, included photographs she began taking at the beginning of the Gulf War in the early 1990s, as well as photographs located in various ‘Western’ archives depicting ‘Kurds’ and Kurdistan.¹³²

Numerous photographs that Meiselas captured included those of mass graves being exhumed and women holding up pictures of missing and killed loved ones. Sekula’s short essay republished in *Grey Room* replicates, on the page before the essay begins, an image of Clyde Snow, in a grave, holding a blindfolded skull “of an executed male teenager estimated to be between fifteen and eighteen years old. The skull was found with two bullet holes in the head” and at the end of the essay is a

¹³⁰ M. Sanders, *Ambiguities of Witnessing*, 46.

¹³¹ A. Sekula, ‘Photography and the Limits of National Identity’ in *Grey Room*, 55 (Spring 2014), 29-30.

¹³² See http://www.susanmeiselas.com/archive-projects/kurdistan/#id=book_site (Accessed 25 June 2018).

photograph of family members holding photographs of “twenty-year-old Kamaran Abdullah Saber...killed in July 1991 during a student demonstration against Saddam Hussein.”¹³³ Framed by these two photographs and its captions from the series *Kurdistan: In the Shadow of History*, at least in the republished version in *Grey Room*, it is perhaps evident as to how the “ominous and even morbid question” of “what is the relationship between national identity, extermination, and forensics?” arose for Sekula.¹³⁴

My interest however is not so much in the relation between photographs and national identities as such, as much as one might arguably read Edelestein’s photograph(s) in this light.¹³⁵ My interest is more in Sekula’s evoking of a resonance between the work of forensic experts in their quest to identify the remains of missing persons’ by reindividuating the missing person with that of the potential work of photography through its “incapacity for abstraction” at the “individual and forensic level.”¹³⁶ Sekula notes that Kurds had been photographed by military and police forces as a means of surveillance and cataloging and that these were “forensic methods (detective methods focusing on evidence and the body)” that served as “a tool for [the] oppressive state.” Yet these “forensic methods” can also become “tools of opposition...[through] the forensic retrieval of individual identities.”¹³⁷ He recounts the work of Clyde Snow in the identification of human remains exhumed from mass graves in Argentina, El Salvador and Kurdistan to underscore the

¹³³ A. Sekula, ‘Photography and the Limits of National Identity’, 28, 33.

¹³⁴ The essay was first published in *Culturefront* in 1993, revised and with a new Afterward published in *Camera Austria* in 2006, re-published in Kristen Lubben’s (ed.) text *Susan Meisalas: In History* in 2008 and then re-published in *Grey Room* in 2014. See A. Sekula, ‘Photography and the Limits of National Identity’, 32.

¹³⁵ For work that is suggestive of this connection, see K. Thomas, ‘Exhuming Apartheid: Photography, Disappearance and Return’ in *Cahiers D Etudes Africaines*, Vol. 2, No. 230 (2018), 429-454; K. Thomas, ‘Photography, Apartheid, and the ‘Road to Reconciliation’ ‘ in *Transition*, Blending Borders, No. 107 (2012), 79-89.

¹³⁶ A. Sekula, ‘Photography and the Limits of National Identity’, 30-31.

¹³⁷ A. Sekula, ‘Photography and the Limits of National Identity’, 30-31.

“technical basis” for a project of counter-forensics. Sekula notes that, “these are dismal sciences, but fundamental in their basic humanism, a humanism of mournful reindividuation, laying the groundwork for a collective memory of suffering.” Sekula thus posits that, “counter-forensics, the exhumation and identification of the anonymized (‘disappeared’) bodies of the oppressor state’s victims, becomes the key to a process of political resistance and mourning.”¹³⁸ Yet Sekula offers a warning, “the individual and mass graves and intimate griefs must never become the sepulchral excuse for abstract monuments. And it is precisely in this sense that photography’s incapacity for abstraction is valuable.”¹³⁹ Identification of human remains in this sense is a counter-forensic practice and Sekula sees Meisalas’s project as a similar counter-forensic practice.

Thomas Keenan, as noted in the previous section of this chapter, engages Sekula’s work in an article titled ‘Counter-forensics and Photography’, and points out that there are two ways in which to understand counter-forensics. One relates to “attempts to frustrate or prevent in advance the analysis of material traces so as to preemptively impede the future production of evidence”, as I underscored in the paradoxical identification of the *group[s]-as-such*, the outcome of the Post Chalmers investigation. The other, and that which Keenan argues Sekula understood by introducing a notion of counter-forensics, is that for Sekula, counter-forensics “refers to nothing less than the adoption of forensic techniques as a practice of ‘political maneuvering’, as a tactical operation in a collective struggle, a rogues gallery to document the microphysics of barbarism.”¹⁴⁰ Keenan here is drawing on Sekula’s concluding comments in ‘The Body and the Archive’ where Sekula briefly articulates

¹³⁸ A. Sekula, ‘Photography and the Limits of National Identity’, 30.

¹³⁹ A. Sekula, ‘Photography and the Limits of National Identity’, 31.

¹⁴⁰ T. Keenan, ‘Counter-forensics and Photography’, 69.

the significance of South African photographer Ernest Cole's work *House of Bondage*.

Sekula argues that Cole's photographs are a "polyphonic testimony of the oppressed and exploited" and that of which some "will take the ambiguous form of visual documents, documents of the 'microphysics' of barbarism." Sekula then offers a challenge in that he argues, "these documents can easily fall into the hands of the police or their intellectual apologists. Our problem, as artists and intellectuals living near but not at the centre of a global system of power, will be to help prevent the cancellation of that testimony by more authoritative and official texts."¹⁴¹ Keenan reads in Sekula a "persistent commitment to evidence, testimony, and the document – and to the necessity of making arguments, in courts and elsewhere – a forensic sensibility."¹⁴² It is in this sense that Keenan proposes, "Perhaps, in honor of the oppositional and critical politics of someone like Cole, we ought to call this sort of practice 'counter-forensics'."¹⁴³

The resonance between the work of forensics in terms of exhumations and identification of remains with that of photography and its "incapacity for abstraction" at "the individual and forensic level", Sekula suggests, can be considered by the following "sequence of actions":

Identification – Annihilation – Identification.

Referring to the first two terms, Sekula posits that,

[t]he oppressor state catalogues its victims as precisely as possible, typing them as a group, but seeking to register and track individual members. The key to ideological power of the 'other' lies in typing; the key to functional power lies in individuation. In other words, stereotypes are ideologically useful and necessary, but in the end it is individuals who must be reduced to ashes.¹⁴⁴

¹⁴¹ A. Sekula, 'The Body and the Archive' in *October*, Vol. 39 (Winter, 1986), 63-64.

¹⁴² T. Keenan, 'Counter-forensics and Photography', 67-68.

¹⁴³ T. Keenan, 'Counter-forensics and Photography', 68.

¹⁴⁴ A. Sekula, 'Photography and the Limits of National Identity', 30.

The ‘poison’ that ‘killed’ Siphiwo Mthimkulu, as Joyce Mthimkulu and Dumisa Ntsebeza’s exchange at the TRC underscores, were his political activities that resulted in him being identified as an individual target, the ‘enemy’, for elimination by apartheid’s security police.¹⁴⁵ Prior to being “reduced to ashes” at Post Chalmers, Mthimkulu had been in police detention for five months and upon release displayed unusual medical symptoms. Such symptoms included intense pain on the soles of his feet that left him only able to walk for short distances at a time as well as thinning of his scalp hair. After numerous consultations with doctors and hospitalization at Livingstone Hospital in Port Elizabeth, he was referred to Groote Schuur Hospital in Cape Town. There he was diagnosed with thallium poisoning.

The television show *Truth Commission: Special Report*, hosted by Max du Preez, screened a segment on the ‘poisoning of activists’ on the 5 October 1997.¹⁴⁶ Introducing the segment, du Preez stated that, “the best documented case of a very sophisticated poisoning was Siphiwo Mthimkulu.”¹⁴⁷ In re-telling the ‘story’ of Mthimkulu’s poisoning, du Preez conducted an interview with Dr. Francis Ames, who was the head of the University of Cape Town’s neurology department at Groote Schuur hospital in the early 1980s.¹⁴⁸ As the interview was screened, numerous

¹⁴⁵ I elaborate on this in relation to ‘Topsy’ Madaka in the following chapter, ‘Missing the missing’, of this dissertation.

¹⁴⁶ *Truth Commission: Special Report* was an 87 part weekly television series that offered reviews of the proceedings and content of the TRC’s work. It aired every Sunday between 21 April 1996 and 29 March 1998 covering the first two of the five- year process of TRC hearings. Broadcast by the South African Broadcasting Corporation (SABC), the show was produced and presented by well-known journalist, Max du Preez.

¹⁴⁷ All 87 episodes of *Truth Commission: Special Report* have been catalogued, transcribed and broken down into specific video clip sections. The South African History Archive in collaboration with the SABC has made them available for the public to watch and read online. For the segment on the ‘poisoning of activists’, see ‘Special Report Video Clip for Section 6 of Episode 68’ <http://sabctr.c.saha.org.za/tvseries/episode68/section6/movie.htm> (Accessed 2 June 2018).

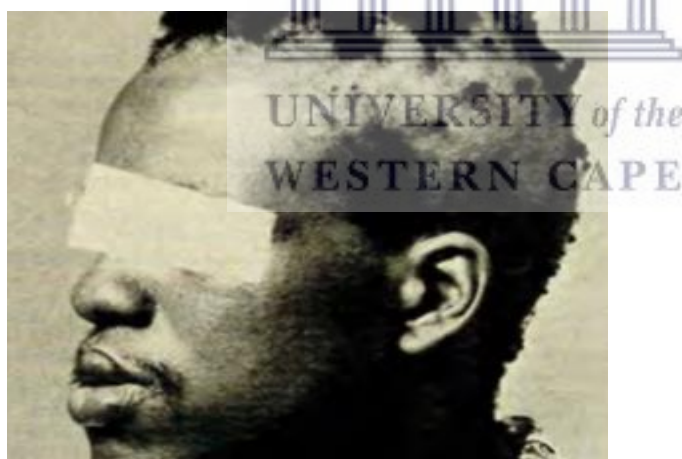
¹⁴⁸ Interestingly, as du Preez introduced the segment, he noted that, “the use of poison and other specially developed chemicals was one of the most evil ways in which opponents of the former government were attacked and killed. Indeed the image of scientists experimenting in their Pretoria laboratories with poison meant for human beings bring memories of doctors like the evil Dr. Mengele...” The legacy of Mengele certainly continued to haunt.

images (stills, posters, photographs) of Mthimkulu were shown on screen, some for five seconds, and others for slightly longer. One image was shown full-screen for six seconds:

Dr Ames: He [Siphiwo Mthimkulu] was on discharge after five months in prison with only the police having access to him. He was ill immediately after discharge. His family in Port Elizabeth were extremely distressed. He was childlike with pain, actually crawled into their bed that night weeping with pain and seemed strangely confused in his behaviour. He clearly had neurological involvement, not only of the brain but also of the nerves affecting his limbs, particularly his legs. Having had experience of arsenical poisoning, [we] examined his hair repeatedly for arsenic and like the Port Elizabeth group, continually failed to find it. Fortunately for him, he survived long enough to develop a pathognomonic sign of thallium poisoning, which is falling out of the hair. We had great difficulty in actually setting up the tests for thallium, we had to invoke the help of the organic chemists at UCT and he was once tested. He was unequivocally...

[image appears full-screen]

[1, 2]



[Figure 2]¹⁴⁹

Dr Ames (continued): ...poisoned with thallium. [3, 4]

Max du Preez: Tell me about thallium. Why is it such a... [5, 6]

[image disappears from the screen.]

¹⁴⁹ I screen shot this image as I watched the segment and pasted it into this document.

Max du Preez (continued): ...efficient poison to use on a human being?

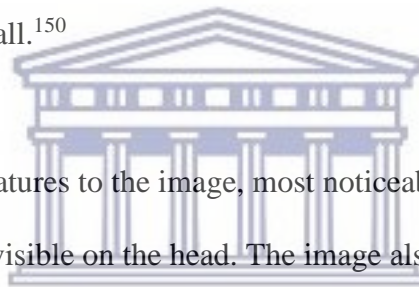
Dr Ames: Well, it's known as the homicide's dream drug; it's colourless, it's odourless, it's tasteless. The symptoms don't develop for at least a day sometimes longer after it's been ingested.

Max du Preez: Could he have gotten in the poison any other way, like by accident through food or getting in touch with something?

Dr Ames: Not at all. The only people who had access to him were the security police, the relatives were never allowed to visit. And a quite extraordinary fact is that South Africa was virtually the only Western country that never permitted thallium in rodenticides. It's so toxic that it was being used as a rodenticide, and is still in use in the Middle East, before people realized its dangers. But extraordinary that South Africa had never permitted it. So the idea that a thallium infected rat could have entered his cell is ridiculous.

Max du Preez: To your mind, is there any doubt that Sipiwo Mtimkulu was poisoned by the security police?

Dr Ames: None at all.¹⁵⁰



There are a few striking features to the image, most noticeably the blocking of the eyes and the bald patches visible on the head. The image also appears to be cropped; only part of the chin is visible and there is an incomplete profile of the head. Despite only being visible for six seconds, there is an element in the image that disturbs and unsettles, not dissimilar to Roland Barthes evoking of the *punctum* in that the image demands a narrative.¹⁵¹ There is, as Elizabeth Edwards might say, an “incompleteness and unknowability” and this is what is both haunting but at the same time evokes a “sense of presence.”¹⁵² Notwithstanding any explicit voiceover or caption on the screen and the blocking of the eyes, the image is seemingly that of Sipiwo Mthimkulu. Its “presentational circumstances” on a television programme about the

¹⁵⁰ See ‘Special Report Transcript: Episode 68, Section 6, Time 47:09’ <http://sabctrc.saha.org.za/tvseries/episode68/section6/transcript6.htm> (Accessed 2 June 2018).

¹⁵¹ See R. Barthes, *Camera Lucida: Reflections on Photography*, trans by R. Howard (London: Vintage, 1993), 51.

¹⁵² E. Edwards, *Raw Histories: Photographs, Anthropology and Museums* (Oxford: Berg, 2001), 1, 5.

poisoning of activists by state security police during an interview about Mthimkulu's poisoning, together with the medical 'facts' thereof as expressed by Dr Ames, seemingly attests to such identification.

The image also, however, seems to have a passing descriptive resemblance to the photographs of Alphonse Bertillon's criminal identification system that Sekula engages in 'The Body and the Archive'. Bertillon's system depended on a process of individuation and identification so as to produce nothing less than "proof of identity." The image is a profile view that "cancel[s] the contingency of expression" and, notwithstanding the seeming cropping, the contour of the head was believed to "remain consistent with time" thus aiding identification. The ear, seen as "individuating and as typical features", is clearly visible.¹⁵³ Descriptively though this is possibly where the passing resemblance ends.¹⁵⁴

Sekula however argues that, "'Bertillon' survives in the operations of the national security state, in the condition of intensive and extensive surveillance that characterizes both everyday life and the geopolitical sphere."¹⁵⁵ Was the image replicated on *Special Report*, and re-replicated here above, a state surveillance photograph? What type of photographic evidence of identification was it? Why were the eyes blocked out? What was it evidence of and for? In other words, what were its "conditions" and "presentational circumstances" *prior* to it, even if for only six seconds, being shown on South African national television?

¹⁵³ A. Sekula, 'The Body and the Archive' in *October*, Vol. 39 (Winter, 1986), 28, 30. Ears were believed to be able to identify criminals and Bertillon, Sekula notes, had a "physiognomic fascination" with it. See also C. Ginzburg, 'Morelli, Freud and Sherlock Holmes: Clues and Scientific Method', A. Davin (transl.) in *History Workshop*, No. 9 (Spring, 1980), 5-36.

¹⁵⁴ Bertillon's system, seeking to prevent criminal recidivism, required both profile and frontal views (the full face with eyes visible) with neck and shoulders visible. His system also required a "refined physiognomic vocabulary" and statistical data, an "'anthropometrical signalment' recorded as a numerical series" and "a shorthand verbal description distinguishing marks." See A. Sekula, 'The Body and the Archive', 28.

¹⁵⁵ A. Sekula, 'The Body and the Archive', 62.

On the 27 August 1983 the *South African Medical Journal* published a two- and -a- half- page report titled, ‘Thallium Poisoning: A case report’. The case report summarized that, “A 21-year-old Black male with painful neuropathy, abdominal pain, tachycardia and encephalopathy developed striking scalp alopecia 1 week after admission. Thallium poisoning was suspected and confirmed by urinalysis. The clinical course, investigations and management are presented.”¹⁵⁶ Mostly written in “the icy language of science [medicine]”, the gist of the case report is much of what Dr Francis Ames stated in her interview with Max du Preez that was screened on *Special Report* on the 5 October 1997.¹⁵⁷ Indeed, one of the authors of the case report was none other than Dr Francis Ames.

The significance of the case of thallium poisoning for the South African medical fraternity, at the time, was it being the first reported case in South Africa.¹⁵⁸ A case report featured in medical journals is, “written to provide an unusual or novel occurrence of a set of signs and symptoms, or unusual presentations of a particular disease entity.” A case report then is a “detailed report of the symptoms, signs, diagnosis, treatment and follow-up of an individual patient.”¹⁵⁹ There is however some debate within the medical fraternity regarding case reports’.

The debate is structured around the concepts of evidence-based medicine with the aims of clinical case reporting. Suffice to say however, while case reports, as Jan Vandembroucke cites, are regarded by some in the medical fraternity as “the ‘lowest’ or ‘weakest’ level of evidence... they often remain the ‘first line of evidence.’ This is

¹⁵⁶ F. L. Majoo, A.D. Marais, F. R. Ames, ‘Thallium poisoning: A case report’ in *South African Medical Journal*, Vol. 64 (27 August 1983), 328-330.

¹⁵⁷ See T. W. Laqueur, ‘Bodies, Details, and the Humanitarian Narrative’ in L. A. Hunt and A. Biersack (eds.), *The new cultural reader* (Berkeley: University of California Press, 1989), 195-196.

¹⁵⁸ F. L. Majoo, A.D. Marais, F. R. Ames, ‘Thallium poisoning: A case report’, 329.

¹⁵⁹ See B. Farham, ‘Editorial: The medical case report’ in *South African Medical Journal*, Vol. 105, No. 2 (February 2015), 151.

where everything begins.”¹⁶⁰ For the historian tracing the image screened for six seconds on *Special Report*, ‘Thallium poisoning: A case report’ offers much more than the “ ‘lowest’ or ‘weakest’ level of evidence” for it is therein where the matter of hair as legible is underscored, this time as a counter-forensic practice in both its renderings.

It is common practice and ethically obliged of the medical profession not to divulge any and/or personal information of persons under their care that would lead to identification of said persons. This ethical obligation extends to the writing up of medical cases as case reports. The case report in the *South African Medical Journal* only ever names the “21 –year –old Black male” throughout as ‘the patient’. What is significant in reading that case report is a particular inscribing of ‘the patient’.

Afflicted with the symptoms of thallium poisoning, but through the doctors and specialists’ examination, their investigation of the symptoms and eventual arrival at a diagnosis of thallium poisoning, the ‘patient’ is inscribed as a case. Medical case reports are based on collating the recorded medical information contained in the case file. The two documentary procedures and processes resonate with each other in their constituting of not only the unusual illness or disease, but also the ‘patient’. Warwick Anderson, for instance, notes that,

Case files shape and monitor work routines, direct and coordinate medical activities, and create alliances between experts. Flexible, transferable unitary records discipline the behavior of those caring for the patient, the multiple authors of the file, training them to think about the sick person as both a singular object, a case to be worked over, and an example of a nosological category, a case of something. As a modern knowledge practice, the case file allows efficient and productive management of patients as it simultaneously produces the individual as an object of medical procedure, organized around an ontological impression of disease.¹⁶¹

¹⁶⁰ Cited in J. P Vandenbroucke, ‘In Defence of Case Reports and Case Series’ in *Annals of Internal Medicine*, Vol. 134, No. 4 (20 February 2001), 331.

¹⁶¹ W. Anderson, ‘The Case of the Archive’ in *Critical Inquiry*, No. 39 (Spring 2013), 545.

Michel Foucault had noted that in institutions such as hospitals from the seventeenth century onwards, “the examination, surrounded by all its documentary techniques, makes each individual a ‘case’: a case which at one and the same time constitutes an object for a branch of knowledge and a hold for a branch of power.” Foucault continued and noted further that the case becomes the “individual as he may be described, judged, measured, compared with others, in his very individuality; and it is also the individual who has to be trained or corrected, classified, normalized, excluded etc.”¹⁶² The case report, and the case file then, enables - through both “the subjection of those who are perceived as objects and the objectification of those who are subjected” – the figure of the ‘patient’ inscribed as a case.¹⁶³

Such disciplining resonates with questions about the ways in which the body has been understood as evidence. Zoe Crossland, unpacking the rhetorical trope of the “body as evidence”, points to four evidentiary conceptions of the body:

the reading of bodily symptoms to diagnose interior states and faculties; the body as evidence of individual identity – that is, as identical with the person who is understood to inhabit it; the body as evidence of the past, including as symbol of nation, ethnicity or other target group, identity, or position; and the body as evidence of crime.¹⁶⁴

Crossland is interested in how histories of anthropology, criminology and medicine bring the dead body into being through practices of exhumation and forensic analysis. It is Carlo Ginzburg’s influential rendering of the emergence of the “evidential paradigm” in the 19th century in various disciplines that saw a focus on “the body’s

¹⁶² M. Foucault, *Discipline and Punish: The Birth of the Prison*, trans by A. Sheridan (New York: Penguin Books, 1991), 191.

¹⁶³ M. Foucault, *Discipline and Punish*, 184-185.

¹⁶⁴ Z. Crossland, ‘Of Clues and Signs: The Dead Body and its Evidential Traces’ in *American Anthropologist*, Vol. 111, Issue 1 (March 2009), 71.

signs, particularly on their ability to provide tangible evidence of otherwise invisible processes and events” that is productive for Crossland.¹⁶⁵

She reads Ginzburg as observing that “the evidential focus was on the relation of part to whole, or effect to cause; this meant that it operated with the rhetorical trope of metonymy, to the exclusion of metaphor.”¹⁶⁶ Writing on the body’s signs and symptoms, and drawing on Foucault, Crossland posits that “the symptom-sign took its strength and its truth from its material reality, from its location in the empirically observable changes of the body, paradoxically allowing the perception of the hidden and invisible through the most tangible and corporeal of sources.” In this sense, reading the case report on ‘Thallium poisoning’ suggests that, “the metonymic (or indexical) sign [is] fundamental to the evidentiary paradigm because through physical relation it simultaneously told of its object and constituted it.”¹⁶⁷

Thus “the body not only provided evidence but also, for those trained to read it, testified truthfully, because to observe the body was to observe a part of the thing studied.”¹⁶⁸ What was crucial to the study of the ‘patient’s’ body in the ‘Thallium poisoning’ case report published in the *South African Medical Journal*, was a part of his body, his hair as clue to a diagnosis. As noted in and often cited from Agatha Christie’s novel *The Pale Horse*, and that which the case report does, significant head hair loss is often and was “the clue” to the diagnosis.¹⁶⁹ The effect of thallium poisoning to the body was the cause of the ‘patient’s’ hair falling out.

In a section titled ‘Special Investigations’ the case report notes that, “one week after admission the patient developed alopecia (Fig. 1), which prompted a search for

¹⁶⁵ See C. Ginzburg, ‘Clues: Roots of an Evidential Paradigm’ in C. Ginzburg, *Clues, Myths, and the Historical Method*, trans by J. and A.C Tedeschi (Baltimore: The John Hopkins University Press, 1992).

¹⁶⁶ Z. Crossland, ‘Of Clues and Signs’, 70-71.

¹⁶⁷ Z. Crossland, ‘Of Clues and Signs’, 72.

¹⁶⁸ Z. Crossland, ‘Of Clues and Signs’, 72.

¹⁶⁹ F. L. Majooos, A.D. Marais, F. R. Ames, ‘Thallium poisoning: A case report’, 329.

thallium, urinalysis revealed its presence.” What is referred to as Fig.1 is placed immediately after the case report noted the results of the urinalysis conducted by a British expert and his comment that accompanied the results, “these figures indicate the ingestion of an appreciable quantity of thallium.”¹⁷⁰ Following the image, the case report notes that, “several weeks after admission...his scalp alopecia progressed to complete baldness but eyebrow, axillary and pubic hair was unaffected.” The section ‘Special investigations’ concludes with it being stated that the ‘patient’ was discharged ten weeks after admission and that “he was booked for readmission 3-4 months later but failed to arrive. We were told that he had suddenly disappeared shortly before his admission date. There has been no trace of him since that time...”¹⁷¹ The image shown in the case report is the following:

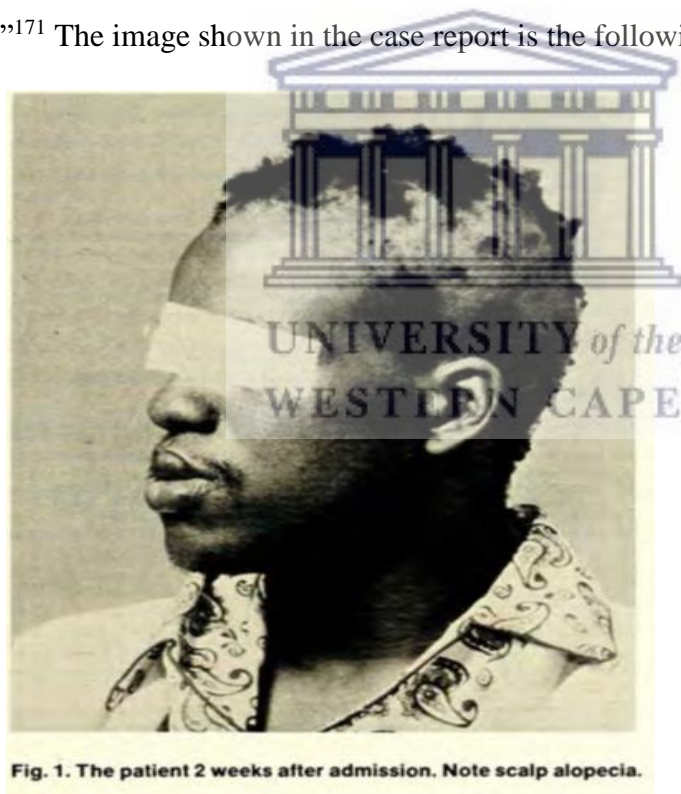


Fig. 1. The patient 2 weeks after admission. Note scalp alopecia.

Figure 3. Photographer unknown.¹⁷²

¹⁷⁰ F. L. Majoos, A.D. Marais, F. R. Ames, ‘Thallium poisoning: A case report’, 329.

¹⁷¹ F. L. Majoos, A.D. Marais, F. R. Ames, ‘Thallium poisoning: A case report’, 329.

¹⁷² F. L. Majoos, A.D. Marais, F. R. Ames, ‘Thallium poisoning: A case report’, 329. Permission to replicate image granted by one of the authors of the medical case report, Professor A.D. Marais. Email correspondence. (19 January 2018).

If the cropped image shown during *Special Report* had certain descriptive characteristics that resonate with those of Bertillon, the above image reinforces that resonance. It is evident that the image shown in the case report is the same image that was shown, albeit cropped, on *Special Report*. Both images depict a posed man with visible spots of baldness on his head and both images have the man's eyes blocked out. If the image shown for six seconds on *Special Report* evoked an unknowability and incompleteness, one that demanded a narrative and one that disturbs, the above image reaffirms and exacerbates the haunting of that uncomfortable desire to know. If following Michel Frizot, then cropped or not, "a photograph of a photograph is a photograph, in principal identical."¹⁷³ Does this full image in the medical case report complete Sekula's "sequence of actions" that marks a counter-forensic practice?

The image replicated here above appears in a medical case report detailing the symptoms, clues, diagnoses and treatment of a 'patient' who presented with unusual symptoms. The image's purpose therein is to underscore loss of scalp hair, alopecia, as a clue to the diagnosis of thallium poisoning. The image falls within the genre of medical photography. Medical photography emerged as a distinct genre as early as the second half of the 19th century to depict and classify symptoms, and as Christos Lynteris and Ruth J. Prince note, "as well as create iconic case studies."¹⁷⁴ These early medical photographs, as Chris Amirault points out, relied on the posing of the subject. He argues that "by posing the subject, medical photography both constructs and thereby asserts the pathology of the patient; by revealing the truth of the illness of and to the patient, medical photography claims to reveal the true subject to *be* the

¹⁷³ M. Frizot, 'Who's Afraid of Photons?', 278.

¹⁷⁴ C. Lynteris and R. J. Prince, 'Anthropology and Medical Photography: Ethnographic, Critical and Comparative Perspectives' in *Visual Anthropology*, Vol. 29 (2016), 102.

patient, constructed only in relation to that illness.”¹⁷⁵ This, what Foucault termed the medical gaze, can only be fully executed in the moment of the visual encounter.

Writing about early medical portrait photography and the ways in which the visual encounter of the medical gaze pathologises bodies, Andrea Zittlau posits that medical portraits are both public and scientific. Medical portraits mimick the private studio portrait in that “patients are nicely dressed...[but] the medical detail becomes the focus of the picture...the medical detail becomes the unsettling element in a photograph that may otherwise not belong to medical discourse at all.”¹⁷⁶ It is in these respects that both images, the cropped shown during the episode of *Special Report* and the full image shown in the medical case report resonates with Bertillon most strongly, and not in its descriptive resonance.

Sekula noted a “curious aspect of Bertillon’s reputation”, namely that his method “could be regarded as a triumph of humanism.”¹⁷⁷ This triumph was understood as through Bertillon’s method, there was attempt to individualise the individual. Sekula cites Bertillon himself as once saying, “is it not at bottom a problem of this sort that forms the basis of the everlasting popular drama about lost, exchanged, and recovered children?” Yet Sekula quickly dismisses this notion by again citing Bertillon who acknowledged that, “each observation or each group of observations is to be defined, not by its absolute value, but by its deviation from the arithmetic mean.”¹⁷⁸ For Sekula therefore,

Even the nominalist Bertillon was forced to recognize the higher reality of the ‘average man’. The individual could only be identified by invoking the powers of this genie. And the individual only existed as an individual by being

¹⁷⁵ C. Amirault, ‘Posing the Subject of Early Medical Photography’ in *Discourse*, Vol. 16, No. 2, A Special Issue on Expanded Photography (Winter 1993-94), 73.

¹⁷⁶ A. Zittlau, ‘Pathologizing Bodies: Medical Portrait Photography in Nineteenth-Century America’ in *American Studies*, Vol. 58, No. 4 Iconographies of the Calamitous in American Visual Culture (2013), 545.

¹⁷⁷ A. Sekula, ‘The Body and the Archive’, 34.

¹⁷⁸ A. Sekula, ‘The Body and the Archive’, 34

identified. Individuality as such has no meaning. Viewed ‘objectively’, the self occupied a position that was wholly relative.¹⁷⁹

Medical photography appears to operate within a similar logic of identification. What sort of identification do the two images evoke? Look at the image of ‘the Patient two weeks after admission’. Note the paisley shirt he is wearing, or at least the visible paisley collar of a shirt. Then note the striking scalp alopecia. Then note the blocking of the eyes. It is the blocking of the eyes that is seemingly that which shields and will shield the identification of the ‘patient’. But it is the visible bald spots, the scalp alopecia that unsettles, its unsettling is precisely because of the knowing that the case report suggests: the ‘patient’ had been poisoned deliberately while in police detention. As a subject then, the ‘patient’ is not merely a case, the ‘patient’ is identified as the victim of a crime. Identification then is as ‘the patient’ - as victim.

As the genre of medical photography developed and progressed, it has also come to occupy a prominent place within the genre of humanitarian photography.¹⁸⁰ Humanitarian photography seemingly serves to underscore the “politically subversive potential of photography” in that such photographs foreground the medical in terms of suffering and as such serves as a witnessing. Medical photographs thus have a much wider evidential potential that entails a complex temporality in that “produced as a specific resource for the present (for diagnosis, documentation or scientific knowledge) and future (for prognosis or prediction, but also in terms of forensic archiving), it entails the creation of new ways of seeing and knowing, which are directed towards purposive action and intervention.”¹⁸¹ Medical photography through its evidential potential then depicts a “past event, present resource and future

¹⁷⁹ A. Sekula, ‘The Body and the Archive’, 34

¹⁸⁰ C. Lynteris and R. J. Prince, ‘Anthropology and Medical Photography’, 102.

¹⁸¹ C. Lynteris and R. J. Prince, ‘Anthropology and Medical Photography’, 105.

orientation.”¹⁸² In this, medical photography’s use within the genre of humanitarian photography’s emergence parallels that of a particular narrative of humanitarianism.

In tracing the “origins” of humanitarianism in eighteenth and early nineteenth century Europe, Laqueur posits that a ‘humanitarian narrative’ has three elements to it. The first a “reliance on detail as the sign of truth”; the second that it “relies on the personal body, not only as the locus of pain but also as the common bond between those who suffer and those who would help and as the object of the scientific discourse through which the causal links between an evil, a victim, and a benefactor are forged.” The third element that Laqueur identifies is “a politics of reform.”¹⁸³ A ‘humanitarian narrative’ expressed as histories of pain and suffering has overtures to that of the autopsy report /case history that Laqueur reads as epitomizing such a narrative.¹⁸⁴

He underscores however, that, “any history of humanitarianism and humanitarian narrative...will require a careful analysis of both its production and reception.”¹⁸⁵ In this sense, histories of suffering explicated are “an analytic of suffering [that] exposes the means for its relief,” through subsisting “in the matrix of detailed cause and effect, specific wrong and specific action.”¹⁸⁶ More so, as Laqueur posits, “the systematic investigation of a particular patient’s demise [and disappearance as cause of demise] is paradigmatic of the sorts of narrative structures that make ‘humanitarianism’ possible, even though – or perhaps because – these narratives are written in the icy language of science.”¹⁸⁷ There is more than merely the “icy language of science”, narrative as evidence for and of a ‘humanitarian narrative’

¹⁸² Cited in C. Lynteris and R. J. Prince, ‘Anthropology and Medical Photography’, 105.

¹⁸³ T. W. Laqueur, ‘Bodies, Details, and the Humanitarian Narrative’, 177-178.

¹⁸⁴ T. W. Laqueur, ‘Bodies, Details, and the Humanitarian Narrative’, 181-182. Italics my emphasis.

¹⁸⁵ T. W. Laqueur, ‘Bodies, Details, and the Humanitarian Narrative’, 204.

¹⁸⁶ T. W. Laqueur, ‘Bodies, Details, and the Humanitarian Narrative’, 178.

¹⁸⁷ T. W. Laqueur, ‘Bodies, Details, and the Humanitarian Narrative’, 195-196.

that the hair loss and hair itself figures in the figuring of Mhtimkulu as forensically missing. This more, I suggest, both affirms and disrupts a ‘humanitarian narrative’ and can be gleaned by a return to the images associated with, but of, a matter of hair, which seem to both affirm and resist the “masking of domination and the compensation of compassion”: a ‘humanitarian narrative’ as a counter-forensic practice through the circulation of those images.

The ‘humanitarian narrative’ that Laqueur traces resonates with the notion of ‘mobilizing shame’ as Thomas Keenan briefly traces it in his questioning of what it would mean “for human rights discourse to take the photo opportunity seriously?”¹⁸⁸ Through his response to this question, Keenan critiques the assumption that, as Tina Di Carlo puts it, “revealing produces knowledge, and knowledge coupled with reason is seen as productive - i.e., together, and within a public forum, they can shame one into acting.”¹⁸⁹ For Keenan ‘mobilising shame’ through photographic exposure suggests more “an act and not simply a message.” Keenan thus suggest that, “the camera does not simply capture what happens and convey that elsewhere in the form of knowledge or information, of something to be acted on.” Rather the image *is* “an action”. It *is* “not only a fact to be revealed (although it is that as well) but an event that takes place, for the camera, as if to demonstrate to it, through it, something about it and its actual force in the world.”¹⁹⁰ Counter-forensics then, in Keenan’s understanding is that which “produces evidence, documents individual and specific things, names names, and attaches names to bodies.”¹⁹¹ This understanding relates to

¹⁸⁸ T. Keenan, ‘Mobilizing Shame’ in *The South Atlantic Quarterly*, 103:2/3 (Spring/Summer 2004), 435 – 449.

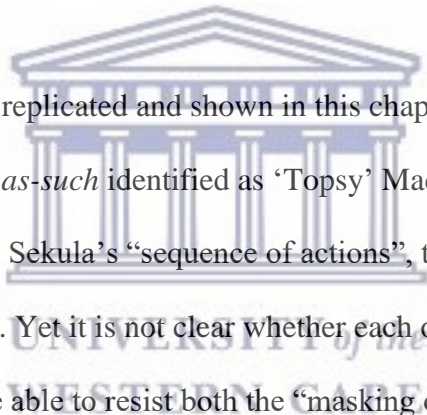
¹⁸⁹ E. Weizman and T. Di Carlo, ‘Dying to Speak: Forensic Spatiality’ in *Log*, ‘Curating Architecture’, No. 20 (Fall 2010), 127.

¹⁹⁰ T. Keenan, ‘Mobilizing Shame’, 447.

¹⁹¹ T. Keenan, ‘Counter-forensics and Photography’, 72.

both the practice of exhuming and identifying and that of the photographic gaze as action.

Taking Keenan's insight in mind, Edelstein's photograph of Joyce Mthimkulu holding aloft her son's hair with scalp attached, the cropped image shown for six seconds on *Special Report* and the full image published in the *South African Medical Journal* of "the patient" with scalp alopecia, cannot merely be 'seen' and read with an assumption of what *is* known about Sipiwo Mthimkulu. The images might need to be re-read and re-seen as constructed evidence, both as and through its action(s) as a practice of counter-forensics. This also requires a return to the exhumation and identification of the burnt human fragments at Post Chalmers as a counter-forensic practice.



Each of the images replicated and shown in this chapter, as well as the identification of the *group-as-such* identified as 'Topsy' Madaka and Sipiwo Mthimkulu, seem to affirm Sekula's "sequence of actions", that of Identification-Annihilation-Identification. Yet it is not clear whether each of the images, either individually or together are able to resist both the "masking of domination and the compensations of compassion", that which is a prerequisite for a practice of counter-forensics and photography. The sequence of Identification-Annihilation-Identification that is paradigmatic of the practice of counter-forensics is not as symmetrical as one would like it to be. According to Keenan, "just as forensics is different when linked to a process of political resistance to oppression, so is the identification. Assigning names and histories after the event of annihilation is something very different from fixing identities before it...likewise who is doing the killing and who the identifying makes a difference." For Keenan thus, "the history of human rights forensics is marked by this asymmetrical reversal of state policing techniques into tactics for

resisting and challenging injustice.”¹⁹² And yet! Does the critical notion of forensics proposed by an interrogation of the ‘forensic turn’ not itself presume to offer a more “authoritative and official text”?

Consider Keenan and Weizman’s argument as they articulate the advent of a forensic aesthetic through an examination of the Mengele investigation:

When examining war crimes –whether in the context of a trial, an advocacy campaign, or a public quest for the truth about what happened – it is not the individual skull that matters, no matter what violence might be registered in it. Although the individual, and justice for the individual, lies at the heart of human rights discourse, those who pursue crimes against humanity need to establish – as a legal or political matter – that crimes do not simply concern this or that individual, but are in fact widespread and systematic. Thus patters need to be demonstrated, and this requires a multiplicity of skulls and the gaps between them, as it were.

They continue and posit

Bones lead investigators to bullets, bullets to guns, guns to the soldiers or policemen who fired them, and the executioners to the officers and politicians who gave the orders. Behind them, there are the ideologies, interests, fantasies, and organisations that animated violence in the first place.

And finally

Forensics is not about the single object in isolation, but rather about the chains of associations that emanate from it and connect it to people, technologies, methods, and ideas – the flexible network between people and things, humans and non-humans, be they documents, images, weapons, skulls, or ruins.¹⁹³

Returning to Keenan’s reading of Sekula in articulating the potential of a counter-forensic practice, whether that of photographic practice or that of the forensic expert exhuming and identifying remains of those annihilated, “reduced to ashes”, Keenan re-asserts Sekula’s notion of a particular humanism that these practices enable. He argues that “their humanism is neither the merely sentimental and compassionate kind nor a mask of domination, but a *basic* one, basic precisely to the extent that it refers

¹⁹² T. Keenan, ‘Counter-forensics and Photography’, 71.

¹⁹³ T. Keenan and E. Weizman, *Mengele’s Skull*, 65.

not to abstract metaphysical foundations but rather to the traces of specific individuals and events, the testimony of the bones and the images.”¹⁹⁴ How then do we articulate the relation between a forensic embrace, a forensic aesthetic and a counter-forensic practice as expressed through the Post Chalmers investigation and a matter of hair that all seem to make claims on the burnt human fragments exhumed and the fistful of hair with scalp attached?

Even while acknowledging, as Keenan concludes his argument, that “to dig is to climb into the grave with the dead, to share a space with them, and to confront the fact of their death, not in order to undo what has happened (that cannot be done) but to transform their silence into names, stories and claims”, it seems to me that *something* remains missing. Even in acknowledging that, “listening to, and allowing others to hear, ‘what the bones tell us’ is a practice with no guarantees [and that] forensics and photography both traffic in ‘the ambiguous form of visual documents’, documents that are up for grabs in law and politics”; it seems to me that *something* remains missing. It is this *something*, that which is provoked by a critical discourse on forensics, that I suggest constitutes the figuring of Siphiso Mthimkulu as forensically missing through the practices and processes of forensics. For it is precisely in this figuring that a question of missing-ness both emerges and is masked not only by practices and processes of forensics, but by the very discourse of forensics itself.

Interpreting a fistful of hair with scalp attached and commingled burnt human fragments in a steel box in a coffin has been an attempt at completing a story. Yet this story, I have shown, is amputated by an absence not merely of a death, but one that

¹⁹⁴ T. Keenan, ‘Counter-forensics and Photography’, 72.

provokes a question of missing-ness. It so doing, I have pointed to a *something* that remains missing. Perhaps that *something* has to do with the profound statement made by Benjamin in his ‘Theses on the Philosophy of History’, as cited in the Introduction, “only that historian will have the gift of fanning the spark of hope in the past who is firmly convinced that *even the dead* will not be safe from the enemy if he wins.” The very next line after reads, “And this enemy has not ceased to be victorious.” The questions evoked for the historian who is convinced that even the missing will not be safe from the enemy if he wins, relates to how what is and is not known about the missing is known.

Siphiwo Mthimkulu’s poisoning, subsequent loss of hair as symptom and clue thereof, abduction by apartheid security forces, torture, murder, disposal of remains by burning, his loved ones and comrades not knowing whether he was alive or dead, narratives that circulated speculating his fate, subsequent locating, exhuming, testing and identifying the remains unearthed at Post Chalmers, are events constituted forensically. Mthimkulu was forensically figured - explained, made sense of - as missing through recourse to the clue of his hair falling out as a symptom of thallium poisoning. His hair falling out and the medical documentation thereof served as forensic evidence- in the medico-legal sense. Mthimkulu’s hair falling out and the physical hair itself as material fact served as evidence of a crime. At the same time the clue of hair loss as symptom of thallium poisoning shifted in status as evidence of thallium poisoning and became evidence both of and for something else. As described above, that something else was that the hair loss became not only evidence of poisoning but also evidence for his subsequent disappearance. The hair loss of Mthimkulu was initially the effect of poisoning, after his disappearance, the poisoning

and subsequent hair loss was narrated as cause for his disappearance and re-affirmed through the replicating of his image in the case report and *Special Report*.

The matter of Mthimkulu's fallen out hair became an object of and for mourning, or rather occupied a liminal space between evidence of a crime and object of mourning that was represented most forcibly by his mother holding the clump of hair with scalp attached during her TRC HRV hearing, interring it in 2002 and its re-interment in 2009. This was reinforced by Edelstein's later posing of the photograph of Joyce Mthimkulu holding aloft that fistful of hair with scalp attached. In other words the hair as evidence of a crime shifted in so far as it relates to the grids of intelligibility of the evidential paradigm into which it emerged. That evidential paradigm was initially constituted through a forensic medico-legal episteme of clues, signs and symptoms pointing to thallium poisoning and its traces. Later those clues, signs and symptoms shifted to an episteme of its traces wherein the loss of hair and the physical hair itself also pointed to the conditions of possibility for figuring Mthimkulu as forensically missing through a practice of counter-forensics.

Asserting control of the narrative of the event of death and of being missing is mediated by and through a discourse of forensics that has enabled the commingled burnt human fragments and fistful of hair to be placed in a coffin. This has seemingly bound a sense of certainty in trusting the contents of that coffin. For while a notion of forensics is seemingly axiomatically synonymous with 'truth', the catastrophic spell of exhumed remains of a missing person might be understood as one that claims a sense of closure, a breaking of that spell, as forensics works hard to establish identification. Yet I argue, that in so doing, it is such that it also masks the missingness of the missing even as it offers an ever so faint possibility of redemption and hope.

In this chapter I thus showed that the discourse of forensics is able to neither account for the emergence, nor pose a question of, missing-ness that so marks the event of death as epitomized by the coffin and its contents. This is despite a provocation of a critical engagement with the discourse of forensics that this chapter lends itself to. Asking after the relation between the fistful of hair with scalp attached and the commingled burnt human fragments in the coffin is to evoke a number of questions, all of which are mediated by and through the discourse of forensics. Yet the contents of the coffin contained the commingled burnt human fragments of not one person, but of two. It is thus to ‘Topsy’ Madaka that I now turn.



Missing the missing

On the 29 January 1997, close to Post Chalmers and along the banks of the Fish River near Cradock in the Eastern Cape province of South Africa, a “crisp sunny Karoo day”, a commemorative and spiritual ‘burial’ took place. With the media present, the event was aired on the weekly television series, *Truth Commission Special Report* (2 February 1997). Journalist Gail Reagan began the segment by stating, “[o]n the banks of this river, more than a decade ago, horrific rituals were played out in the dead of night. This is where security policemen got rid of the burnt plastic wrapped remains of Sphiwo Mthimkulu, ‘Topsy’ Madaka, Spho Hashe, Champion Galela and Qaqawuli Godolozzi. On Wednesday this week...the families of the murdered men arrived at the Fish River to enact a ritual of a different kind.”¹ Joyce Mthimkulu, the mother of Sphiwo Mthimkulu, is shown offering a powerful prayer for the loved ones. Reagan then interviewed representatives of the families and they stated their views, their feelings and their desire for truth. Conspicuously absent from those interviews however, and for reasons unknown, was a representative of ‘Topsy’ Madaka’s family.

Ten years later the forensic investigation at Post Chalmers that I detailed in the previous chapter was undertaken and its findings released in 2009. An official government sanctioned Provincial funeral was arranged. The inhumation of the two coffins containing the remains exhumed by the Missing Persons Task Team (MPTT) was preceded by an official memorial service on the 24 September 2009 and an earlier hand-over ceremony on the 12 September 2009. At the hand-over ceremony the then

¹ See *Truth Commission Special Report* Video Clip, Episode 33, Section 2 <http://sabctrc.saha.org.za/tvseries/episode33/section2/movie.htm> (Accessed 12 September 2018).

Minister of Justice, Jeff Radebe, returned the remains to their families and the community at the VIP section of Port Elizabeth airport. Between the hand-over ceremony and the official memorial service the remains travelled to the respective family homes for prayer services arranged by the local African National Congress (ANC) government and the religious fraternity.²

Amongst the many hundreds of mourners, journalists and television crews present on the 3 October 2009 at the six-hour funerary service held at the Nelson Mandela Metropolitan University Missionvale campus were high-ranking political officials. Delivering a eulogy was South Africa's now ousted but then newly elected State President, Jacob Zuma. Standing before the two coffins, each draped with the South African flag and addressing amongst those present, "the families of our heroes" who "like the families of many other missing South Africans [who] lived with the pain of the disappearance of their loved ones for many years", Zuma announced that "we are gathered here today to bid a proper and befitting farewell to five heroes of our struggle for liberation and democracy [who] will forever be etched in the collective memory of our nation." Venerated, the "five heroes" buried that day included Tobekile 'Topsy' Madaka.

Both bidding farewell and welcoming home, along with Champion Galela, Qaqawuli Godolozzi and Siphon Hashe (the 'Pebco 3') and Siphon Mthimkulu, 'Topsy' Madaka (referred to, together with Mthimkulu, as one of the 'Cosas 2') was eulogized by Zuma as "another self-sacrificing cadre of the movement [who] us[ed] his resources and skills to the benefit of the struggle." Madaka was inscribed as an

² The significance of the funerary process was such that it was specially noted in a sitting of South Africa's parliament. See 'First Session, Fourth Parliament of the Republic of South Africa: Minutes of Proceedings of National Assembly', No. 23 -2009 (Tuesday, 15 September 2009), 831-832.

“illustrious hero” to “a nation that continues to draw its strength from its history [and] from its heroes.”³



Figure 4 and 5: Copy of poster circulated at reburial of 'Pebco 3' and Cosas 2' – Figure 5: Widely circulated image of Tobekile 'Topsy' Madaka'.

This chapter concerns Tobekile 'Topsy' Madaka and the ways in which I argue he is missed as missing through a process of missing the missing. This process of missing the missing can be located within what has come to be termed the politics of the dead. A significant and key study by Katherine Verdery on the “political lives of dead bodies” analyses postsocialist change in Eastern Europe through the ways in which the inscription of statues, body parts, the dead and the absent dead fuel and mediate the complex networks of politics, nation, heritage, memorialization and history. Verdery suggests that we ask “what in present and past contexts gives what multiplicity of meanings to the résumé of [a] particular corpse” so as to understand

³ 'Address by President Jacob Zuma at the reburial of the Pebco 3 and Cosas 2' (3 October 2009). <http://www.anc.org.za/content/address-president-jacob-zuma-reburial-pebco-3-and-cosas-2> (Accessed 26 June 2018).

“*how* his complex biography make[s] him a good instrument for revising history” and “what in his manifold activities encourages identification from a variety of people?” Asking and answering such questions, for Verdery, “will often, but not always, elucidate why some dead bodies rather than others become useful political symbols in transitional moments.”⁴ These questions might however be slightly altered for the purposes of this chapter that seeks to elucidate not only why Madaka’s dead body is a useful political symbol, but also how he is produced as recovered missing body, yet through that process missed as missing.

How does a biographic construction of Madaka make him a good instrument not for revising history, but rather for thinking through how he is produced as missing but in the process, missed as missing? This question resonates with what Jenny Edkins calls a “politics that misses the person”, one that objectifies and “instrumentalises the individual” through the ways in which the missing are accounted not for who they are/were, but for what they are/were.⁵ Indeed, missing is a condition of a particular kind of personhood in that naming is an element of the constituting of the missing subject.

Edkins is concerned with the ways in which the missing are figured through the ways in which those who search for them, largely loved ones, challenge a “politics that misses the person” through a focus on the “person-as-such” in that every missing person counts. Yet the objectification and instrumentalisation by states seeking to account for the missing that misses the person, according to Edkins, is such that it calls for a demand for “‘a politics of the person as missing’, but one that in tracing the absent, recognizes that the ‘person-as-such’ is in some sense never fully present.”⁶ A

⁴ K. Verdery, *The Political Lives of Dead Bodies: Reburial and Postsocialist Change* (New York: Columbia University Press, 1999), 51. Italics original.

⁵ J. Edkins, *Missing: Person and Politics* (Ithaca: Cornell University Press, 2011), 2.

⁶ J. Edkins, *Missing: Person and Politics*, 197.

“politics of the person as missing” then, as it relates to the specificity of Madaka, is one that in seeking to account for how he is produced as missing must also acknowledge and abide by a question of missing-ness that constitutes the missing of the missing.

In what follows I begin by underscoring what Nicky Rousseau refers to as a particular funerary “script” of the “unjustly buried” in South Africa.⁷ The notion of “burying the unjustly dead” might be described as a culmination of a process of rehumanisation in the production of a mournable body. This process seemingly marks a seamless shift from missing person – missing dead body – recovered commingled burned human fragments - produced mournable body that supposedly restores personhood to the recovered remains within a memorializing discourse of rehumanisation and nation that figures ‘Topsy’ Madaka, the “resourceful cadre”, as ‘hero of the nation’. My focus is on how this funerary “script”, constituted through a range of agencies, enabled the inscription of Madaka, figured by various instantiations as ‘cadre’, as ‘comrade’, as ‘enemy’ and as one of the ‘Cosas 2’ ‘heroes’, that marks him as a particular kind of subject with a political biography in the shift outlined above.

I suggest that ‘Topsy’ Madaka is figured into that funerary “script” as a recovered subject of a particular history that produces him as missing. That history figures him as a subject of history within the domain of the political but is mediated through the ‘disciplines of the dead’ that claims, as Ciraj Rassool underscores, to “extend the biography of the dead person.”⁸ In other words, Madaka is ascribed a

⁷ N. Rousseau, ‘Identification, politics, disciplines: missing persons and colonial skeletons in South Africa’ in E. Anstett and J.M Dreyfus (eds.), *Human Remains and Identification: Mass violence, genocide, and the ‘forensic turn’* (Manchester: Manchester University Press, 2015), 180.

⁸ C. Rassool, ‘Human Remains, the Disciplines of the Dead and the South African Memorial Complex’ in D. Peterson, K. Gavua and C. Rassool (eds.), *The Politics of Heritage in Africa: Economies, Histories and Infrastructures* (Cambridge: Cambridge University Press, 2015), 142.

notion of personhood through a process of rehumanisation understood primarily as the restoring of identity through individuation. This process of ‘extending the biography of the missing’ however is mediated not only, as I examined in the previous chapter of this dissertation, by a forensic embrace and a counter-forensic practice, but I suggest, also through what Allen Feldman refers to as the ‘biographical artifact’ of human rights violations that emerges through testimonies before the Truth and Reconciliation Commission’s (TRC) Human Rights Violations (HRV) and Amnesty Hearings. Indeed as Feldman posits, “the biographical artifact of historical horror is not the history of a single typified subject: rather it bears traces of the relationality of violence, and as a text of mourning, the traces of the absence, the disappeared, and the dead.”⁹ Thus, as I show in the second and third sections of this chapter, it is the straddling of asymmetrical subject positions ascribed to the figure of ‘Topsy’ Madaka as a subject of and to apartheid, what Suren Pillay suggests is a ‘subject in formation’ that is at once historical and political, which is productive to think through in asking how the missing are produced.¹⁰

The point of this chapter is to arrive at an articulation of missing that underscores its production but also in the process produces the missing and misses the missing person. To produce, as Jacques Derrida articulates it in *Specters of Marx*, is to “both invent *and* bring up to date, inaugurate *and* reveal, cause to come about *and* bring to light at the same time, *there where they were already there without being there*: it is the relation of the concept of *production* to the ghost [*missing*] that is in question here.” Derrida continues and notes that, “this transformation does not affect

⁹ A. Feldman, ‘Memory Theaters, Virtual Witnessing, and the Trauma-Aesthetic’ in *Biography*, Vol. 27, No. 1 (Winter 2004), 195.

¹⁰ S. Pillay, ‘The Partisan’s Violence, Law and Apartheid: The Assassination of Mathew Goniwe and the Cradock Four’ (Unpublished PhD Thesis: Columbia University, 2011).

only facts but the concept of such ‘facts’. The very concept of the event.”¹¹ For indeed, the missing of apartheid-era disappearances are produced as missing in those spaces “there where they were already there without being there.” ‘Topsy’ Madaka, I argue, is produced as missing but missed as missing by being subjected to a history as a subject of and to apartheid within a discourse of nation that struggles to call into question the very concept of the event of apartheid.

In short then, the question of this chapter is not one that asks how Topsy Madaka’s complex biography makes him a good instrument for revising history. Nor is it one that only seeks to elucidate why his dead body is a “useful political symbol” in the vein that Verdery articulates. Rather it is one of asking how a biography of ‘Topsy’ Madaka as missing is produced and scripted through a politics of the missing that engenders notions of rehumanisation and personhood to a history of apartheid’s missing dead as constitutive of a reimagining of the nation. In so doing, this chapter delineates how ‘Topsy’ Madaka is missed as missing - is the missing- as- such.

A reburial script - nation, rehumanisation and personhood

The re-burial on the 3 October 2009 of those exhumed at Post Chalmers in 2007 was the culmination of the work of what Ciraj Rassool names as ‘the disciplines of the dead’ that claims to “extend the biography of the dead” through location, excavation, exhumation, forensic examination and identification leading to re-burial. Constructing an osteobiography of exhumed remains, a post-mortem process of restoring personhood, is part of a process of rehumanisation and producing of personhood in the recovery of missing remains. Rassool argues that “forensic anthropology [as a discipline of the dead] offer[s] respect for the victim and missing

¹¹ J. Derrida, *Specters of Marx: The State of the Debt, the Work of Mourning and the New International*, trans. by P. Kamuf (New York: Routledge, 2006), 98. Italics original.

body, promising to return the dead to personhood, and to extend the biography of the dead person through procedures of recovery and identification.”¹² Personhood of the once missing dead is restored through the naming of the remains recovered and identified as belonging to a particular individual that produces a person with a biography. This notion of personhood is elaborated upon by what Rassool calls a “methodology” of rehumanisation in so far as state intervention in “re-storing the skeletons of Empire” is concerned.¹³ But first, what is so specific about the funerary process in this culmination of a process of rehumanisation and restoring of personhood?

Nicky Rousseau identifies and unpacks certain threads evident in “a normative tradition in South Africa of how to rebury the dead who were unjustly buried.” The “unjustly buried” are those whose “funerals were banned or disrupted, [or whose] bodies were treated callously or just missing.”¹⁴ According to Rousseau, examining the early discourses that surrounded and constituted the practice of early TRC exhumations and reburials suggests that a particular funerary “script” is evident and that its “imprint [is] strongly visible” in subsequent reburials that stem from the work of the MPTT. The funerary “script” identified by Rousseau is constituted through a range of agencies that included the TRC, families, the media, as well as the governing ANC.¹⁵ The “script” identified draws on longer histories of funerary practices in South Africa that were both political and cultural. Drawing on the work of Garrey Dennie, Rousseau underscores that prior to the 1970s funerals were overlaid by a politics of race in which the “pauper burial” was “regarded with abhorrence” and

¹² C. Rassool, ‘Human Remains, the Disciplines of the Dead and the South African Memorial Complex’, 142.

¹³ C. Rassool, ‘Re-storing the Skeletons of Empire: Return, Reburial and Rehumanisation in Southern Africa’ in *Journal of Southern African Studies*, Vol. 41, No. 3 (2015), 653-670.

¹⁴ N. Rousseau, ‘Identification, politics, disciplines’, 176.

¹⁵ N. Rousseau, ‘Identification, politics, disciplines’, 180-181.

burial societies were formed as a way to “rescue [black] bodies from apartheid’s deprivations...signaling a politics of the everyday.”¹⁶ This “script” was “re-scripted” from the 1970s onwards.

In the aftermath of the 1976 student protests and the funeral of Steve Biko, the emergence of a “more routine script of the political funeral” was evident and organized through funeral committees as opposed to the burial societies that Dennie underscores. Thus, according to Rousseau, “if burial societies constituted communities of care, which sought to rescue racialised bodies...funeral committees constituted communities of solidarity, which exemplified the body of resistance.” Rousseau goes on to posit that “usurping the role of burial societies, and through often complex and contested negotiations with families, the funeral committee scripted an overtly political funeral from wake to grave – speeches, songs, pamphlets, banners and flags.” Rousseau thus argues that, “the potency of this dead body’s political life lay in its requiring, in the face of death, not mourning or sorrow, but defiance and resistance.”¹⁷ Funerals, in other words, were “powerful moments of mobilization” more often than not heightened by clashes between police and mourners that saw more fatalities thus leading to more funerals.¹⁸

Rousseau identifies revisions in the “funeral script” in the early 1990s marked by the burial of two icons of the liberation movement, Chris Hani and Oliver Tambo. This “revised script” of the political funeral saw “defiance and mobilization [give] way to the more somber and official funeral of a state *to come*.”¹⁹ Elements of these “scripts” of political funerals, the funeral marked by mobilization and the funeral

¹⁶ N. Rousseau, ‘Identification, politics, disciplines’, 181. See also G. Dennie, ‘The Standard of Dying: Race, Indigence, and the Disposal of the Dead Body in Johannesburg, 1886-1960’ in *African Studies*, Vol. 68, No. 3 (December 2009), 310-330.

¹⁷ N. Rousseau, ‘Identification, politics, disciplines’, 181-182.

¹⁸ See for example R. Thornton, ‘The Shooting at Uitenhage, South Africa 1985: The Context and Interpretation of Violence’ in *American Ethnologist*, Vol. 17, No. 2 (1990), 217-236.

¹⁹ N. Rousseau, ‘Identification, politics, disciplines’, 182.

marked by the official funeral of “a state *to come*”, were evident in a revised script of political funerals. A significant element of this “revised script” as Rousseau points out, is that “for the first time, apartheid police, rather than facing off with an enemy, escorted and protected mourners, a powerful symbolic moment marking an official, if reluctant, recognition that those regarded as ‘bare life’, and thus available to be killed, were now citizens worthy of protection.”²⁰ During reburials under the auspices of the TRC and later following the work of the MPTT, this element was profound.

More so, the “revised script” for political funerals of the “unjustly buried” is constituted by a heightening of two discourses in scripting the dead body, “one of family and one of nation”, that Rousseau suggests “while restoring personhood...place[s] not a family member, but the armed guerilla at the centre of the script.”²¹ In other words, as Rousseau describes the “revised script”:

Once investigators had located a gravesite, the TRC would organize an exhumation; families, local political and government figures (including in many instances provincial premiers) and the media would be informed and invited. After the exhumation, skeletal remains were transported to a mortuary before being handed over to families. Thereafter local or provincial party structures, assisted by government structures, organized or provided financial and logistical assistance. In keeping with their status as guerillas, reburying the remains generally took the form of a military funeral, replete with folded flags, and 21 gun salutes.²²

The funerary “script” outlined by Rousseau is intricately connected to the scripting of the dead body through the work of exhumation in producing the dead body as the mournable body, part of a process of rehumanisation. Indeed, Zuma’s speech invoked the forensic embrace I discuss in the previous chapter. He stated that, “Their families,

²⁰ N. Rousseau, ‘Identification, politics, disciplines’, 183. See also D. Posel and P. Gupta, ‘Introduction: The Life of the Corpse – Framing Reflections and Questions’ in *African Studies*, Vol. 68, No. 3 (December 2009), 299-309 and N. Rousseau, ‘The Farm, the River and the Picnic Spot: Topographies of Terror’ in *African Studies*, Vol. 68, No. 3 (December 2009), 351-369.

²¹ N. Rousseau, ‘Identification, politics, disciplines’, 184. See also M. Ramphela, ‘Political Widowhood in South Africa: The Embodiment of Ambiguity’ in *Daedalus*, Vol. 125, No. 1 (Winter, 1996), 99-117.

²² N. Rousseau, ‘Identification, politics, disciplines’, 184.

relatives, neighbours and comrades knew nothing of their fate until the Truth and Reconciliation hearings in 1997. And it was only 10 years later, in 2007 that their remains were discovered.” Madaka and the other “heroes” were seemingly no longer ‘missing’ in the sense that “over two years of painstaking research involving international forensic experts ha[d] led to the positive identification of the remains of these outstanding leaders.”²³ Emphasis was also placed on the “symbolic moment” of emphasizing “citizens worthy of protection.” In his eulogy at their funeral, Zuma stated that, “it is significant that having been tortured and having lost their lives in the hands of the apartheid police force, our heroes are today being bid farewell officially and with dignity by the police force of the democratic era.”²⁴ The funerary process of those referred to as the ‘Pebco 3’ and the ‘Cosas 2’ thus largely followed the “revised script” and Rousseau posits that their “funeral was indistinguishable from a guerilla funeral except for the presence of flags and banners of the 1980s mass democratic movement.”²⁵ However, as Rousseau underscores, the “revised script” is not without its contestations.

Contestations that arise through reburial of the “unjustly dead” can be located at the convergence of ‘best practice’ policies of forensic work in exhumations and identification of human remains recovered and bodies produced in the process of rehumanisation of the missing. Contestations might occur where the mournable body produced through exhumation is reburied under the rubric of hero to the nation. Here the wishes of the family in the type of funeral for reburial of the produced dead bodies might diverge from that of the wishes of the political affiliations to which their loved

²³ ‘Address by President Jacob Zuma at the reburial of the Pebco 3 and Cosas 2’ (3 October 2009)

²⁴ ‘Address by President Jacob Zuma at the reburial of the Pebco 3 and Cosas 2’ (3 October 2009).

²⁵ N. Rousseau, ‘Identification, politics, disciplines’, 199, Footnote 56.

ones belonged to in life that claim heritage in the constituting of a 'nation to come'.²⁶

In some quarters the MPTT has come under criticism for focusing its work on exhuming the bodies of ANC guerillas to the exclusion of other liberation struggle activist bodies.²⁷ By the end of 2014, according to Rousseau, 94 remains had been exhumed and were, “overwhelmingly of guerillas with a smaller number of disappeared activists, including at least three persons killed by liberation movement perpetrators.” The MPTT has insisted however, according to Rousseau, that,

the dominance of guerillas... is not a matter of political preference; while it continues to investigate other cases, such as those who disappeared during pre-transition violence in the early 1990s, it has had little success. Guerilla bodies were, by and large, almost always political and if killed in ambushes or skirmishes invariably left a documentary trace; the bodies of those killed in protest action or inter-civilian violence were buried in city cemeteries where 'political' bodies are largely indistinguishable from large numbers of deaths arising from criminal or inter-personal violence.²⁸

The question this contestation raises, as Rousseau underscores, “brings into sharp relief [that] of which bodies matter.”²⁹ All the remains exhumed by the TRC and subsequently by the MPTT were of missing dead bodies. In other words, whether the remains exhumed were those of guerillas, those killed in protest or inter-civilian violence, or of political prisoners executed and buried in unnamed pauper graves; their bodies were missing in the sense that the whereabouts of their remains were unknown. The category of “disappeared activists”, under which ‘Topsy’ Madaka and Siphiso Mthimkulu figure, heightens this notion of missing in so far as the not knowing is characterized first by not knowing whether the activist is alive or dead and

²⁶ See for example J. D. Aronson, ‘The Strengths and Limitations of South Africa’s Search for Apartheid-Era Missing Persons’ in *The International Journal of Transitional Justice*, Vol. 5 (2011), 262-281. See also M. Ramphele, ‘Political Widowhood in South Africa: The Embodiment of Ambiguity’.

²⁷ See for example J. D. Aronson, ‘The Strengths and Limitations of South Africa’s Search for Apartheid-Era Missing Persons’.

²⁸ N. Rousseau, ‘Identification, politics, disciplines’, 189.

²⁹ N. Rousseau, ‘Identification, politics, disciplines’, 189.

once it is known that the activist had been killed by security forces, the location of the dead body is still missing. More so, as I argue in the previous chapter, the Post Chalmers investigation cannot be understood without underscoring that it was the political agency of perpetrators as witnesses that embraced the forensic fallibility and fragility of the agency of the missing person, which identified them as both the group sought and the *group-as-such* produced.

The politics of dead bodies and their afterlives in South Africa with their inscription into the nation through processes of memorialization, which political funerals enact with the practice and script of reburial, is perhaps most pronounced at Freedom Park.³⁰ With the opening of Freedom Park in 2004, South Africa's premier national memorial complex, the "revised script" of the political funeral took on a more overtly public nation-building element in memorializing the "unjustly buried". This element is evident in the ceremonial hand-over ceremony of recovered remains to their families at Freedom Park. While not all hand-over ceremonies of remains located, exhumed and identified by the MPTT occur at Freedom Park, as with the remains exhumed at Post Chalmers, Freedom Park is at times used as the site of return for remains of fallen comrades, guerillas, to their loved ones with reburials happening at cemeteries of the families' choosing. Freedom Park, as the site for hand-over ceremonies of the remains of recovered and produced persons, is the scripting of the dead body straddling the discourses of family and nation par excellence.

As part of the celebration and commemoration of the guerilla, the hand-over ceremonies at Freedom Park are, according to Rassool, "framed within a certain nation-building ethos." Scripted as a memorial to the dead within a multidimensional commemorative institution including a walled memorial of names (*Sikhumbuto*), a

³⁰ See D. Jethro, 'Aesthetics of Power: Heritage Formation and the Senses in Post-Apartheid South Africa' (Published PhD thesis; *Quaestiones Infinitae*: Publications of the Department of Religious Studies and Theology Utrecht University, Volume LXXXVII, 2015), 52-125.

memorial garden (*Isivivane*) and experiential exhibitions, Freedom Park commemorates the “presence of absence”. Indeed, as Rassool points out, “since the First World War, one of the ways in which new nations have been formed has been through the presence of the absent body configured within the modern memorial complex.”³¹ Rassool points out that the methods of memorialism at Freedom Park, which includes the transfer of soil, rocks and plants from the locations of death of freedom fighters to *Isivivane* as part of the healing and cleansing ceremonies “may have sought authority in indigenous knowledge of ancestral relations as part of intangible heritage.” He therefore contends that Freedom Park’s methods of memorialism “were new, incorporating indigenous practices of remembering the dead into a modern institution of national memory, thereby turning the missing dead into the ancestors of the nation.” For Rassool therefore, “the idea of identifying and repatriating [re-burying] the bones of a dead soldier, albeit through the assistance of the MPTT and other state institutions, belonged to the family and to the private ceremony, and not to the framework of memory as national heritage.”³²

However, as Rousseau underscores and alluded to above, based on the interviews with some families of the “unjustly buried” conducted by Jay Aronson,

[y]et, today it would seem to be the re-scripted political funeral for which families now yearn as an appropriate format – or more particularly the struggle funeral re-scripted as official funeral, a more ceremonial and tightly scripted affair of state – in which the nation is enjoined to celebrate those who lived and died for freedom. But, although desired, the local character of these

³¹ C. Rassool, ‘Human Remains, the Disciplines of the Dead and the South African Memorial Complex’, 145, 155. See also T. Laqueur, Memory and Naming in the Great War’ in J. R. Gillis (ed.) *Commemorations: the politics of national identity* (New Jersey: Princeton University Press, 1996), 150-167. In some cases though where unidentified remains of the war dead were placed in national monuments, as with the Vietnam crypt of the Tomb of the Unknown in Arlington National Cemetery, United States of America, advances in DNA technology has led to a refiguring of national commemoration and the ways in which notions such as the ‘presence of absence’ has been thought. See for example, S. Wagner, ‘The making and unmaking of an unknown soldier’ in *Social Studies of Science*, Vol. 43, No. 5 (2013), 631-656.

³² C. Rassool, ‘Human Remains, the Disciplines of the Dead and the South African Memorial Complex’, 144-145.

reburials, which are not formal state functions, means some funerals enjoy more attention (and thus more power) than others.³³

What both Rousseau and Rassool point to, in varying degrees, are the competing discourses of family and nation in re-remembering and the rehumanisation of (missing) dead bodies. Yet it is the process of rehumanisation that warrants consideration. For this process, as I underscore below, is enmeshed within the politics of the dead body and the inscription of the dead body through the funerary “script” discussed above. In other words, it is the funerary process through the well-rehearsed “script” that figures a specific rehumanisation of the once missing person as the extension of the biography of her/his dead body that presupposes a certain kind of personhood to fit into that “script”. Rassool for instance argues that,

[a]s recovered person with a biography, which [sees] violence narrated into democratic reconstruction, the bones of the dead [are] offered dignified closure through burial in a grave, in many ways, the primary memorial. The material edifice of the grave, its headstone and the story of its creation would be [is] incorporated into a narrative of the making of democracy, whose telling might be part of a public history geared towards citizen formation.³⁴

This public history pointed out by Rassool and its location within South Africa’s memorial complex is dependent on and conditioned by the processes of rehumanisation. It is through disciplines mediated by the discourse of forensics that this process of rehumanisation and restoring of personhood is materially enacted.³⁵ In other words, it is the physical locating, excavating and exhuming of human remains and their identification that marks rehumanisation as part of the process of producing the dead body as the mournable body scripted into “a public history geared towards

³³ N. Rousseau, ‘Identification, politics, disciplines’, 191.

³⁴ C. Rassool, ‘Human Remains, the Disciplines of the Dead and the South African Memorial Complex’, 142.

³⁵ See also C. Fowler, ‘Relational Personhood Revisited’ in *Cambridge Archaeological Journal*, Vol. 26, No. 3 (2016), 397-412 and E. Casella and K. Croucher, ‘Beyond human: The materiality of personhood’ in *Feminist Theory*, Vol. 12, No. 2 (2011), 209-217.

citizen formation.” Yet this claim of, and here specifically physical anthropology that is so necessary to identification via its practice and process of identifying the osteobiography of the recovered human remains is not without its critics, particularly in South Africa.

Rassool certainly presents a compelling argument of the somewhat tenuous claim to rehumanisation by physical anthropology, refigured as forensic anthropology as part of a process of distancing itself from its colonial and racial legacies of violence in the name of science.³⁶ While Rassool underscores these legacies of racial research and violations of the long dead, he also underscores how the work of the MPTT, which cannot but have recourse to the disciplinary knowledge of physical/forensic anthropology in working towards a certain conception of “extending the biography of the dead person”, must by necessity take place “as part of a multidisciplinary process including readings of the TRC record, and reading the archival evidence of atrocity.” He concludes though that, “from time to time, the critics of physical anthropology suggest that history is a more appropriate discipline of the dead in the twenty-first century.”³⁷ As far as the work of memorialism goes as envisaged and enacted at Freedom Park, Rassool underscores, and this is worth citing in full, that

[w]hile forensic anthropology was the discipline of the murdered or executed cadre, whose remains were missing, waiting to be recovered, identified and returned, it took the new national memorial complex expressed through Freedom Park to shift the discipline, with the public historian/inventorist/names verifier as the deliverer of names to be chiseled into granite, and the *sangoma* and *inyanga* as the deliverers and keepers of the spirits of the dead. While historical research may have been reduced to names verification based on simplified dichotomies of resister/collaborator, the work of recovering the spirits of the dead carried all the ambiguities of indigenous

³⁶ This is indeed the thrust of Rassool’s argument and stems from earlier work renowned historian Martin Legassick and he had done on human remains stored in museums across South Africa that were obtained unethically, albeit in the name of science. See M. Legassick and C. Rassool, *Skeletons in the cupboard: South African museums and the trade in human remains 1907-1917* (South African Museum, 2000).

³⁷ C. Rassool, ‘Human Remains, the Disciplines of the Dead and the South African Memorial Complex’, 156.

knowledge and its concepts of Africanness. In some ways the dead of South Africa's liberation struggle became ancestral heroes to the nation. In other ways, they were drawn into a post-apartheid politics of African indigeneity rooted in familiar colonial categories of tribe and sometimes even race. It was as if the colonial categories were never too far away in rethinking the bones of South Africa's dead.³⁸

The 'spiritual repatriation' and 'symbolic reburial' of Sizwe Kondile, of which I elaborate in Chapter Four and at the end of this dissertation, most certainly reflects the thoughts of Rassool, particularly that of the way in which historical research had been "reduced to names verification based on simplified dichotomies of resister/collaborator." For now however, what is so significant about Rassool's formulation is the work of history and the ways in which it is put to use, or abused, in inscribing the dead of South Africa's liberation struggle, particularly those anti-apartheid activists like 'Topsy' Madaka who have been inscribed as "ancestral heroes to the nation."

The point is that history, as the "more appropriate discipline of the dead" seemingly furthers the process of rehumanisation. The reburial script identified by Rousseau and that which Rassool outlines above resonates with the context in which Rassool argues. That context is the process of the "return" of human remains that ushes in the longer process of rehumanisation through repatriation of colonial skeletons produced as persons with names. As a means to unpack this process of rehumanisation it is productive to briefly think through rehumanisation of South Africa's colonial skeletons through what Rassool argues is the "re-storing [of] the skeletons of Empire" through a "methodology" of return.

Rassool emphasizes a "South African repatriation methodology of active 'rehumanisation', promoted by cultural ritual and political ceremony" that marked the

³⁸ C. Rassool, 'Human Remains, the Disciplines of the Dead and the South African Memorial Complex', 145.

repatriation of human remains from the Austrian Academy of Science and the Natural History Museum in Vienna during 2012. After extensive archival research conducted by Rassool and the late historian Martin Legassick, the human remains were identified as those of Klaas and Trooi Pienaar. Their bodies were unethically and illegally disinterred after their deaths in the early twentieth century and exported to Vienna to enter into the world of racial science as part of collections about race, typology and evolution. As negotiations between the South African and Austrian governments concluded regarding the repatriation, and local negotiations in South Africa between the Khoisan community unfolded, Rassool underscores “at least six ceremonies of state in Vienna, Johannesburg and Kuruman, from hand-over to reception and eventual reburial.” Rassool argues that, “while claims were made on ancestral and ethnic relatedness to the Pienaars that saw the mobilization of different and opposing concepts of the family, it was the nation that constructed the framework for the return as a ‘re-patriation’, as an expression of national healing and an effort to build social cohesion.”³⁹ The ceremonies then involved “a process described as enabling the rehumanisation of a ‘San [married] couple, referred to as Mr and Mrs Trooi and Klaas Pienaar’, and even the post-mortem restoration of citizenship in a new democracy.” Rassool thus contends, and again, worth citing in full, that

[r]eturning remains from a museum store in Europe to a reburial in South Africa through a methodology that focused on rehumanisation represented more than a physical movement to their original place of life, death and burial. The acquisition of post-mortem personhood by the Pienaars 100 years after their deaths was made possible by research on their lives and deaths. This archival knowledge about their names, status as a married couple and place of death and burial was seen to provide a research-based provenance that made their continued presence in the museum collection untenable. The framing of the Pienaars’ return as a repatriation of people to the land of their citizenship turned them not only into humans, but also into subjects of history. Their dead bodies, transformed from objects of race to those of subjects of history,

³⁹ C. Rassool, ‘Re-storing the Skeletons of Empire: Return, Reburial and Rehumanisation in Southern Africa’, 655.

became significant to the nation, and took their place as part of the categories of the dead that constituted South Africa's memorial complex.⁴⁰

If forensic anthropology, as a 'discipline of the dead', claims to restore personhood to the once missing person by identifying the human remains excavated and attempts to individuate those remains by naming the person, or the political group in the case of the Post Chalmers excavation and exhumation, here the 'discipline of the dead' invoked is that of history. But it is not the same understanding of history merely as the verifier of names. In the formulation offered by Rassool here above, rehumanisation is directly linked to personhood and personhood is directly linked to biography understood as "research on their lives and deaths". In other words, biography is understood as "archival knowledge about their names, status as a married couple and place of death and burial..." This is what Rassool suggests turned the Pienaar's from "objects of race" into "subjects of history." Thus to be a subject of history, as part of the process of rehumanisation and restoring of personhood, is to be known through the ascribing of and inscription into a biography.

The re-burial 'script' that Rousseau traces through engaging the work of Rassool, is disrupted when examining and attempting to account for colonial violence and its racial-scientific knowledge as the 'forensic turn's' ever-shifting temporal reach attempts to claim the skeletal remains of the colonial dead and re-inscribe them in particular ways.⁴¹ Indeed, this is precisely what Rousseau underscores when she argues that

If, as Rassool suggested, the mode of exhumation and reburial turned the missing dead of the apartheid era into 'ancestors of the nation', then here one could say that the colonial dead have been inscribed not only as citizens but

⁴⁰ C. Rassool, 'Re-storing the Skeletons of Empire: Return, Reburial and Rehumanisation in Southern Africa', 669.

⁴¹ N. Rousseau, 'Identification, politics, disciplines', 185-187; 189; 194-196. See also P. Lalu, *The Deaths of Hintsa: Postapartheid South Africa and the Shape of Recurring Pasts* (Cape Town: HSRC Press, 2009), 4-10.

into the pantheon of heroes, those who have sacrificed all, for and on whom the nation rests.

Rousseau thus concludes by stating that

Following this, if colonial bodies had initially interrupted the TRC scripts, but the later role of physical anthropology in the MPTT had served to draw a line neatly separating apartheid-era and colonial bodies, then the politics of personhood have tended to erase that line, drawing them ever closer together. These moves signal the ongoing instability of South Africa's bodies of violence.⁴²

The point then is that it is not self-evident that embracing the 'forensic turn' in exhuming remains and naming bodies so as to enable reburials so as to put them to rest, to restore personhood through a process of rehumanisation, *will* put to rest apartheid's violence together with its ongoing colonial legacies.⁴³ Dead bodies produced and inscribed might be read as evidence of and for a history of the missing dead of enforced disappearances under apartheid. This history however, is constituted through inscriptions of the dead body recovered and produced not merely as the mournable body for the family, but as heroes to and for the nation. In other words then, discourses of nation and family "script" the produced dead body as both the mournable body and the body, recalling the work of Zoe Crossland that I engaged in the previous chapter, of and for evidence. Yet it is not only the body of evidence where the body serves as *corpus delicti* in its juridical framing as Thomas Laqueur underscores.⁴⁴ The body as evidence produced through the scripting of the political funeral within the at times competing discourse of family and nation is evidence not only of the heinous crime of abduction, torture, poisoning, murder and destruction of

⁴² ⁴² N. Rousseau, 'Identification, politics, disciplines', 195-196.

⁴³ For an argument that resonates with this, albeit in the context of Spanish mass grave exhumations, see B. Bevernage and L. Colaert, 'History from the grave? Politics of time in Spanish mass grave exhumations' in *Memory Studies*, Vol. 7, No. 4 (2014), 440-456.

⁴⁴ T. W. Laqueur, 'The Dead Body and Human Rights' in T. Sweeney and I. Hodder (eds.) *The Body* (Cambridge: Cambridge University Press, 2002).

the corpse, in other words, the ‘events’ of enforced disappearances and killing. Perhaps more so, the produced body is also evidence for a particular narrative construction scripted through the biography of the once missing dead body.

Disrupting any notion of the stability of dead bodies as either objects of crime or bodies for mourning through the discourses of family and nation is precisely the point of Rousseau and Rassool in their articulation of the politics of dead bodies in South Africa. The notion of what Rousseau terms “burying the unjustly dead” might be described as a culmination of a process of ‘rehumanisation’ in the production of a mournable body. This process seemingly marks a seamless shift from missing person to missing dead body to recovered burned human fragments and produced mournable body. This shift supposedly restores personhood to the recovered remains within a memorializing discourse of nation that figures ‘Topsy’ Madaka as one of the “heroes to the nation.” Yet when taking into account Rassool’s formulation of rehumanisation, it is the work of history, or rather a particular kind of work of history through its genre of biography, which is underscored as *the* ‘discipline of the dead’ that can restore personhood through processes of rehumanisation of the missing.

As I have been suggesting up to this point, this category of the dead, the missing of apartheid-era disappearances and their ‘return’, requires a particular biography to be ascribed, a political biography inscribed with a political identity. It is thus productive to think through the ways in which political biographies of the missing dead are constructed through the process of rehumanisation. More specifically this thinking leads to the question of how a political biography of ‘Topsy’ Madaka was constructed and what the limits of that biography might be in producing him as missing.

Writing about rehumanising “the disappeared” in Mexico, Sylvia Karl posits that dehumanisation and desocialisation is the epitome of enforced disappearances. She states that “dehumanization processes in the course of state terrorism are carried out through the use of physical and symbolic violence by state agents, and the body of the constructed enemy becomes the central target of state power.” For Karl, dehumanization is the “denial of four important cultural categories...related to ritual performance in every society: denial of bodies...denial of mourning...denial of mortuary rituals...[and] denial of memory sites.”⁴⁵ Rehumanisation for Karl therefore is:

[t]he sum total of all the symbolic and political acts of victims that aim at compelling the government to recognize the disappeared. Discourses and acts of rehumanisation mean that the disappeared are being given back their erased and stolen identities through political rituals by showing photographs of the disappeared in public spaces, calling out their names, giving testimonies, or calling for information on their whereabouts.⁴⁶

This understanding of rehumanisation might be useful to momentarily hold onto as it relates to the South African ‘experience’ of apartheid-era enforced disappearances. It suggests particularly that the process of rehumanisation of Siphiwo Mhlimkulu and ‘Topsy’ Madaka emerged almost simultaneously with the process of their dehumanization. News of their disappearances, though with particular attention paid

⁴⁵ S. Karl, ‘Rehumanizing the Disappeared: Spaces of Memory in Mexico and the Liminality of Transitional Justice’ in *American Quarterly*, Vol. 66, No. 3 (September 2014), 729 – 730. For a rather provocative argument put forward as it relates to dehumanization and the productivity of what the ‘forensic turn’ enables, Ewa Domanska makes a distinction between “above-ground dehumanization” and “underground dehumanization”. The former Domanska asserts is “unambiguously negative and requires the transformation of humans into non-humans” while “underground dehumanization...transforms humans into post-humans...a positive process from the ecological and post-anthropocentric perspective, since it enables thinking about humanity and multispecies collectives based upon and dependent upon a degree of organic commingling that takes a completely different form.” This is an argument that, in relation to the work I am doing in this dissertation, I am not particularly keen to explore, but is worth noting as it indicates the various ways in which the forensic embrace is enabling different kinds of thinking. See E. Domanska, ‘Dehumanisation Through Decomposition and the Force of Law’ in Z. Dziuban (ed.) *Mapping the ‘Forensic Turn’: Engagements with Materialities of Mass Death in Holocaust Studies and Beyond* (new academic press: Vienna, 2017), 57-72.

⁴⁶ S. Karl, ‘Rehumanizing the Disappeared’, 730. See also R. Oelofsen, ‘De- and rehumanisation in the wake of atrocities’ in *South African Journal of Philosophy*, Vol. 28, No. 2 (2009), 178 – 188.

to Mthimkulu's poisoning thereby somewhat diminishing and marginalising the fate of Madaka as also being missing, circulated in mainstream media immediately after their abduction by security police and continued to circulate throughout the 1980s.⁴⁷ This culminated, of sorts, in the commissioning of the Harms Commission of Inquiry into Alleged Murders in 1990. There, as I show in the following Chapter, it was the construction of a political biography that was produced in apartheid's attempt to account for those whom its functionaries were responsible for producing as missing but that, through a process of disciplining the missing, ultimately foreclosed such responsibility and hence account thereof. Indeed, in many ways, disciplining the missing was a precursor of sorts to the missing of the missing of which I am writing here and elaborate below.

The formulation offered by Rassool above with regards to the repatriation and "re-storing of the skeletons of Empire" seems to suggest a conventional approach to biography. Elsewhere, however, Rassool has critiqued certain approaches to biography, particularly in relation to political biographies that constitute resistance histories.⁴⁸ Biography, as a genre of history, has generally been concerned with life stories, "the interval between birth and death"⁴⁹, of persons who achieved fame or

⁴⁷ See for example, W. Utting and N. Hooper, 'Ex-detainee who is suing Minister vanishes' in *Sunday Times* (2 May 1982); Staff Reporter, 'Mthimkulu case 'not for TV's Police File'' in *The Cape Times* (30 September 1982); C. Rickard, 'Mystery deepens with no trace of missing detainee' in *The Daily News* (1 October 1982); M. Tyala, 'Appeal on missing student' in *Eastern Province Herald* (25 April 1983) and J. Matyu, 'Students told to 'dismantle oppression' in *Evening Post* (25 April 1983); Hansard and R. Nuttall, ' 'No report' on PE thalium victim' in *Eastern Province Herald* (28 April 1983); D. Bishop, 'Missing student mystery remains unsolved' in *The Cape Times* (13 April 1984); M. Badela, '4 years on...the mystery of the missing PE student deepens, with the claim: Mthimkulu back – as a guerilla' in *City Press* (13 April 1986); J. Pauw, 'So het Oos-Kaapse aktivis verdwyn' in *Vrye Weekblad* (1 December 1989).

⁴⁸ See for instance what has been described as the Hyslop – Rassool debate: C. Rassool, 'Rethinking Documentary History and South African Political Biography' in *South African Review of Sociology*, Vol. 40, No. 1 (2010), 28-55; J. Hyslop, 'On Biography: A Response to Ciraj Rassool' in *South African Review of Sociology*, Vol. 41, No. 2 (2010), 104-115 and C. Rassool, 'The Challenges of Rethinking South African Political Biography: A Reply to Jonathan Hyslop' in *South African Review of Sociology*, Vol. 41, No. 2 (2010), 116-120.

⁴⁹ C. Rassool, 'The Individual, Auto/biography and History in South Africa' (Unpublished PhD Thesis, University of the Western Cape, 2004), 44.

notoriety in life. Recording their lives for posterity, through what Pierre Bourdieu calls the 'biographical illusion', was to seemingly inscribe them as subjects of history. As an 'illusion', subjects of conventional biography, as Rassool posits, were considered as "autonomous, intellectual agents, uncoerced by cultural or historical circumstances, [their] career as an ordered sequence of acts, events and works...a modernist fantasy about society and selfhood."⁵⁰ This 'biographical illusion' has also haunted attempts at writing the biographies of those considered as missing subjects of history.⁵¹ Rassool argues that, "there will always be a dialogue between the biographical process and autobiographical traces, even where no autobiography exists." These autobiographical traces or

narrative traces are to be found in archival collections, interviews, diaries, and other forms of life-writing and self production. They are also to be found in the 'storied life' of the subject, just as they may have been forged in the mutually constitutive settings of biographical relations and in the documentary imperatives, plots and patterns of biographical institutions.⁵²

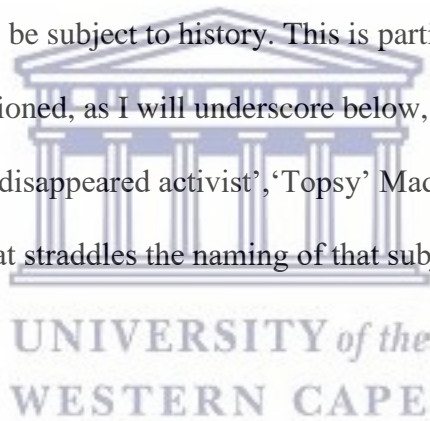
For Rassool therefore, the autobiographical traces "constitute genealogies of biographical production, which shape and influence the contours of contemporary productions through their narrative selections, silences and transactions." Indeed, he argues that South African political biography "has largely reproduced a 'biographical illusion' by approaching political lives as characterized by an ordered sequence of acts, events and works, with individuals characterized by stability, autonomy, self determination and rational choice." In so doing "national histories [have been constructed] in which leaders have been made to speak as national subjects through resistance history." For Rassool however, "biographic research [should] be approached through questions about the conditions and relations through which

⁵⁰ C. Rassool, 'The Individual, Auto/biography and History in South Africa', 29.

⁵¹ See for example M. Evans, *Missing Persons: The impossibility of auto-biography* (London: Routledge, 1999).

⁵² C. Rassool, 'The Individual, Auto/biography and History in South Africa', 47-48.

biographic narratives came to be produced.”⁵³ In a similar vein therefore, I ask that if history as a ‘discipline of the dead’ also claims to “extend the biography of the dead” through “the acquisition of post-mortem personhood”, what kind of biography of ‘Topsy’ Madaka was in place so as to inscribe him within the category of ‘disappeared activist’? The convergence of a political biography ascribed to the dead body and the political funeral enacted attempts to fix the restored personhood of the once missing in a particular way. Indeed, as Rassool puts it, “it was the physicality of mutilation that embodied the materiality of apartheid.”⁵⁴ The coffin, Rousseau argues, “[of] the exhumed and missing body of the apartheid dead affected a transformation of incomplete and fragmented remains into a mournable body.”⁵⁵ And yet to be a subject of history is also to be subject to history. This is particularly so when to be a subject of history is conditioned, as I will underscore below, by the inscription of a political biography to the ‘disappeared activist’, ‘Topsy’ Madaka, figured as a specific kind of political subject that straddles the naming of that subject as ‘comrade’ and as ‘enemy’.



A biographical footnote?

In asking after the biographic production of ‘Topsy’ Madaka as missing, I take heed of Rassool’s argument that the processes of biographic production calls for “attention to be given to biographical relations and to an understanding of conditions of biographical production. It is critical to understand different forms of biographical

⁵³ C. Rassool, ‘Rethinking Documentary History and South African Political Biography’ in *South African Review of Sociology*, Vol. 41, No. 1 (2010), 49.

⁵⁴ C. Rassool, ‘Human Remains, the Disciplines of the Dead and the South African Memorial Complex’, 139.

⁵⁵ N. Rousseau, ‘Identification, politics, disciplines’, 195.

mediation as well as the uses to which biographies have been put.”⁵⁶ The relations, conditions and forms of mediation in the production of a biography of ‘Topsy’ Madaka as missing, I suggest, might be gleaned from the archive of the TRC, which must also be understood as the TRC as archive through a reading of its Human Rights Violations (HRV) and Amnesty Hearings.⁵⁷

The point of my reading, and following Suren Pillay, is to “glimpse the formation of a political subject, and an account of the enemy.”⁵⁸ This however is not so much an exercise in “reading against the grain” or even “along the grain”, but perhaps more akin to what Premesh Lalu suggests, and borrowing from Karl Marx, as “reading with a grain of salt.”⁵⁹ To read with a grain of salt is not to set the record straight in the sense of affirming or correcting a particular biography of Madaka. Neither is it to construct a biography of Madaka through my reading, though this might appear to be so. Rather, reading the testimonies that follow “with a grain of salt” is to delineate not only the content, but also the form of those testimonies as they are mediated through the conditions and relations of the TRC itself.

Brent Harris, in an essay thinking through the production of (public) history that draws on Jacques Derrida’s discussion on the work of the archive, describes the relationship between archive, evidence and history through the TRC as metonym for that relationship. Harris makes the point that “by setting up its own archive, the history that the TRC produced became self-referential as the TRC assumed the

⁵⁶ C. Rassool, ‘The challenges of rethinking South African political biography: A reply to Jonathan Hyslop’ in *South African Review of Sociology*, Vol. 41, No. 2 (2010), 118.

⁵⁷ See B. N. Abrahams, ‘Unfinished Lives: The Biographies of Nokuthula Simelane’ (Unpublished Masters mini-thesis: University of the Western Cape, 2018), Chapter 1, 28-58.

⁵⁸ S. Pillay, ‘The Partisan’s Violence, Law and Apartheid: The Assassination of Mathew Goniwe and the Cradock Four’ (Unpublished PhD Thesis: Columbia University, 2011), 173.

⁵⁹ Borrowing the phrase from Marx, Lalu deploys the strategy of “reading with a grain of salt” to “make apparent [his] concern with the processes of subjection” so as to discern the “conditions of constraint” as it relates to settler colonial accounts of the killing of the Xhosa King Hintsa in 1835. See P. Lalu, *The Deaths of Hintsa: Postapartheid South Africa and the Shape of Recurring Pasts* (Cape Town: HSRC Press, 2009), 29, 103, 127.

authority of the *archon* to interpret the archive that it assembled.” Harris suggests that “for the TRC to assume the authority of the *archon*, to call on the Past to speak and to permit the Past to speak, and because the archive it consigned was a national archive, the TRC needed to define and constitute the nation in relation to which it positioned itself.”⁶⁰ A thought-provoking essay within what has been called the ‘first wave’ of critiques of the TRC, Harris argues that,

[b]y casting the stories of prominent and ‘known’ local figures in the struggle against apartheid as the stories of the ‘voiceless’, the TRC located them within the national struggle for liberation. They were thus no longer local but teleologically part of a national struggle for liberation. This fulfilled the TRC’s notion of ‘uncovering’ a ‘hidden’ history, of ‘unearthing’ a suppressed Past and making that Past part of the new history of the nation. In so doing, the TRC provided prominent activists with a subject position from which to speak to, and of, the nation while denying others the same opportunity...⁶¹

While issue might be taken with Harris’s reading of the “the TRC’s notion of ‘uncovering’ a ‘hidden’ history, of ‘unearthing’ a suppressed Past and making that Past part of the new history of the nation” in so far as it relates to debates of the TRC as a nation-building project⁶², of immediate significance above is Harris’s point of the TRC ascribing subject-positions “from which to speak to and of, the nation while denying others the same opportunity.” In a footnote, and this really is extraordinary, Harris notes that,

At the HRVC hearing into the poisoning and disappearance of Siphwe [sic] Mthimkulu and disappearance of Topsy Madaka, for example, Mthimkulu’s mother speaks, along with the prominent comrades that were his [Mthimkulu’s] contemporaries. These prominent comrades included Lulu Johnson who was a former president of the Congress of South African Students. Indeed Boraine did not mention Topsy Madaka in his introduction nor was the hearing concerned with Madaka except for his disappearance

⁶⁰ B. Harris, ‘The Archive, Public History and the Essential Truth: The TRC Reading the Past’ in C. Hamilton, V. Harris, J. Taylor, M. Pickover, G. Reid and R. Saleh (eds.), *Refiguring the Archive* (Kluwer Academic Publishers, 2002), 165-166. See also J. Derrida and E. Prenowitz, ‘Archive Fever: A Freudian Impression’ in *Diacritics*, Vol. 25, No. 2 (Summer 1995), 9-63.

⁶¹ B. Harris, ‘The Archive, Public History and the Essential Truth: The TRC Reading the Past’, 175.

⁶² See for example M. Fullard and N. Rousseau, ‘Uncertain borders: The TRC and the (un)making of public myths’ in *Kronos*, Vol. 34, No.1 (Nov. 2008), 215-239.

alongside Siphiwe [sic] Mthimkulu. The hearing thus pieced together a biography of Mthimkulu, focusing on his involvement in the struggle against apartheid. *No* biographical sketch of the life of Topsy Madaka was entered into.⁶³

What I find extraordinary of and in this footnote is that in making the point, Harris is caught within his own critique through making the point in a footnote. That said, I suggest however that it is not so much that “*no* biographical sketch of the life of ‘Topsy’ Madaka was entered into” but rather that a particular “biographical sketch” was produced by a biographical process expressed and mediated through and by testimonies at the TRC. These testimonies include not only HRVC testimonies that I suggest figured Madaka as a particular subject of history, but also perpetrator testimonies at the Amnesty Hearings of the TRC that figured him as a particular political subject. In so doing, Madaka is produced as missing by being subject to a history of apartheid-era disappearances that, as Lalu cites Ranajit Guha, “stutters in its articulation”.⁶⁴ Indeed, such a history cannot but not be inconsistent in its telling.

The particular “biographical sketch” produced of Madaka, I suggest, is more akin to what Allen Feldman refers to as a “biographical artifact”. Feldman suggests that,

The biographical artifact of human rights violations is a disemic text, performance, or enunciation in so far as it carries both the marks of the perpetrator and the trace of the historical survivor not only in its inception but at the point of its reception, and in its modes of reception. Violence is not only written into its content, but into the action of the biography’s endowment and receivership. The specter of the dyad – recipient and perpetrator – haunts every moment of witnessing, as a static nucleus or kernel that simulates antithetical subject positions at every moment of witnessing’s repetition and relay.⁶⁵

⁶³ B. Harris, ‘The Archive, Public History and the Essential Truth: The TRC Reading the Past’, Footnote 74, 175. Italics my emphasis.

⁶⁴ P. Lalu, *The Deaths of Hintsa*, 62.

⁶⁵ A. Feldman, ‘Memory Theaters, Virtual Witnessing, and the Trauma-Aesthetic’ in *Biography*, Vol. 27, No. 1 (Winter 2004), 193.

The ‘biographical artifact’ of human rights violation narratives is the inscription of the “trace of the historical survivor.” This might be understood as the producing of the biography of a person through the categorical set of gross violations of human rights – abduction, torture, severe-ill treatment, killing and the associated violation of corpse, understood as the destruction of the dead body. In other words then, Madaka’s biographical trace is inscribed through these categories that names him as dead but whose remains are missing but in so doing, I will show, also names him as a political subject that is subject to the effects and affect of being a subject of and to apartheid. Thus, as Feldman posits,

The impetus for biographical visibility and its public presentation [at the TRC] was precipitated from the militarization and erasure of the structures of the everyday, through which personhood was once sustained. Biographical expression was the creation or reclaiming of public space that had never existed or had been radically curtailed. The articulation of biography was an entry into a historical space previously controlled by state apparatuses or other agencies of violence that coercively assigned and/or jettisoned subject positions.⁶⁶

In suggesting that testimonies before the TRC hearings be considered as ‘biographical artifacts’, Feldman posits that those testimonies have “a doubled density and gravitas due to its historiographic vocation and artifactual status; it is a window of historical visualization and also a historical object, midwifed from materialities of pain and suffering.” The question, for Feldman, is “how does this double status as both medium and artifact orient its relation to the historical?” In this sense, Feldman is concerned with the “social being of narrative truth”. In other words, he is concerned with “the politics of narrative circulation, emplotment, and interpretation.”⁶⁷ The larger question guiding Feldman therefore stems from the acknowledgement that those testimonies of pain, terror and suffering, those ‘biographical artifacts’, as

⁶⁶ A. Feldman, ‘Memory Theaters, Virtual Witnessing, and the Trauma-Aesthetic’, 172.

⁶⁷ A. Feldman, ‘Memory Theaters, Virtual Witnessing, and the Trauma-Aesthetic’, 164.

experienced and witnessed through the TRC process, “may write histories of terror and harm, but they themselves are written into a history” and therefore the object of concern is “what history that might be.”⁶⁸

Indeed, I argue here that the histories of terror and harm expressed through the TRC hearings into the disappearances of ‘Topsy’ Madaka and Siphiwo Mthimkulu are written into a history of apartheid-era disappearances, a history of the missing that, following Harris, presupposes itself as self-referential. In other words, that history is an expression of the liminality that engulfs accounts of enforced disappearances by ascribing asymmetrical subject positions to the historical as political subject.

To return then to Harris’s claim that “*no* biographical sketch of the life of ‘Topsy’ Madaka was entered into”, I suggest rather that two intertwined biographical sketches of Madaka as missing were produced through both the HRVC and Amnesty hearings. These biographical sketches instigated asymmetric subject positions of Madaka, including in relation to Siphiwo Mthimkulu, as missing. Indeed, as Feldman posits,

These narratives of human rights violations are testimonials to the irreconcilable. They neither refract a unified speaking subject, nor readily lend themselves to unification and instrumentation from without, despite the many orderings and reductions applied to them by law, media, and medicine. Asymmetric subject positions are not only figures within the narrative, but also are relationships inscribed into the symbolic economy of narrative transmission, response, and adjudication. The authoritative and monophonic application of a narrative closure can only instigate further asymmetric subject positions, further tales left untold, further forms of cultural violence, and further inequitable regimes of truth obtained from the condition of those who have been othered by violence.⁶⁹

⁶⁸ A. Feldman, ‘Memory Theaters, Virtual Witnessing, and the Trauma-Aesthetic’, 167.

⁶⁹ A. Feldman, ‘Memory Theaters, Virtual Witnessing, and the Trauma-Aesthetic’, 193-194.

Thus one biographical sketch produced of ‘Topsy’ Madaka, I suggest, was expressed through the HRV hearing as the final moments of his life before his disappearance, albeit only in seeming service to a biographical sketch of Siphiwo Mthimkulu and his disappearance, that constructs Madaka as a fragmented historical subject, or rather, a ‘subject in formation’.

As Harris notes, Alex Boraine, the deputy chairman of the TRC, did indeed not mention ‘Topsy’ Madaka in the opening remarks of the 26 June 1996 HRVC hearing thereby implicitly suggesting that the hearing was solely about Siphiwo Mthimkulu. Emphasis in the opening remarks was placed on the court order gagging Joyce Mthimkulu from testifying before the Commission based on interdicts obtained by perpetrators, including Nick Van Rensburg and Gideon Niewoudt, to prevent her from naming and implicating them in her testimony.⁷⁰ ‘Topsy’ Madaka, and the circumstances of his disappearance, circulates through that particular HRVC hearing in relation to the disappearance of Siphiwo Mthimkulu.

Through the HRV testimonies of Joyce Mthimkulu, Mbuyiselo Madaka (the brother of ‘Topsy’ Madaka), Monde Mditshwa, Lulu Johnson, Lulama Bangani, Tango Lamani and Themba Mangqase, a biographical sketch of Madaka emerges that constructs a narrative around the final moments when both he and Siphiwo Mthimkulu were last seen before being abducted by the security police. All the HRV testimonies were heard on the same day during the same sitting in Port Elizabeth and followed upon each other in a sequential manner in so far as the circumstances of the final moments in which both ‘Topsy’ Madaka and Siphiwo Mthimkulu were last seen. Indeed, all the testimonies to a certain extent fill in the gaps of the preceding testimonies and corroborate each other in a process of authenticating the ‘biographical

⁷⁰ See TRC *Final Report*, Vol. 1, Chapter 7, 180.

artifact' not only of Siphiwo Mthimkulu as missing, but also of 'Topsy' Madaka as missing.

'Topsy' Madaka enters the narrative of the disappearance of Siphiwo Mthimkulu during Joyce Mthimkulu's testimony when she states,

the 14th April 1982, he [Siphiwo] went to Livingstone Hospital. It was very early in the morning. And he was accompanied by Topsy Madaka. He was the person who used to visit him frequently. He used to take him with his car and transport him to and fro[m] the hospital.

Joyce Mthimkulu here registers the friendship between her son and 'Topsy' Madaka that will later be renamed as comradeship in the struggle against apartheid. Joyce Mthimkulu continues to testify that during the afternoon of the 14 April 1982, Moli Bloban (a friend and colleague of Siphiwo) had called her home and "even came personally to find out if Siphiwo had arrived, because he said Siphiwo had tried to contact him telephonically but he didn't find him." Joyce Mthimkulu is then asked why Siphiwo had telephoned Bloban and she responds,

Moli reports that Siphiwo was requesting Moli to transport him home because Topsy had disappeared. He phoned again to find out if Topsy was there, but he found that there was nobody. The story goes that Siphiwo at last, because we didn't receive any telephone call from him, it was reported that he was taken by somebody from Livingstone Hospital because I do not know this person, because he didn't bring the child to me. This person took Siphiwo to wherever he knows, but that was the last time that I saw Siphiwo when he was going to the hospital. On the same day, Commissioner, Topsy came back in the evening. It was about eight in the evening. We were in the kitchen having supper. He greeted us and I looked behind him thinking that Siphiwo would be coming along, but Topsy said to me, he was asking if Siphiwo has come back home. I was surprised.

I informed him that it is very strange because you are the person who took Siphiwo to the hospital, why do you come and ask him from me.

As I say this, I didn't bother much. I was not panicking because I thought he might have gone to some of his friends. But I was surprised why did he leave him and then he would come in the evening and ask me.

I informed him, I gave him Siphiwo's tracksuit because it was a bit cold in the evening. Topsy took this tracksuit top and left. We slept, Topsy and Siphiwo never came back.

A short while later during her testimony, Joyce Mthimkulu is asked “how were they [Siphiwo and Topsy] separated from each other?” to which she responds, “Topsy didn’t give me a long explanation, the only thing he said to me was I know where to get him. And then he left. I requested that he could please, if he finds him, must come and bring him along, because I would like him to be here at home, because he was very ill.”⁷¹ Up to this point in the HRV hearing, Brent Harris’s point about ‘Topsy’ Madaka’s disappearance only being narrated in relation to the disappearance of Siphiwo Mthimkulu seems justified. However, it is worth considering Feldman’s point that

the biographical witness at the TRC struggled with the atomization of social knowledge and the imposed grids of invisible experience. In turn, the moral imperative of historical attentiveness – the ethical responsibility to know and to be accountable for what is or can be known – underwrote the TRC’s notion of ‘truth’, and its project to interdict an institutional culture of deceit promulgated by the former apartheid state.⁷²

Related to this struggle “with the atomization of social knowledge and the imposed grids of invisible experience” have been views that the TRC placed an overreliance on victims’ statements “which skewed history by individualizing suffering” thereby questioning the authentication of testimony and “fetishizing the atomized biographical narrative.”⁷³ Feldman argues however that testimony was authenticated in two ways, “through historiographic and legal evidentiary assessment before and after testimony; and through community validation, since many of the hearings...took on the atmosphere of church witnessing call and response and call-outs, choral singing and the dancing of the *toi-toi*, [sic] as other survivors in the audience supported the

⁷¹ Testimony of Joyce Mthimkulu, Human Rights Violation Hearing, Port Elizabeth (26 June 1996) <http://www.justice.gov.za/trc/hrvtrans/hrvpe2/mtimkhul.htm> (Accessed 11 September 2018).

⁷² A. Feldman, ‘Memory Theaters, Virtual Witnessing, and the Trauma-Aesthetic’, 173.

⁷³ A. Feldman, ‘Memory Theaters, Virtual Witnessing, and the Trauma-Aesthetic’, 175.

witnesses through public expressions of feeling.”⁷⁴ Within the latter authentication, Feldman draws on the work of Ruth Wilson Gilmore and her notion of “social motherhood” and he posits that “a significant number of witnesses were women...who represented not just themselves, or fragmented nuclear families, but extensive networks of filiation, or real and symbolic kinship.” For Feldman therefore, “these women did not take the stand as atomized traumatised victims, but as representatives and embodied signifiers for the disappeared and the dead.”⁷⁵ In this sense therefore, the testimony of Joyce Mthimkulu might be read as not only producing the biographical artifact of her son, but also of ‘Topsy’ Madaka as friend and ‘comrade’ to her son.

The testimonies following Joyce Mthimkulu might seem to both disrupt and confirm Brent Harris’s assertion. Mbuyiselo Madaka, the brother of ‘Topsy’ Madaka, testified after Mrs Mthimkulu and begins his testimony by stating that he may not be of any assistance because he was not in the country during early 1982 as he was in exile and that “my parents, if they were here, they would give a better description.” The parents of Mbuyiselo and ‘Topsy’ Madaka had passed away in the early 1990s. What little information Mbuyiselo Madaka had was based on newspaper reports immediately following the disappearances. Mbuyiselo Madaka further stated that when Chris Hani had visited the camp in which he was based, he had asked Chris Hani whether his brother and Sipiwo Mthimkulu had joined the ANC camp in Lesotho to which Hani replied that he had no information that they had joined the camp there. Mbuyiselo Madaka thus stated that:

As far as I am concerned, I am in the dark, completely. I hope though that my comrades here who were friends of Topsy at the time, will clear things for

⁷⁴ A. Feldman, ‘Memory Theaters, Virtual Witnessing, and the Trauma-Aesthetic’, 175.

⁷⁵ A. Feldman, ‘Memory Theaters, Virtual Witnessing, and the Trauma-Aesthetic’, 176. See also A. Feldman, *Archives of the Insensible: Of War, Photopolitics, and Dead Memory* (Chicago: University of Chicago Press, 2015), 295- 299.

us...that would also help to [sic] me, because my younger brother's [Topsy] son is looking to me as an uncle. He hopes that I may have better information. I am glad the information is here because it will help him as well so that this thing is clarified...

As far as the bones are concerned, we would like to have them. We would like to have those remains and have a funeral ceremony, because there is something that I always say at home, I don't like the word disappearance. I don't like it all, because if we were to accept that, then we would never get the remains.⁷⁶

While not being able to assist the TRC with information pertaining to his brother's disappearance, the final words of Mbuyiselo Madaka's testimony are crucial: "I don't like the word disappearance. I don't like it all, because if we were to accept that, then we would never get the remains." They are crucial because, I suggest that through Mbuyiselo Madaka words, 'Topsy' Madaka was missed as missing in the very literal sense of him being missing, not only his physical remains, but was missed, as Jenny Edkins would have it, as "a person-as-such."

The gaps in Joyce Mthimkulu's testimony as to the movement of both Sipiwo Mthimkulu and 'Topsy' Madaka were filled through the testimony of Tango Lamani. He had accompanied Sipiwo Mthimkulu to Livingstone Hospital on the 14 April 1982. Lamani testified that he was asked by Sipiwo to join him because Madaka could only drop Sipiwo at the hospital.⁷⁷ The reason for this was that Madaka had to work that day, he worked for an insurance company, and Sipiwo Mthimkulu would need assistance in looking for transport to get back from the hospital. Lamani testified further that after securing transport from the hospital, Sipiwo Mthimkulu eventually ended up at Lulu Johnson's home. Madaka returned from work and was looking for

⁷⁶ Testimony of Mbuyiselo Madaka, Human Rights Violation Hearing, Port Elizabeth (26 June 1996) <http://www.justice.gov.za/trc/hrvtrans/hrvpe2/mtimkhul.htm> (Accessed 11 September 2018).

⁷⁷ Most accounts by scholars writing on the disappearances of Mthimkulu and Madaka claim that they were both last seen at Livingstone hospital. See for example M. Sanders, *Ambiguities of Witnessing: Law and Literature in the Time of a Truth Commission* (Johannesburg: Wits University Press, 2007), 41.

Siphiwo and according to Lamani, Madaka went to Lulu Johnson's home accompanied by Themba Mangqase.⁷⁸

According to Themba Mangqase's testimony, on arrival at Lulu Johnson's home with Madaka:

We got in, there was something which Topsy directed to Siphiwo just as we were getting into the house. Siphiwo responded by saying, he used to call Topsy by his clan name and said Jwaga. He said Jwaga you must not repeat the same thing that you did yesterday, I don't want to go to that place that you want to take me to. He didn't go further and state where were they the day before. Topsy persuaded him to go outside so that they could discuss this out of the house...they had a long discussion outside.

Themba Mangqase further stated that Madaka had given a tracksuit-top to Siphiwo Mthimkulu, the tracksuit-top that Joyce Mthimkulu testified to giving to Madaka to give to her son. Themba Mangqase concluded his testimony by stating that as Mthimkulu and Madaka were getting ready to leave Lulu Johnson's home, he had asked Madaka to drop him off near his home. Themba Mangqase was the last person to have seen Siphiwo Mthimkulu and 'Topsy' Madaka before the security police abducted them.⁷⁹

Brent Harris names Lulu Johnson as "one of the prominent comrades" that testified at the hearing. Reading Lulu Johnson's testimony seems to confirm Harris's point that the biographical sketch "pieced together at the hearing" was a specific aspect of the life of Siphiwo Mthimkulu that focused on his involvement in the struggle against apartheid. Lulu Johnson's testimony focused on COSAS and the injustices and physical violence against members of the organization. In concluding his testimony, Lulu Johnson mentions 'Topsy' Madaka as one of many 'comrades'

⁷⁸ Testimony of Tango Lamani, Human Rights Violation Hearing, Port Elizabeth (26 June 1996) <http://www.justice.gov.za/trc/hrvtrans/hrvpe2/mtimkhul.htm> (Accessed 11 September 2018).

⁷⁹ Testimony of Themba Mangqase, Human Rights Violation Hearing, Port Elizabeth (26 June 1996) <http://www.justice.gov.za/trc/hrvtrans/hrvpe2/mtimkhul.htm> (Accessed 11 September 2018).

that were killed by security police. It is this history of COSAS, elaborated on by Lulu Johnson from the testimony of Monde Mditshwa, through which a political biographical sketch of ‘Topsy’ Madaka emerges within the discursive regimes of truth operating through the TRC hearings that ascribes a political subjectivity to him.

This political biographical sketch emerges briefly at the HRVC hearing but is elaborated on and ‘fixed’ by the perpetrators at the Amnesty hearing and combined, produces ‘Topsy’ Madaka as missing in locating him as a “‘known’ local figure in the struggle against apartheid as a story of the ‘voiceless’... within the national struggle for liberation.”⁸⁰

Monde Mditshwa testified on behalf of COSAS and was asked to provide information as to the activities of Siphiso Mthimkulu within the organization. He had come prepared with a written statement but that statement was solely in relation to the activities of Siphiso Mthimkulu. Monde Mditshwa however states that members of COSAS had agreed that he “should put this paper aside and explain that when we talk about Siphiso and the comrades with whom he worked...I should also explain Topsy Madaka’s role, because you may not hear his name being mentioned in the statement.” Mditshwa qualifies why this “may” be so:

I can say immediately that the main reason is that most part of this statement focuses on the people who were in COSAS in the Executive and other organization with which COSAS were. The way in which we worked with comrade Topsy Madaka, I would just like to say at the outset, that as his elder brother said, as Mbuyo said in the struggle, he was very cooperative. Topsy, we knew through Mbuyo Madaka who is the person we used to work with and we got used to Topsy because we used to hold our meetings at his home and he would help us with things like transport from time to time wherever there was some help we needed for transport, he would help us as Mrs Mthimkulu has explained. He was always there. Comrade Topsy was always helping the comrades.⁸¹

⁸⁰ B. Harris, ‘The Archive, Public History and the Essential Truth: The TRC Reading the Past’, 175.

⁸¹ Testimony of Monde Mditshwa, Human Rights Violation Hearing, Port Elizabeth (26 June 1996) <http://www.justice.gov.za/trc/hrvtrans/hrvpe2/mtimkhul.htm> (Accessed 11 September 2018).

'Topsy' Madaka was an 'associate' member of COSAS. More importantly, he was a 'comrade', a friend of the struggle. According to Mditshwa's testimony, the role of Madaka in the struggle against apartheid might be described as support, and covert, in relation to the more active and overt activities of other members like Siphiso Mthimkulu. It is useful here to briefly think through the significance of the word 'comrade' as it relates to Madaka as a 'subject in formation' that is at once historical and political.

Writing in 1965 about the shift in personal relations in communist China from friendship to comradeship, Ezra Vogel noted that the use of the word 'comrade' was to "describe the relationship of one person to another in their role as fellow citizens. As one's activities and responsibilities as a citizen of the state came to play an important part in one's life, so did the relationship between citizens become a critical mode of interpersonal relations."⁸² In the South African experience of the anti-apartheid struggle, it is not a stretch of the imagination to suggest that 'comrade' described the relationship between those opposed to apartheid and was/is a "critical mode of interpersonal relations" in imagining a form of citizenship congruent with that of the 'nation to come.' Indeed, Vogel posits that

The essence of the term comrade lies not only in the loyalty to [the anti-apartheid struggle] (counter-revolutionaries, landlords and other 'enemies of the people' would not be addressed as comrades) but in the universal nature of comradeship. In a very fundamental sense, every citizen is a fellow comrade, and there is no longer such a sharp line even between friends and comrades. Part of the ethic underlying the concept of comrade is that there is an important way in which everyone in the society is related to every other person...An important element in 'comradeship' is the accent on 'helping' other people. 'Helping' is at times a euphemism for getting another person to fall in line and do what is expected of him, whether by logical arguments, forceful persuasion, or repeated reminders. This kind of 'helping' is something

⁸² E. F. Vogel, 'From Friendship to Comradeship: The Change in Personal Relations in Communist China' in *The China Quarterly*, No. 21 (Jan-Mar., 1965), 54. See also S. Ellis and T. Sechaba, *Comrades against Apartheid: The ANC & the South African Communist Party in Exile* (London: James Curry, 1992).

that one should do for a comrade...But 'helping' also means spending time to be of assistance to a person in need...⁸³

As Joyce Mthimkulu testifies to and as Monde Mditshwa emphasized, 'Topsy' Madaka was both friend to and 'comrade' of Siphiwo Mthimulu: 'Topsy' Madaka "was always helping the comrades."

If at the HRVC hearing into the disappearances and murder of Siphiwo Mthimkulu and 'Topsy' Madaka a particular political biographical sketch of Madaka emerged, figured as 'comrade', that sketch was coloured in through the testimonies of the perpetrators who applied for amnesty for the abduction and murder of Mthimkulu Madaka. In so doing, and following Pillay's argument relating to the tension between "fashioning" victims of political violence in legal discourse as victims of human rights abuses and to the ways they are constituted in political discourse, I suggest, a political subjectivity of 'comrade' - 'enemy' - 'comrade' was ascribed to Madaka. The implications of this "fashioning", or figuring, I suggest, enables an articulation of the category missing as it relates to a history of apartheid-era disappearances in producing and missing 'Topsy' Madaka as missing.

Producing the missing

In reading HRV and Amnesty testimonies as 'biographical artifacts' into the abduction and disappearances of 'Topsy' Madaka and Siphiwo Mthimkulu so as to suggest that particular biographies of Madaka were produced, these biographical sketches were produced as part of the response and in relation to the forensic question of 'what happened?' and the 'who did it?' question that the TRC was tasked with responding to. Between these two questions are "mediating discourses" that produce

⁸³ E. F. Vogel, 'From Friendship to Comradeship', 55.

knowledge, including the “juridical framing of the wrong of this violence as a human rights violation.” The forensic question of ‘what happened?’ as Pillay articulates it, therefore “seeks texture and detail: the why, the when, the where and the how.”⁸⁴ The “texture and detail” that emerged during the Amnesty Hearings into the abduction and murder of ‘Topsy’ Madaka and Siphiso Mthimkulu responded to the when, the where and the how of enforced disappearances, subsequent murder and destruction of the two men’s corpses.

From the Amnesty Hearings it was gleaned that Nicolaas Jacobus Janse Van Rensburg, Hermanus Jacobus Du Plessis and Gideon Johannes Niewoudt, with the authorization from Gerrit Nicolaas Erasmus, abducted ‘Topsy’ Madaka and Siphiso Mthimkulu on the evening of the 14 April 1982 outside the Holiday Inn Hotel in Port Elizabeth. [Filling in the gap of what happened to them and where they went after they left Jonhsons home.] They claimed that they had received information from informants that the two men were at the hotel to meet a lady who worked there. Once abducted, the two men were transported to Post Chalmers near the town of Cradock where they were interrogated, given sleeping tablets mixed in sweetened coffee and when they had passed out, they were shot dead. Thereafter, their remains were disposed of by burning and the perpetrators claimed that the remains were then thrown into the Fish River.⁸⁵ However, as the excavation and exhumation at Post Chalmers unearthed, not all the remains were thrown into the Fish River.

⁸⁴ S. Pillay, ‘The Partisan’s Violence, Law and Apartheid’, 108.

⁸⁵ ‘TRC Amnesty Committee: Application in terms of Section 18 of the Promotion of National Unity and Reconciliation Act, No. 34 of 1995. Decision AC/2000/034’

Nicolaas Jacobus Janse van Rensburg (AM 3919/96) First Applicant; Hermanus Jacobus du Plessis (AM 4384/96) Second Applicant; Gerrit Nicolaas Erasmus (AM 4134/96) Third Applicant; Gideon Johannes Niewoudt (AM 3920/96) Fourth Applicant

<http://www.justice.gov.za/trc/decisions/2000/ac200034.htm>

(Accessed 12 September 2018).

By filling in the “opacity of the event with narrative detail”, as Pillay puts it, the ‘what happened’ question “could be ‘understood’, but [as] a kind of understanding that instrumentalises knowing in order to prove the commission of a ‘criminal act’ within the law.”⁸⁶ Yet it is in response to the why question, as part of the forensic question of ‘what happened?’, combined with the ‘who did it?’ question – a question “about who was involved, a question of responsibility and blame and a question of culpability”⁸⁷ - that a biographical sketch of ‘Topsy’ Madaka as a political subject emerges. Pillay dis-articulates the different discourses of knowledge invoked by these questions. He suggests that there is

[t]he knowledge of scholarship and criticism, that seeks an understanding of particular events, processes and phenomena, and which may or may not be mobilized for specific ethical-political ends, and for either hegemonic or counter-hegemonic intentions, on the one hand. And ‘legal knowledge’ which, in legal formalism, views the juridical field as autonomous from the social field, and treats knowledge as ‘motive’, where motive is ‘a sort of causal power, a moving force which impels the agent toward his or her actions.’ During...the TRC Amnesty hearings, knowledge of ‘what had happened’ was produced. This knowledge was produced in a legal space, which we might describe as a ‘habitus’, drawing on the use of Pierre Bourdieu has made of this concept, to refer to ‘a matrix of perceptions, appreciations, and actions.’ Knowledge that is produced within the habitus of law, when explaining the actions of ‘the perpetrator’, we might say tends to be transformed into the status of exculpation, where ‘to exculpate’ is to absolve the individual of culpability.⁸⁸

Pillay argues that, “law as discourse practiced within a certain habitus is invested with certain rules, produces certain kinds of knowledges, and puts into play certain kinds of dispositions and behavioural practices, established within what Bourdieu would call ‘structuring structures.’” For Pillay therefore, “such knowledge directed towards ‘understanding’ what happened was brought forth, summoned, both by oral testimony as well as by the documents that were presented as ‘evidence’. Knowledge of what

⁸⁶ S. Pillay, ‘The Partisan’s Violence, Law and Apartheid’, 108.

⁸⁷ S. Pillay, ‘The Partisan’s Violence, Law and Apartheid’, 108.

⁸⁸ S. Pillay, ‘The Partisan’s Violence, Law and Apartheid’, 108-109.

happened has therefore become simultaneously inscribed in legal discourse as a mode of gathering and relaying evidence. It has become knowledge that could implicate or absolve, as it did in the TRC hearings, where it took on the aura of ‘truth’.”⁸⁹ It is thus worthwhile considering a scholarly article that invokes the knowledge of scholarship and criticism as dis-articulated by Pillay above, but which also invokes the ‘legal knowledge’ produced through the quasi-judicial ‘habitus’ that structured the Amnesty Hearings.

Janet Cherry, in an article titled ‘Hidden histories of the Eastern Cape underground’ and under the sub-section ‘The building of the COSAS/ANC underground and the deaths of Sizwe Kondile, Siphiwo Mthimkulu and Topsy Madaka’, refers to the significance of the amnesty applications and hearings into the disappearances and murder of Sizwe Kondile, Siphiwo Mthimkulu and ‘Topsy Madaka’.⁹⁰ The sub-section begins with a brief biography of Sizwe Kondile, whom I discuss in Chapter 4 of this dissertation, as “the first person to be assassinated by the PE security police...the first of a series of disappearances of key activists about which information was only ultimately revealed during the course of the TRC hearings more than 15 years later.”⁹¹

After describing Kondile’s role in the underground movement, Cherry proceeds to provide a particular kind of biography of Siphiwo Mthimkulu as a “student activist in Port Elizabeth from 1979 until 1982, when he disappeared. He was chairman of the Loyiso High School SRC, an active member of COSAS while also

⁸⁹ S. Pillay, ‘The Partisan’s Violence, Law and Apartheid’, 109-110.

⁹⁰ The aim of the lengthy fifty-three page article is to “[a]void simplistic and linear narratives of the logic of struggle leading to a pre-determined outcome [and] in order to do this ...listen to the voices of those who were active in the struggle ‘on the ground’...to avoid the reliance on the roles played by ‘great men’ such as de Klerk and Mandela, and to shift the focus to how people experienced the struggle.” J. Cherry, ‘Hidden histories of the Eastern Cape underground’ in *The Road to Democracy in South Africa, Volume 4 [1980-1990]* (Pretoria, Unisa Press, 2010), 362.

⁹¹ J. Cherry, ‘Hidden histories of the Eastern Cape underground’, 376.

being...an underground member of the ANC. He was involved in the school boycotts of 1980-1981, and is remembered as being particularly militant, and having opposed the formation of an Azanian People's Organisation (AZAPO) branch in PE."⁹² Cherry then cites extracts from comrades who remembered the activities of Mthimkulu before proceeding to recount the circumstances that led to his disappearance: detention, poisoning, suing the Minister of Police for assault and torture, hospitalization at Groote Schuur where diagnosis of thallium poisoning was made, suing the Minister of Police for poisoning and disappearance on the 14 April 1982. She also briefly discusses Dirk Coetzee's revelations before the Harms Commission of Inquiry into Certain Alleged Murders (1990) that accused the PE security police of being responsible for the poisoning, disappearance and murder of Mthimkulu.

Cherry provides no biographical information of any sort about 'Topsy' Madaka. Instead she proceeds to assert that, "as the deaths of Kondile, Mthimkulu and Madaka and the subsequent revelations of responsibility for these deaths were surrounded with controversy and bitterness, it is worth examining how the security forces justified their actions in this period." This is because, according to Cherry, "the TRC Amnesty Hearings gives us an unusual insight into their motives and their understanding of the nature of the struggle in this period, although it must be born in mind that while legally required to make a 'full disclosure', their main objective was to ensure they met the criteria for amnesty."⁹³ In other words, besides 'full disclosure', they had to prove that their actions were politically motivated and that their crime was a political crime. And yet, as Pillay cites Olavo de Cavarlho, "some explanations of a crime are not explanations: they're part of the crime."⁹⁴

⁹² J. Cherry, 'Hidden histories of the Eastern Cape underground', 377.

⁹³ J. Cherry, 'Hidden histories of the Eastern Cape underground', 379.

⁹⁴ S. Pillay, 'The Partisan's Violence, Law and Apartheid', 108.

The application for amnesty for the murders of Siphiwo Mthimkulu and ‘Topsy’ Madaka, Cherry posits, “was considered one of the most significant breakthroughs of the TRC investigation unit – bringing to light, as it did, information about one of the most intriguing disappearances of the apartheid era.”⁹⁵ Suggesting that the testimony of Gideon Niewoudt about the death of Mthimkulu and Madaka “gives a clear indication of how security police perceived the situation in the Eastern Cape in this period”, Cherry proceeds to provide an excerpt of his testimony:

Mr Niewoudt: From 1978 onwards the executive management of the ANC outside the country inter-alia the late Oliver Tambo visited Vietnam where they encountered the strategy of the people’s war and where it originated. And during the 1980s, the fertile ground for the initiation of the people’s war was created by mobilizing the masses, by politicizing the masses and by arming the masses. That is where Madaka had a role in that structure in particular because the fertile ground had been created, the concept of revolutionary action had been created internally in the country, the masses have been indoctrinated, they have been politicized and they have been mobilized. That is the spectrum at which we are looking on the left from the freedom movements to topple the apartheid government at the time and to effect this. And these are the two poles that we have to look at and the spectrum that existed.

It’s exactly what happened, that is where the late Mr Madaka played a role and this is the conflict which arose between the security police of the time and the liberation ideology at this stage. The masses had been armed inside the country and that is why we had the series of attacks which took the form of bomb attacks, deeds of terror which were the order of the day at the time.

Mr Booyens: That which you told the Commission now, is this also confirmed by Tom Lodge’s book ‘Black Politics in South Africa’ on pages 95 and 96 of the Appendices to your application?

Mr Nieuwoudt: That is correct.

Mr Booyens: And more specifically dealing with the ‘80s’, on page 96 the second paragraph, left hand page, in contrast to the first Umkhonto campaign etc., - that section there, where reference is made also to the Sasol bomb attack, the power stations in Eastern Transvaal , Voortrekker Hoogte police stations, inter alia New Brighton, Chatsworth, Booyens, Soekmekaar. At the bottom of the page he refers to: ‘With the exception of the assassination informers and other people regarded as collaborators, African Security policemen for example, the campaign strategy has been guided by the

⁹⁵ J. Cherry, ‘Hidden histories of the Eastern Cape underground’, 379.

principle that civilian casualties should be avoided'. Was that the situation at the time?

Mr Nieuwoudt: That is correct Mr Chairperson

Mr Booyens: At the same, in the middle of the page 'Setting up Arms Caches etc., as well as forming a cellular organizational structure in the main townships', Mr Chairperson.

ADV. Sandi: Im sorry, can I ask – Mr Nieuwoudt are you still talking about 1980 when you talk about: 'Acts of terror, violence, widespread turmoil', are you still talking about 1982?

Mr Nieuwoudt: I am sketching the scenario from 1980 onwards which continued up to 1982.⁹⁶

Cherry continues and states, “ Nieuwoudt’s lawyer then skillfully leads his evidence to link the actions of Mthimkulu to the actions of MK”. That part of Nieuwoudt’s testimony, at least the part cited by Cherry, allows her to assert that “security police testimony links the sabotage actions of armed MK units with the ANC’s ‘political underground’ which was involved in the building of mass organization. For the security police, it was imperative to prevent the integration of mass political organization with armed struggle.”⁹⁷ She proceeds to cite an extract from the testimony of Hermanus du Plessis as it relates to his application for the abduction and murder of Sizwe Kondile so as to pose the question: “Did Nieuwoudt and du Plessis really believe in 1981-1982 that the Eastern Cape was in the initial stages of a ‘people’s war’?” Her response is as follows:

The testimony given by the security police to the TRC amnesty committee contains police investigation dockets, copies of ANC literature, and analyses of events by political scientist Tom Lodge. It is possible that the security police now, with the benefit of hindsight and academic research, can fit all the events above into a convincing picture of imminent chaos and possible revolution. It did not seem so at the time to participants and observers. The few bomb blasts before 1983 were not publicized; the school boycotts had been contained by early 1982. While there is no doubt that COSAS was an

⁹⁶ Cited in J. Cherry, 'Hidden histories of the Eastern Cape underground', 379-380.

⁹⁷ J. Cherry, 'Hidden histories of the Eastern Cape underground', 381-382.

integral part of the ANC's new strategy to prioritise the formation of mass organization inside South Africa, and that the ANC in Lesotho was involved in the formation of COSAS, it was hard in 1980 to deny the validity of COSAS's campaigns on the quality of education for black youth in South Africa. The distribution of propaganda was indeed one of the tasks of underground ANC political units in the early 1980s, but the reality was that the ANC was only just beginning to develop a public presence.⁹⁸

More specifically, Cherry argues that,

[t]hey were significant in revealing the involvement of Vlakplaas operatives in assisting local security police branches to deal with their 'problems'; they were significant in that they indicated the preparedness of the security police to assassinate civilian opponents at this early stage, before the 'insurrectionary climate' of 1985 which justified their killing of other activists such as Matthew Goniwe and his comrades, and the PEBCO Three. They were significant in showing the 'thin line' between military and political work for the ANC, and the role of the ANC in building mass organisations from its forward area of Lesotho. They were significant in showing to the public the depth of animosity between the protagonists in the conflict in the Eastern Cape...⁹⁹

The archive that Cherry names above was produced in the legal habitus that as Pillay argues, "inflects that archive and our reading of it during a period of political transformation [as historical transformation]."¹⁰⁰ At the Amnesty hearings the knowledge produced was used to provide motive for the gross violations of human rights so as to render a judgment in favour of amnesty. In Cherry's rendering that knowledge is re-produced and re-inscribed to simultaneously construct a "hidden history", as context, in so far as perceptions of the situation in the Eastern Cape during 1981-1982 are concerned, simultaneously to render that history as hidden and unveiled.

The question of producing 'Topsy' Madaka as missing is tied to the question of him as a subject of and to apartheid. Pillay writing about the 1985 killing by security force members of Matthew Goniwe and his comrades, known as the Cradock

⁹⁸ J. Cherry, 'Hidden histories of the Eastern Cape underground', 383.

⁹⁹ J. Cherry, 'Hidden histories of the Eastern Cape underground', 384.

¹⁰⁰ S. Pillay, 'The Partisan's Violence, Law and Apartheid', 152.

4, suggests that to be a subject of apartheid is to be “a *subject in formation*...a figure at once historical and political.”¹⁰¹ In other words then, the context that perpetrators constructed could only be done so through ascribing political subjectivities to their victims. Applicants for amnesty had to link the actions of those they killed to actions taken against the apartheid state, which applicants argued they were defending. Thus Nieuwoudt had to show a causal link between the actions of ‘Topsy’ Madaka and Siphiwo Mthimkulu to the larger context of ‘unrest’ and imminent ‘people’s war’ so as to legally and politically, within the ambit of the TRC’s amnesty criteria, justify his actions of abduction and murder.

Significantly therefore, the excerpt chosen by Cherry, which she does not acknowledge explicitly, is that part of Nieuwoudt’s testimony where he was asked by his lawyer to elaborate on the role of ‘Topsy’ Madaka, “if any”, at meetings held by COSAS in the Port Elizabeth area. And what Cherry omits to include is the first sentence of Nieuwoudt’s response:

Mr Madaka at this stage acted very covertly because it is a consequence of these resistance actions that were taking place and this created fertile ground for the initiation of the people’s war. If you would allow me a moment to explain this please...¹⁰²

[Nieuwoudt then proceeds with what Cherry cites as cited above.]

To return thus for a moment to Brent Harris’s argument that at the HRVC hearing into the disappearances and murders of ‘Topsy’ Madaka and Siphiwo Mthimkulu, “No biographical sketch of the life of Topsy Madaka was entered into”, in Cherry’s rendering of ‘The building of the COSAS/ANC underground and the deaths of Sizwe Kondile, Siphiwo Mthimkulu and Topsy Madaka’, Madaka is not only figured in

¹⁰¹ S. Pillay, ‘The Partisan’s Violence, Law and Apartheid’, 164.

¹⁰² ‘TRC Amnesty Hearing, Gideon Johannes Nieuwoudt, Case 3820/96, Day 3 and 4 (25 September 1997)’

<http://www.justice.gov.za/trc/amntrans%5Cpe/4madaka.htm>

(Accessed 12 September 2018).

relation to Siphiwo Mthimkulu but is figured solely through the extract of the testimony of Gideon Nieuwoudt.

Whereas Cherry provides “texture and detail” to the lives and deaths of Siphiwo Mthimkulu and Sizwe Kondile in so far as they were significant to the building of the COSAS/ANC underground, ‘Topsy’ Madaka is granted no such status. In order for Cherry to unveil the ‘hidden histories of the Eastern Cape’, those histories are also conditioned by the figuring of Madaka by Nieuwoudt and his co-perpetrators as a political subject. It is thus worthwhile considering just how Madaka was figured through the Amnesty Hearings, particularly through the testimony of Nieuwoudt, which Cherry relies on.

Just before Nieuwoudt was asked by his lawyer to describe the role of both Siphiwo Mthimkulu and ‘Topsy’ Madaka in relation to the “unrest situation” in the Port Elizabeth area, Nieuwoudt stated that:

...quite a bit of intensified actions were required to identify these *enemy* leaders – elements, and to determine who were responsible for the unrest situation and to try and prevent this and stabilise the situation.¹⁰³

Nieuwoudt then continued to repeat what his co-perpetrators testified to regarding the role of Madaka as an “*enemy* leader – element”:

According to information which we had Topsy [sic] Madaka was involved in a covert underground structure...which was a structure which was responsible to act as a courier between Lesotho and South Africa, also to recruit scholars for military training outside of South Africa, the accommodation of trained persons, the establishment of DLB’s [drop letter boxes]

Mr Booyens: Was he in the same cell as Mthimkulu?

Mr Nieuwoudt: That’s correct Mr Chairperson.

Mr Booyens: If you were to place him in order of rank as far as that operation was concerned, where would you place him?

¹⁰³ Italics my emphasis.

Mr Nieuwoudt: Mthimkulu seems to have been the number one person, I would make him second in command.

Mr Booyens: The information on Tpsi [sic] Madaka, where did you get this information from?

Mr Nieuwoudt: That came from an extremely sensitive report, an informant who was affiliated to their cell.

...

Mr Booyens: Why was Madaka not detained in terms of the Security Act?

Mr Nieuwoudt: Mr Chairperson, because this informant was the only one and he placed in a very sensitive position in the network of Madaka and if we should have detained him, it would not have mattered what questions you would have put to Madaka he would have immediately through neutralization have established the identity of this informant. I can categorically state here today that that person would have been eliminated by the ANC or whoever.

Mr Booyens: It was well known policy of the liberation movements at that time that informants should be dealt with in this way, not so?

Mr Nieuwoudt: That is correct Mr Chairperson.

Mr Booyens: So you had information, not evidence that you could use?

Mr Nieuwoudt: That is so Mr Chairperson.¹⁰⁴

Identified as an “*enemy leader – element*” that warranted surveillance, Nieuwoudt describes the actions of Madaka, based on “information” from an informer, which led to discussions held over a ten-day period by Du Plessis and Van Rensburg before being taken to Erasmus, whereupon Erasmus gave the go-ahead to proceed with the ‘elimination’. While these discussions supposedly focused largely on the activities of Siphiwo Mthimkulu, Madaka was also deemed responsible for the perceived situation in the Port Elizabeth area. Du Plessis and Van Rensburg then called in Nieuwoudt to assist with the abduction and subsequent killing and disposal of the remains of Madaka and Siphiwo Mthimkulu. But this only explains the motive for the violence

¹⁰⁴ ‘TRC Amnesty Hearing, Gideon Johannes Nieuwoudt, Case 3820/96, Day 3 and 4 (25 September 1997).’

that is the physical act of enforced disappearance and subsequent killing and disposal of remains.

In providing a ‘hidden history’, as context, that simultaneously renders that history as unveiled but mediated through the testimonies of perpetrators at the TRC Amnesty Hearings, Cherry unveils that history by suggesting a number of ‘truths’ based on her analysis. For now, it is the first and second ‘truths’ that Cherry provides that is worth noting:

Firstly there is the ‘truth’ of the security police – a ‘truth’ which understood that the armed struggle in the PE area was escalating in the early 1980s, that this military escalation was closely related to the ANC strategy of building mass organisations, and that the situation was deteriorating into one of anarchy, insurrection or ‘peoples war’.

Secondly, and closely related to this, is the ‘truth’ of the ANC when it argues that the building of the underground and the relationship of mass organization to military units of MK was part of the strategy formulated in the ‘Green Book’. According to this interpretation, the role of Chris Hani in Lesotho was vital in forming underground networks; and Joe Gqabi’s role in the formation of COSAS, as well as some of the ‘old guard’ of MK veterans such as Siphon Hashe in the building of PEBCO, were also vital. In this context, Nieuwoudt’s understanding that he and others were being ‘used’ in a military capacity – and the perception of the enemy as ‘soldiers’ is not unreasonable... It is closer, perhaps, to [a] notion of ‘just strugglers’ – those killed like Kondile should be seen not as innocent victims, but as soldiers who fought on one side of a war; those who committed such deeds should be seen not as ‘evil perpetrators’ of human rights violations, but as those who fought on the other side of the war.¹⁰⁵

The two ‘truths’ offered above are premised on a rationale that self-referentially presupposes an understanding of the violence in South Africa in the 1980s. This rationale is largely constituted by the discourse of the ‘militarization of the state’ offered as a scholarly critique of apartheid state reform from the late 1970s in relation to the ANC’s strategy of a people’s war and its MK activities that is weaved through

¹⁰⁵ J. Cherry, ‘Hidden histories of the Eastern Cape underground’, 384-385.

the ‘total onslaught’ and ‘total strategy’ narrative.¹⁰⁶ This narrative, as Cherry alludes to in the second ‘truth’, is constituted by a discourse of war that embraces a category of the enemy as a sense making mechanism. Yet, in the first ‘truth’, and drawing on Pillay, “in this narrative, the late apartheid state is constructed around ideologically derived imperatives of security, and the enemy is fantastically and strategically constructed around the simulated figure of ‘the communist’.”¹⁰⁷ It is this latter point and Pillay’s insistence that in too easily dismissing claims that “the violence of apartheid’s state agents was carried out as part of an anti-communist effort being waged in South Africa” is to miss a “glimpse [into] the formation of a political subject and an account of the enemy.”¹⁰⁸

Pillay suggests that the figure of ‘the enemy’ was constructed and emerged through a cold-war logic and narrative within a colonial structuring genealogy of the apartheid ‘subject in formation’, which informed the rationale of the apartheid state’s response of counterinsurgency to its perception of the ‘total onslaught’. For indeed, this response hints towards the question of how ‘Topsy’ Madaka was figured as an “enemy leader” and constituted by a discourse of historical transformation as a subject of and to apartheid, which in the process, produces him as missing.

Pillay argues that in order to ask whom the enemy of the apartheid state was and how one became an enemy of the state, how the political is thought needs to be confronted. In order to confront how the political is thought, Pillay draws on the work of Gil Anidjar and posits that while “discussion of the enemy often elides into discussions of war...the enemy as an ontological category possesses an excess that cannot only be explained in and by the identities set in motion by the practices of

¹⁰⁶ In the opening paragraphs of her article, Cherry acknowledges this premise. For some of this scholarly literature as critique, see for amongst others; J. Cock and I. Nathan (eds.), *War and Society: The Militarisation of South Africa* (Cape Town: David Philip, 1989).

¹⁰⁷ S. Pillay, ‘The Partisan’s Violence, Law and Apartheid’, 183.

¹⁰⁸ S. Pillay, ‘The Partisan’s Violence, Law and Apartheid’, 173.

war.”¹⁰⁹ While Cherry seems to endorse Nieuwoudts understanding that he was confronting the “enemy as soldier” that places the category of enemy within the practices of war, it is perhaps more productive, as Pillay suggests, to also locate the category of the enemy within “modern conceptions” of the “constitutive binary that founds the political *as community*.”¹¹⁰ This follows from the work of Carl Schmitt, whom Pillay draws on in acknowledging Schmitt’s influence but also the controversy that surrounds his work, in Schmitt’s friend-enemy conceptualisation. Citing Foucault’s formulation of “So: Politics is continuation of war by other means” that encourages a reversing of Clausewitz conception of the relation between politics and war, Pillay argues that moments of violence such as that against the Cradock Four, and I would add against ‘Topsy’ Madaka, need to be thought in relation to questions of war and the political and

to think about the kinds of subjects they put into play, and the kinds of practices authorized by a political rationality. It is then to consider the event of [enforced disappearance] from within a history of war and the South African colony, as a landscape to be negotiated, as a political community to be fashioned, and with friends to secure and enemies to defeat.¹¹¹

Pillay thus offers a reading of Schmitt’s conceptualizing of the political that includes Schmitt’s re-articulation of the friend-enemy conceptualisation into the realm of the figure of the partisan and the distinction between the real enemy and the absolute enemy through a pedagogy of counterinsurgency. Following a reading of Schmitt’s 1962 lectures in Pamplona, Spain where he articulated the character of the modern partisan and emphasized the order that Napoleon issued to General Lefevre on September 12 1813 that “fighting the partisan anywhere, one must fight like the partisan”, Pillay posits that “the partisan could therefore be thought of, argued

¹⁰⁹ S. Pillay, ‘The Partisan’s Violence, Law and Apartheid’, 174.

¹¹⁰ S. Pillay, ‘The Partisan’s Violence, Law and Apartheid’, 174-175.

¹¹¹ S. Pillay, ‘The Partisan’s Violence, Law and Apartheid’, 179.

Schmitt, as a paradigmatic ‘political’ figure: it fights for the life of the community, unconstrained by military bureaucracy, and the partisan stands for the exception that can never be normalized precisely because of the existential *gravitas* of the struggle.” Pillay posits that therefore, “the absolute enemy is...a total enemy against which one fights a total war, which requires the existential negation of the enemy.”¹¹² For Pillay, Total War and a Total Strategy, as “terms of battle, pertain to the conceptual and historical position of the partisan in the realm of the political. They come into being through the extraterritoriality of the enemy conceived of in absolute terms: the enemy is everywhere, and therefore must be fought everywhere.”¹¹³ Thus, as Pillay traces in his account, security force members drew on a pedagogy of counterinsurgency that informed and structured their rationale and perceptions of the context in which they carried out the violence of apartheid, both in its physical enactment and its structuring logic.

Returning for a moment to Nieuwoudt’s testimony that ‘Topsy’ Madaka was identified as an “enemy-leader” based on “information” from an informer that therefore warranted surveillance of Madaka, it is worthwhile considering Pillay’s point with regards to the figuring of Matthew Goniwe:

Yet we have to remind ourselves that those who were watching Matthew Goniwe, were not watching him because he was an individual...he had evolved into a form that transcended the concrete figure of the individual. He had become a symptomatic figure of the political, along with Sparrow Mkhonto, Sicelo Mhlauli and Fort Calata, an absolute enemy. Symptomatic of the absolute enemy, but importantly not *the* absolute enemy, for they were its chimerical double. As activists they were under surveillance because they were leaders of a civic organization that was affiliated to the United Democratic Front. And the UDF had aligned itself to the ANC which in turn was seen as an externally driven proxy of the absolute enemy.¹¹⁴

¹¹² S. Pillay, ‘The Partisan’s Violence, Law and Apartheid’, 193-194.

¹¹³ S. Pillay, ‘The Partisan’s Violence, Law and Apartheid’, 198-199.

¹¹⁴ S. Pillay, ‘The Partisan’s Violence, Law and Apartheid’, 284.

Pillay's reading of the apartheid subject as a "*subject in formation*" that is both historical and political is useful in thinking through how Madaka was inserted into the realm of the political, as articulated by Schmitt, and constructed as a particular kind of political subject through the testimonies of the perpetrators. I therefore suggest that 'Topsy' Madaka, and Siphiwo Mthimkulu, were "symptomatic figure[s] of the political" through the rendering of the biographical artifact(s) produced through testimonies at the Amnesty hearings. It is here that the third 'truth' offered by Cherry is significant:

There is, however, another 'truth' – this is the 'truth' of the PE public, and those involved in COSAS in the early 1980s, who were not part of any military actions of MK networks. PE was relatively peaceful in the early 1980s; while mass organisations were developing, they were operating in the sphere of legal, non-violent mass protest; the school boycotts of 1980 were the first major resurgence of such forms of protest in PE. According to this 'truth', the student activists were eliminated without justification.¹¹⁵

Indeed, on cross-examination by advocate Mr Nyoka, representing the Mthimkulu and Madaka families who opposed the amnesty application of Nieuwoudt and his co-perpetrators, the political role of "enemy-leader" ascribed to 'Topsy' Madaka by Nieuwoudt was tested:

Mr Nyoka: I put it to you...Mr Madaka did not deserve to die, all he did was being a friend of Mr Mthimkulu and helping him because he had transport...

And in argument before the Amnesty Committee at the end of the cross examination of Nieuwoudt who was the last of the four applicants to testify, Mr Nyoka argued that:

...Mr Madaka was just unfortunate being a friend of Mr Mthimkulu...there's been no real reason for the killing of Mr Madaka, as Mr van Rensburg conceded later on that there was a quote: "no real evidence" against him. Even the DLB's [drop letter boxes] were not confirmed and the only evidence was that of an informer who could not be named...If there was such a big decision to take Mr Madaka's life, then the person was instrumental in having him included in the killings should have been mentioned publicly or an offer made

¹¹⁵ J. Cherry, 'Hidden histories of the Eastern Cape underground', 385.

to the Committee to mention him in camera. Maybe also there was no such informer, it was thus a figment of his imagination.¹¹⁶

The Amnesty Committee seems to have found this argument of note in that in their decision that granted amnesty to all four applicants, was stated:

According to the evidence Madaka was involved in arms smuggling and establishment of safe houses. It is true that that this information obtained from an informer wasn't confirmed by extraneous evidence. But it is also true that no evidence was tendered on behalf of Madaka whose family was legally represented at the hearing that Madaka was not involved in the struggle and did not take part in the alleged activities.¹¹⁷

If the first two 'truths' offered by Cherry allows one to pose the question of how 'Topsy' Madaka was constructed as the 'enemy' through an inscription into the realm of the political, the third 'truth' allows one to pose the question of how 'Topsy' Madaka is seemingly displaced from the realm of the political and inserted into the realm of the political as potential. Referring to Foucault's formulation on 'politics' in his lectures on *Security, Territory and Population*, Pillay posits that Foucault "distinguished between the permanent, existential demarcation of the political (Schmitt), and the specificity of its being brought into being, *as possibility*: 'everything *can* be politicized', and everything '*may*' become political. His is the formulation of the adversarial constitution of the political as potential, and a potential that is born of what he calls 'counter-conduct', the resistance to the imperatives of governmentalization."¹¹⁸ Mr Nyoka's testing of the 'motive' of Nieuwoudt and his co-perpetrators shifts 'Topsy' Madaka's inscription into the political as 'enemy-leader' to his inscription in the political as potential, that in the process, assigns him the status of comrade. It is this displacing, or shifting, of 'Topsy' Madaka as both a historical and

¹¹⁶ 'TRC Amnesty Hearing, Gideon Johannes Nieuwoudt, Case 3820/96, Day 3 and 4 (25 September 1997).'

¹¹⁷ 'TRC Amnesty Committee: Application in terms of Section 18 of the Promotion of National Unity and Reconciliation Act, No. 34 of 1995. Decision AC/2000/034.'

¹¹⁸ S. Pillay, 'The Partisan's Violence, Law and Apartheid', p. 178.

political subject that perhaps alludes to how he comes to be inscribed, referred to, as one of the 'Cosas 2'. Though in the process, I argue, is both produced as, but also missed as, missing.

The politics of dead bodies in South Africa and a process of missing the missing, specifically those produced as missing through apartheid-era disappearances, are re-figured in particular ways through a scripting of a culmination of a process of rehumanisation in the production of a mournable body. This process seemingly marks a seamless shift from missing person to missing dead body to recovered burned human fragments and produced mournable body. This shift supposedly restores personhood to the recovered remains within a memorializing discourse of nation that figures 'Topsy' Madaka as one of the "heroes to the nation."

This category of the dead, I showed, requires a particular biography to be ascribed, a political biography inscribed with a political identity that marks the missing dead as a subject of history. To be a subject of history is also to be subject to history. This is particularly so when to be a subject of history is conditioned by the inscription of a political biography to the 'disappeared activist' figured as a specific kind of political subject that straddles the naming of that subject as 'comrade' and as 'enemy'. During the TRC process, rehumanisation and personhood was mediated through the TRC by testimonies of the loved ones and comrades of Siphiwo Mthimkulu and 'Topsy' Madaka, but also through the testimonies of perpetrators before the Amnesty Committee. This was later extended by the MPTT through the locating, excavating, exhuming and forensic testing of the burned human fragments recovered at the Post Chalmers site culminating in the funerary process and reburial.

A biography of 'Topsy' Madaka as missing, I showed, is produced and scripted through a politics of the missing that engenders notions of rehumanisation and personhood to a history of apartheid's missing dead as constitutive of a re-imagining of the nation.

A "politics of the person as missing", as it relates to the specificity of 'Topsy' Madaka, is one that in seeking to account for how he is produced as missing must also acknowledge and abide by a question of missing-ness that constitutes the missing of the missing. Missing is a condition of a particular kind of personhood in that naming is an element of the constituting of the missing subject. As such, this chapter delineated how 'Topsy' Madaka is missed as missing - is the missing- as- such. '

Topsy' Madaka, I argue, is produced as missing and missed as missing by being subject to a history as a subject of and to apartheid within a discourse of nation that struggles to call into question the very concept of the event of apartheid. Part of this difficulty, I argue relates to the construction of a political biography of the missing person that was produced in apartheid's attempt to account for those whom its functionaries were responsible for producing as missing but that, through a process of disciplining the missing, ultimately foreclosed such responsibility and hence account thereof. Indeed, in many ways, disciplining the missing was a precursor of sorts to the missing of the missing and it is to this disciplining that I now turn.

Disciplining the missing

For two weeks (23 April – 3 May 1990) the ‘Harms Commission of Inquiry into Certain Alleged Murders’ held hearings in London in what used to be a cinema in the basement of South Africa’s embassy at Trafalgar Square. The setting was described as having “a curious blend of Art Deco and Empire, a winged springbok, lunging wildebeest and leaping kudu resplendent on a golden frieze surmounting the wood-panelled room.”¹ Appointed on the 2 February 1990 by former South African state president F. W. De Klerk, hearings of the Harms Commission (over a period of eight months) were conducted (in both English and Afrikaans) in Pretoria (South Africa), at the Dutch Reformed Church’s synodal centre, and for two weeks in London.² The Commission’s chair and sole member was Justice Louis Harms, a graduate from the University of Pretoria’s law faculty. Appointed a judge in 1986, Harms rose to prominence when he led another one-man commission of inquiry into gambling and corruption in the Transkei and Ciskei ‘homelands’.³ Despite his prominence, and as the Commission unfolded, it has continuously been referred to as ‘the lying commission’, the ‘toothless commission’ for having “missing witnesses, missing documents, missing investigations and missing teeth.”⁴

The appointment of the Harms Commission came about largely in response to ‘allegations’ by Dirk Coetzee, a former captain in the South African Police Force and self-confessed leader of a death squad (hit squad), of state sanctioned killings.

¹ D. Beresford, ‘In the Art Deco theatre, a gardener talks of murder’ in *Weekly Mail* (3 May 1990), 10.

² The significance of this date should perhaps not be understated given that it was the same day on which De Klerk announced in South Africa’s parliament the unbanning of the African National Congress and other anti-apartheid organisations ushering in a phase of public formal political negotiation and legal transition.

³ ‘Harms: The man behind the inquiry’ in *Weekly Mail* (2-8 February 1990).

⁴ J. Gordin, ‘Harms spectre looms large in Hefer probe’ (13 November 2003).

<https://www.iol.co.za/news/politics/harms-spectre-looms-large-in-hefer-probe-116913>
(Accessed 1 August 2018).

Coetzee's 'allegations' were about abductions and disappearances, murders, car thefts and operations by security forces into neighbouring countries. Included in those 'allegations', and the concern of this chapter, were details of the abductions and disappearances of Siphiwo Mthimkulu, 'Topsy' Madaka (who both disappeared in 1982) and Sizwe Kondile (who disappeared in 1981). Coetzee claimed they were abducted, murdered, their bodies burnt and concealed by members of an Eastern Cape Security Police death squad.

Coetzee's 'allegations' about the existence of death squads were first publicised by the Afrikaans newspaper *Vrye Weekblad* on the 17 November 1989. Providing his account to journalist Jacques Pauw in Mauritius while en-route to London where he was to be de-briefed by members of the African National Congress (ANC), Coetzee claimed he had been 'in the heart of the whore.'⁵ Pauw recalls the impact of publishing Coetzee's 'allegations', that had also served to cement long circulating rumours, a 'knowing', of state sponsored death squads, and the implications of it being published:

On Friday, 17 November *Vrye Weekblad* published Coetzee's story. The dramatic front page carried a larger-than-life portrait of Dirk Coetzee, with the stark words in Afrikaans: "BLOODY TRAIL OF THE SAP". It continued: "Meet Captain Dirk Johannes Coetzee, commander of a police death squad. He exclusively reveals the full sordid tale of political assassinations, poison drinks, letter bombs and attacks in neighbouring states." Coetzee's allegations were simultaneously the lead stories on the front pages of leading British, European and American newspapers, while other foreign correspondents picked up the interview and sent it around the world. The story inflicted a devastating blow to the South African Police and government of State President FW de Klerk. Ironically, the Minister of Law and Order, Adriaan Vlok, had denied on television the very night before that a police death squad ever existed. Opposition politicians, black political leaders and organisations, human rights lawyers and foreign diplomats demanded a judicial commission of inquiry...⁶

⁵ J. Pauw, *In The Heart of The Whore: The Story of Apartheid's Death Squads* (Johannesburg: Southern Book Publishers (Pty) Ltd, 1991).

⁶ J. Pauw, *In The Heart of The Whore*, 29.

According to Pauw, the police were quick to respond and the then Police public relations chief, Herman Stadler, stated that, “it seems strange that Captain Coetzee, who several years ago was suspended by the SAP [South African Police], now makes these unfounded, untested and wild allegations from a foreign country where he cannot be questioned to verify his claims.”⁷ Coetzee would attempt to verify his ‘allegations’ during four days of examination and cross-examination at the London sitting of the Harms Commission (amounting to just 1000 pages of transcript). As a means of preparing for his testimony before the Commission, Coetzee produced a manuscript titled ‘Hitsquads - Testimony of a South African Policeman: The Full Story’ -penned by his brother- detailing all his ‘allegations’.⁸ Coetzee’s ‘allegations’ were refuted in the Report of the Harms Commission, specifically those relating to the disappearances of Kondile, Mthimkulu and Madaka.

As part of its aims and objectives as an organisation committed to combating political violence in South Africa, the Independent Board of Inquiry into Informal Repression (IBIIR)’s legal team had submitted evidence to the Harms Commission. Included in that collection of evidence were affidavits from family and friends, including affidavits from senior leaders within the African National Congress (ANC) of Kondile and Mthimkulu and Madaka, medical reports and affidavits regarding the poisoning of Mthimkulu as well as corroborative documentation related to Coetzee’s other ‘allegations’. After the submission of Harms’s Report to De Klerk in September 1990 and in response to it, the IBIIR distributed a discussion document titled “Who

⁷ Cited in J. Pauw, *In The Heart of The Whore*, 29-30. Stadler would later submit a submission to the TRC in the form of a book in an attempt to defend the South African Police against claims of gross human rights violations. See Maj-Gen HD Stadler, *The Other Side of the Story: A True Perspective* (Pretoria: Contact Publishers, 1997). See also R. Moosage, ‘The Impasse of Violence: Writing necklacing into a history of liberation struggle in South Africa’ (Unpublished MA thesis, University of the Western Cape, 2010), 120-121.

⁸ The manuscript was not accepted into evidence but Dirk Coetzee’s testimony before the Commission was based on it. See Manuscript of Captain Dirk Coetzee, ‘Hitsquads - Testimony of a South African policeman: The Full Story’.

Lied?”⁹ The document sought to confirm criticisms of the Harms Commission as it related to amongst others, the scope of the commission’s inquiry, the commission’s limited investigation, the failure of the Civil Co-operation Bureau (CCB) to produce evidence and the exempting of holding government ministers responsible for the actions of their subordinates. Most significant about the ‘Who Lied?’ document was its assertion that Coetzee had not lied, specifically in relation to the disappearance of Kondile. This assertion was based on a South African Supreme Court ruling just over a year after the Harms Commission submitted its final Report to De Klerk that was in response to a civil suit laid by General Lothar Neethling against the *Vrye Weekblad* and the *Weekly Mail*. That ruling found that Coetzee’s ‘allegations’ and accompanying evidence were sufficient to rule that a security police death squad had existed.¹⁰

This chapter is prompted by a provisional and seemingly simple question of how it was that the Harms Commission found Dirk Coetzee’s ‘allegations’ to be unverifiable, as ‘lies’? My inquiry begins by asking after the relation between the historian’, the judge and a perpetrator-witness. I describe how Harms first discredited Coetzee as a reliable witness, and thereafter, how Harms presented his own versions so as to account for the disappearances of Kondile, Mthimkulu and Madaka. Following the work of Carlo Ginzburg, I argue that it is necessary, but insufficient to merely engage how we conceive the relation of the judge and the historian to questions of evidence, context and history.¹¹ I argue it would constrain an elaboration of an examination of the disciplining of the missing that must also account for the judge’s anatomy of disappearances.

⁹ See ‘Who Lied? Discussion of the findings of the Harms Commission of Inquiry prepared by the Independent Board’ (The Independent Board of Inquiry into Informal Repression, No Date- No Place).

¹⁰ See ‘Who Lied?’, 28-30. Hereafter ‘Who Lied?’

¹¹ C. Ginzburg, *The Judge and the Historian: Marginal Notes on a Late-Twentieth Century Miscarriage of Justice*, trans. by A. Shugaar (London: Verso, 1999).

Through a reading of the Harms Report I show that Kondile, Mthimkulu and Madaka were cast as the object of historical discourse through a process of what Ginzburg terms “judicial historiography” constituted by “an abuse of contextual proof” and provokes a question of ‘who lied?’ Yet, I argue that asking and abiding by the question ‘who lied?’, as the question had been posed throughout the Commission process and thereafter, cannot adequately engage the implications of Harms refuting of Coetzee’s ‘allegations’ for a writing of history that must reckon with the disciplining of the missing. This is so because it will not register what is not said in the disciplining of the missing.

Kondile, Mthimkulu and Madaka were disciplined – a system of subjection and subjugation - as missing at the Harms Commission through what could be said and what was said about the ‘allegations’ of who was responsible and to be held accountable for their disappearances and killings based on Coetzee’s ‘allegations’, his testimony and evidence together with Harms’s rejection thereof and his alternative versions. Coetzee’s ‘allegations’ detailed how Kondile and Mthimkulu and Madaka were produced as missing persons and as missing dead bodies and those responsible to be held accountable. Based on Coetzee’s ‘allegations’, Kondile, Mthimkulu and Madaka’s physical bodies were missing. For Harms though, by a process of an “abuse of contextual proof” within a “judicial historiography”, Kondile, Mthimkulu and Madaka as missing registered only insofar as Harms operated within a system of subjection and subjugation- discipline - as “a political anatomy of detail.”

In other words, if to discipline the body- the docile body- as Michel Foucault articulates it, is to register that “discipline is a political anatomy of detail”¹², the “political anatomy of detail” with which Harms evaluated and dismissed Coetzee’s

¹² M. Foucault, *Discipline and Punish: The Birth of the Prison* (London: Penguin Books, 1991), 139.

‘allegations’ about the disappearances of Kondile, Mthimkulu and Madaka served to fix a category of missing onto them within competing and mediated discourses of enforced disappearances. These discourses – judicial and political but mediated by the discourse of history - served to implicate the missing as responsible for their own disappearances. Yet, as this dissertation shows, the missing are by no means docile, no matter how attempts at docility through disciplining in its various forms might be figured. What Premesh Lalu terms “the fabrication of historical subjectivity” – that “process by which the subject is necessarily cast as the very object of historical discourse”¹³, is useful in mapping not only what could be said and what was said, but also that which is not said about Kondile, Mthimkulu and Madaka disciplined as missing. That which is not said, I argue, is constrained by an abiding to a ‘who lied?’ question that misses a ‘telling more’ of the disciplining of the missing.

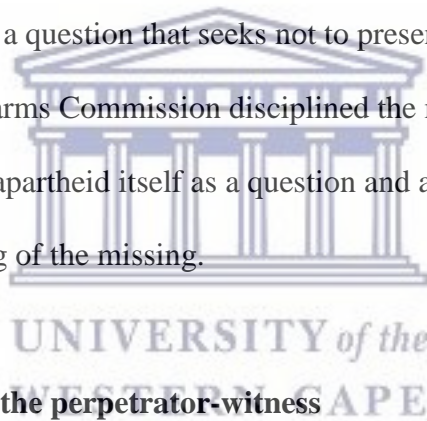
It is this notion of a ‘telling more’, as expressed by Luise White, which emerges from the provisional question of how it was that Harms found Coetzee’s ‘allegations’ unverifiable as well as elaborates on the disciplining of the missing.¹⁴ As mentioned above, a few months after Harms submitted his Report refuting Dirk Coetzee’s allegations, a Supreme Court ruling found Coetzee’s ‘allegations’ verifiable. A few years later, during the Truth and Reconciliation Commission (TRC) process, Coetzee’s ‘allegations’ regarding the disappearances of Mthimkulu, Madaka and Kondile were again found to be verifiable. Asking after what a ‘telling more’ might entail then is the larger question guiding this chapter.

I argue that a ‘telling more’ as it relates to the disciplining of the missing requires a re-thinking and re-reading historically of the administrative apparatus of the

¹³ P. Lalu, *The Deaths of Hintsa: Postapartheid South Africa and the Shape of the Recurring Past* (Cape Town: HSRC Press, 2009), 13.

¹⁴ L. White, ‘Telling more: lies, secrets and history’ in *History and Theory*, Vol. 39, No. 4 (December 2000).

commission of inquiry itself, specifically within apartheid South Africa. Such a re-thinking and re-reading enables an elaboration in so far as what both Coetzee and Harms could say and what they actually said about Kondile, Mthimkulu and Madaka as missing was the very condition of possibility at disciplining the missing and can be gleaned when considering the genealogy of a particular kind of commission of inquiry in apartheid South Africa. This telling more than is to consider the Harms Commission as resonating with, albeit a variation of, what Adam Sitze calls apartheid's 'Tumult Commissions'.¹⁵ From Sitze's reading of the genealogy of apartheid's Tumult Commissions, and by entertaining Whites provocation of not abiding to a who lied question that enables a telling more, the historians' anatomy of disappearances is left with a question that seeks not to present an alternative narrative of the way in which the Harms Commission disciplined the missing, but rather pose a question that foregrounds apartheid itself as a question and a problem that must account for the disciplining of the missing.



The historian, the judge, the perpetrator-witness

Besides the 'allegations' of Dirk Coetzee, Harms also investigated claims regarding the activities of the Civil Co-operation Bureau (CCB) as a covert organisation operating under the auspices of the Special Forces of the South African Defence Force. Testimony was heard from 36 individuals (some of whom appeared in disguise including wearing fake moustaches) with regards to the terms of reference of the Commission.¹⁶ These were to inquire into alleged murders and other unlawful

¹⁵ A. Sitze, *The Impossible Machine: A Genealogy of South Africa's Truth and Reconciliation Commission* (Ann Arbor: The University of Michigan Press, 2013)

¹⁶ Most of the witnesses who appeared before the Commission in disguise gave testimony in relation to the CCB. In a footnote in the Report, Harms posits that those witnesses allowed to testify in disguise "alleged that they feared for their lives...the disguise did not render findings as to credibility difficult: viewed as a whole, the witnesses were untrustworthy in any case." See 'The Honourable MR Justice L.

activities by the security forces and in so doing, according to Harms, “identify criminals in order to bring them to justice.” According to the terms of the commission, if Harms believed that he had uncovered/recovered sufficient reliable evidence against individuals ‘alleged’ to have committed murder or other illegal acts, he would then pass that evidence on to the relevant authorities (the attorney-general or the South African Police) that might lead to a criminal trial.¹⁷

Harms submitted a 201 page Report to De Klerk in September 1990. The ‘allegations’ of Coetzee regarding the disappearances (abduction, murder and disposal of their corpses by burning and hiding their remains by the security police) of Sizwe Kondile, Siphiwo Mthimkulu and ‘Topsy’ Madaka were evaluated and refuted by Harms in a subsection of the Report titled ‘Disappearances’ in the chapter ‘C Vlakplaats [sic]’. This is the longest chapter of the Report, beginning on page 69 and ending on page 162 (95 pages). It is not surprising given that the bulk of Dirk Coetzee’s ‘allegations’ were related to Vlakplaas operations, a farm north of Pretoria that was a base for a counter-insurgency unit of the security police. Coetzee was in command of Vlakplaas between July 1980 and December 1981.¹⁸

T. C. Harms, “REPORT”, Commission of Inquiry into Certain Alleged Murders’ presented to The State President (September 1990), 43, footnote 8. Hereafter referred to as ‘Harms Commission Report’.

¹⁷ The full terms of reference were: “To inquire into and report on the alleged occurrence of murders and other unlawful acts of violence committed in the Republic of South Africa (including the self-governing territories) in order to achieve, bring about or further any constitutional or political aim in the Republic of South Africa and in respect of which the judicial process has been completed or which the investigations are, owing to lack of evidence, not progressing. If it be found that such murders and acts of violence were committed, to report on (i) who or what bodies, institutions or organisations commit or cause or instruct to be committed such murders or acts of violence as principle offender, accomplice or accessory after the fact, or have done so in the past; and (ii) who finances or has financed any such person, body, institution or organisation. To inquire into and to report on any other matter which, in your opinion [Harms], is relevant to the foregoing.” These terms of reference were extended to include “an investigation and a report on the allegation that Anton Lubowski was a paid agent of the South African Defense Force’s Military Intelligence Section.” See ‘Harms Commission Report, 19.

¹⁸ As an aside, it is not clear whether it was oversight or deliberate on the part of Harms to document his findings on ‘Vlakplaats’[sic] under the index ‘C’ given that, as told to the Commission by Dirk Coetzee, ‘Section C’ of the South African Security Police was the name given to the division that dealt with and concerned itself with the African National Congress (ANC) and the Pan African Congress (PAC).

According to Harms, the “‘core’ of [Dirk Coetzee’s] allegations [was] that a hit squad consisting of Security Police and Askaris [which Harms translated as ‘rehabilitated terrorists’] was formed at Vlakplaats[sic] for the main purpose of kidnapping and eliminating ANC members.”¹⁹ Although Coetzee’s ‘allegations’ were at times corroborated - with testimony heard at the Commission from ex-Sergeant Almond Nofemela (a death-row prisoner who, on the eve of his execution, had published an affidavit relating to his role in Vlakplaas hit-squads)²⁰ and ex-constable David Tshikalanga (who was once Coetzee’s gardener and testified at the Commission just before Coetzee did in London)- they were largely dismissed by Harms. Nofemela and Tshikalanga had nothing to say about the disappearances of Kondile, Mthimkulu and Madaka.

Harms acknowledged that, “although some of the incidents to which Coetzee, Nofemela and Tshikalanga testified *undoubtedly took place*, the SAP and its members deny any involvement in the acts committed.”²¹ He immediately qualified this belief of some of the incidents “undoubtedly” having taken place by stating that; “It would be difficult in the extreme to prove the veracity of these allegations in criminal proceedings and presumably these allegations and the consequent denial

¹⁹ ‘Harms Commission Report’, 73. For an elaboration of the concept ‘askari’, See J Dlamini, *Askari: A Story of Collaboration and Betrayal in the Anti-Apartheid Struggle* (Johannesburg: Jacana Media (Pty): 2014).

²⁰ Coetzee’s ‘allegations’ regarding Vlakplaas operations gave credibility to Nofemela’s affidavit that ‘exposed’ the existence of security branch hit squads. Nofemela’s claims were published on the 19 October 1989, just under one month before Coetzee’s ‘allegations’ were published (17 November 1989). Nofemela was a death row inmate on charges of murder, though not related to ‘hit squad’ activities. He had named Dirk Coetzee as the leader of an assassination squad that Nofemela had been a member of. In response to Nofemela’s allegations, the then Minister of Justice, Kobie Coetzee, appointed a commission of inquiry, ‘The McNally Commission’, to investigate the claims made by Nofemela. Coetzee never appeared as a witness before the McNally Commission who ultimately found Nofemela’s allegations ‘false’. For an account of the relation between the timing of Nofemela’s affidavit being made public and its implications for Coetzee, see J. Pauw, *In The Heart of The Whore*, 21-30. For the Report of the ‘McNally Commission’ see ‘Verslag Van Ondersoekkomitee Insaake Bewerings Van Almond Nofomela’ Opgestel Deur Adv T. P. McNally S.C (Prokureur-Generaal Oranje-Vrystaat) en Luitenant-Generaal A. B Conradie (Hoofanjunk-Kommissaris Speurtak) aan die Minister van Justisie en Die Minister van Wet en Orde (28 November 1989).

²¹ ‘Harms Commission Report’, 72. My emphasis.

were an important reason for the appointment of this Commission.”²² Harms was “not prepared to make a finding that a person [had] committed a criminal offence unless [he was] satisfied in [his] own mind that there [was] a reasonable prospect that such a person [could] be convicted in an ensuing trial.”²³ To justify this stance, Harms drew upon judicial precedent and cited the case of *Gates v Gates* (1939) where the judge stated that, “it must also be borne in mind that when allegations of criminal conduct are considered the ‘reasonable mind is not so easily convinced – because in a civilised community there are moral and legal sanctions against immoral and criminal conduct and consequently probabilities against such conduct are stronger than they are against conduct which is not immoral or criminal.’”²⁴ In this framing, it is evidence and proof bound to a legal evidentiary paradigm that is needed to convince the “reasonable mind” of ‘allegations’ of criminal conduct such as enforced disappearances.

Dirk Coetzee implicated himself, as elaborated further on in this chapter, in the disappearances he ‘alleged’ were at the hands of security police. Yet why and how then did Judge Harms, the chair and sole member of the commission of inquiry, refute the ‘allegations’ of Coetzee as the primary witness that it was the security police responsible for the disappearances of Kondile, Mthimkulu and Madaka? It is a question that seeks to understand why Harms did not/could not “establish that a crime had been committed” by the security police and was un-able to “identify criminals [in so far as those named by Coetzee] in order to bring them to justice”, the very mandate of the commission. In other words, what made Coetzee’s evidence so unreliable in relation to the evidence of the security police? One way to respond to the above is to engage how we conceive the relation of the judge and the historian to questions of evidence, context and history. This is to invoke Carlo Ginzburg and his thoughts on

²² ‘Harms Commission Report’, 72.

²³ ‘Harms Commission Report’, ‘Introduction’, 28.

²⁴ Harms cites from *Gates v Gates* 1939 AD 150, 155. ‘Harms Commission Report’, 29.

the centrality of evidence and proof for both the judge and the historian. Ginzburg argues that,

The paths of judge and historian, which run side by side for a certain distance, eventually and inevitably diverge. If one attempts to reduce the role of the historian to that of a judge, one simplifies and impoverishes historiographical knowledge; but if one attempts to reduce the role of the judge to that of the historian, one *contaminates – and irreparably so – the administration of justice*.²⁵

Arnold I. Davidson (2001) opens a chapter dedicated to the corpus of Ginzburg's work with the original Italian as an epigraph. Davidson's translation is different from that above: "The ways of the judge and those of the historian coincide for a while then inevitably diverge. Whoever attempts to reduce the historian to a judge simplifies and impoverishes historiographical knowledge; but whoever attempts to reduce the judge to a historian *irremediably pollutes the exercise of justice*."²⁶ I wish to underscore the distinction between "...contaminates – and irreparably so – *the administration of justice*" and "*irremediably pollutes the exercise of justice*" as it relates to the reducing of the judge to a historian. The distinction I believe is of significance because of the differing conceptions of justice invoked here. For Ginzburg, at least as the English publication of the 1999 *The Judge and the Historian* publication goes, justice is to be administered, while Davidson's translation emphasises justice as an exercise.

What distinguishes the judge and the historian is "the different ideals that regulate their tasks. The judge must render a just sentence; the historian must provide

²⁵ C. Ginzburg, *The Judge and the Historian*, 118. My emphasis.

²⁶ A.I Davidson, *The Emergence of Sexuality: Historical Epistemology and the Formation of Concepts* (Cam, Mass: Harvard University Press, 2001), 142. My emphasis. Davidson's original Italian of the statement is taken from Ginzburg's 1991 text *Il giudice e lo storico: Considerazioni in margine al processo Sofri* (Turin, 1991), 109-110. For an earlier and shorter discussion of Ginzburg's work, specifically Ginzburg's article, 'Checking the Evidence: The Judge and the Historian' in *Critical Inquiry*, Vol. 18, No. 1 (Autumn 1991), see A. I Davidson, 'Carlo Ginzburg and the Renewal of Historiography' in J. Chandler, A. I. Davidson and H. Harootunian (Eds.), *Questions of Evidence: Proof, Practice, and Persuasion across the Disciplines* (Chicago: University of Chicago Press, 1994).

a truthful account.” Davidson posits that “both judges and historians invoke the notions of evidence and proof, but their respective regulative ideals of justice and truth decisively contribute to the understanding of what is to count as a piece of evidence, what is to count as proof.” Thus according to Davidson, “legal evidence and historical evidence may overlap, but the former is in the service of establishing a just verdict, while the latter is relevant for securing a truthful account of events, whether they be individual or social, long or short term.”²⁷ Davidson adds that while “the concepts of justice and truth are compatible with a diversity of conflicting conceptions of justice and truth...the regulative ideals of justice and truth are open to divergent interpretations of these ideals.” Davidson continues; “the fact that there are substantive disagreements about which particular conception of justice or truth is most defensible does not imply that a judge’s deliberations should not be shaped by the ideal of justice or that a historian’s reconstructions can ignore the demands of truth.”²⁸ The relation between the historian and the judge therefore is characterised by how each treats evidence, proof and its relation to ‘the truth’ that allows or hinders access to ‘reality’.

For the judge, evidence is gathered and used to determine the innocence or guilt of an accused so as to apply the law with the ends being justice, a narrow juridical sense of justice. In so doing, the judge attempts to arrive at ‘the truth’ of what happened, and here ‘the truth’ also implies an attempt at direct access to the ‘reality’ of the crime under investigation. For the historian however, it is now well established that access to some prior reality is not possible. Indeed Ginzburg’s historiographical work engages a debate between positivist and antipositivist positions with regards to notions of evidence and proof. In the positivist view the relation

²⁷ A.I Davidson, *The Emergence of Sexuality*, 145.

²⁸ A.I Davidson, *The Emergence of Sexuality*, 145-146.

between 'reality' and evidence is that reading evidence as unmediated grants the historian direct access to some prior reality. An antipositivist view proposes that all evidence is always tainted or mediated in some way and thus access to some prior reality is inherently impossible for the historian.

In 'Checking the Evidence: The Judge and the Historian', Ginzburg argues that positivist conceptions of the relationship between evidence and reality must be "unequivocally rejected." He posits that evidence is not a "transparent medium...that gives us direct access to reality" (the positivist view). But neither should evidence be regarded as "a wall, which by definition precludes any access to reality" because this "extreme antipositivistic attitude...turns out to be a sort of inverted positivism."²⁹

Ginzburg's own position is not "antipositivist, one who rejects the historiographical legitimacy of notions like evidence and proof, neither is he a positivist, who takes these notions as given, as though they involve an unproblematic relation with truth and reality."³⁰ Rather for Ginzburg, it is the recognition that an "interpretative framework" is needed that must relate to "the specific code according to which the evidence has been constructed."³¹ Thus, as Davidson underscores, "evidence is mediated by codes, and an adequate historiography must attend to the heterogeneous procedures by which we encode evidence...we must understand the processes of encoding, of different kinds of evidentiary distortion, in order to interpret the evidence, to assess its reliability or unreliability, to know what it is evidence of."³² And, I would add, it is not only a matter of knowing what evidence is of, but also what it is evidence for.

²⁹ C. Ginzburg, 'Checking the Evidence: The Judge and the Historian' in J. Chandler, A. I. Davidson and H. Harootunian (Eds.), *Questions of Evidence: Proof, Practice and Persuasion across the Disciplines* (Chicago: University of Chicago Press, 1994), 294.

³⁰ A. I. Davidson, 'Carlo Ginzburg and the Renewal of Historiography', 312.

³¹ C. Ginzburg, 'Checking the Evidence: The Judge and the Historian', 295.

³² A. I. Davidson, 'Carlo Ginzburg and the Renewal of Historiography', 313.

There is a similarity but also a profound difference between the Sofri Case that forms the core of Ginzburg's *The Judge and the Historian* and the Harms Commission findings on the disappearances of Kondile, Mthinkulu and Madaka that I am examining. The Sofri case that Ginzburg examines deals with the Italian judges' acceptance of testimony and evidence (confession) of a key witness, Marino. This evidence, Ginzburg argues, was unreliable and therefore inadequate as the basis for the conviction that followed of Adriano Sofri and his co-accused who were charged with ordering the murder of a police officer in May 1972. Ginzburg argues that the evaluation of Marino's testimony and evidence by the judges amounted to a "miscarriage of justice".

The extent to which the Sofri case may be used for comparison with the Harms Commission may be limited. In the case of the former it comprised criminal cases in courts of law. The Harms Commission was not constituted as a criminal court of law as Harms took pains to emphasise. Harms emphasised that his commission of inquiry was neither a quasi-judicial body and nor was it a court of law but rather "an advisory body [that] advises the executive."³³ While Harms acknowledged in a footnote that "it was suggested in argument that this description cannot apply to the present Commission"³⁴, he stressed that "the fact that the commission of inquiry is a so called judicial commission does not alter the fact. A 'judicial' commission is not a legal concept: it means that the commission is chaired by a judicial officer, but a judicial officer can only exercise judicial functions in judicial proceedings...a

³³ Harms spelled out the work of a commission of inquiry because "it soon became apparent that there exists serious misconceptions about the nature, powers, functions and abilities of commissions of inquiry." He argued that, "unrealistic expectations were raised. The work of this Commission became politicised. Parties attempted to score political points. Parties became prescriptive and in the process ignored basic human rights, civility and the law." See 'Harms Commission Report', 2-3.

³⁴ See footnote 2 of 'Harms Commission Report', 2.

commission is not even a so-called quasi-judicial body.”³⁵ According to Harms therefore, the commission was “not appointed to overrule existing legal procedures or take over the ordinary functions of the SA Police or the attorney-general.”³⁶ The commission therefore had to “gather the relevant evidence on an issue, whether culpatory or exculpatory.”³⁷ Thus and as mentioned earlier, if Harms believed that he had uncovered/recovered sufficient reliable evidence, proof, against individuals ‘alleged’ to have committed murder or other illegal acts, he would pass that evidence on to the relevant authorities (the attorney-general or the SAP) that would lead to a criminal trial where ‘justice’ might be meted out.³⁸

But despite Harms’s disclaimer, the comparison of cases is useful. The similarity between Ginzburg’s *The Judge and the Historian* and Harms assessment of Coetzee’s testimony and evidence that deals with the disappearances of Kondile, Mthinkulu and Madaka relates to the central position of a single witness: in the Sofri case Marino, and in the Harms Commission, Coetzee. Marino’s confession and ‘allegations’, as Ginzburg argues, were considered reliable by the judges and led to the conviction of “innocent people”. In the case of the latter it is Marino’s confession, constituted by ‘allegations’ of crimes within a rubric of repentance that leads to formal investigations within legal frameworks of evidentiary evaluations. But, unlike Marino, and as I proceed to describe, Coetzee as witness at the Harms Commission was characterised as ‘unreliable’ by Harms. So too was his testimony and this led to the ‘exoneration’ of the security police and, by implication, the ‘exoneration’ of

³⁵ ‘Harms Commission Report’, 7-8.

³⁶ ‘Harms Commission Report’, 19.

³⁷ ‘Harms Commission Report’, 20.

³⁸ In the ‘Conclusion’ to the Report Harms states that he had indeed handed over documentation to the attorney-general “for consideration of further investigation” and he listed nine specific incidents, or cases. However, none of the nine cases had to do with disappearances. See ‘Harms Commission Report’, 199-200.

Coetzee himself. Two witnesses then: one regarded as reliable, the other unreliable.

They become the core of justice both as an exercise and as that to be administered.

After stressing the importance of the “credibility” of both accusers and accused, Harms reported that:

The Commission was requested on behalf of the Lawyers for Human Rights not to analyse the evidence in any detail. The Commission should, so it was argued, only be satisfied in general that members of the SAP probably would commit violent crime for political ends. For the sake of argument, counsel simply omitted to furnish a single reference to the record of the evidence. [Harms has a footnote here stating, “this does not apply to the IBIIR’s counsel.”] However, the problem is that specific members of the SA Police were accused of specific acts. If the Commission does not address itself to the *detail of the allegation*, the impression will be created that the Commission regards those specific allegations as proved. Convenient though it may be, I do not consider it my function to paint organisations and individuals black or white with so broad a stroke of the brush.³⁹

The following is how Harms states he weighed all the evidence related to the ‘allegations’ he was tasked with investigating:

In weighing the evidence of all the witnesses there are a number of factors to be born in mind:

The material events took place mainly during 1981. The passage of time must necessarily play a part and lead either to faulty recollections or to a lack of recollections.

In general it is easier for a witness simply to deny an allegation, and it is hard to prove that such a denial is false. On the other hand, it is also very difficult to furnish proof for a bald denial (which is true). Similarly, if the denial is true a witness can hardly do otherwise than deny the fact.

The fact that a person tells one or more lies does not mean that the rest of his evidence is false and therefore to be rejected. The converse is also true: The fact that a witness tells the truth about one or more incidents does not mean that the rest of his testimony is true.

There is, in general, no reason for a person to incriminate himself or implicate himself in a crime. The motives of Coetzee, Nofemela and Tshikalanga therefore merit special attention. The denial by the Security Police, if false, would be more self-evident.

If allegations about persons are based on the evidence of untrustworthy witnesses, the correct approach that has to be followed is to accept the evidence of such a witness only where it was shown by reliable evidence of the surrounding circumstances to be probably true.⁴⁰

³⁹ ‘Harms Commission Report’, 72. My emphasis.

⁴⁰ ‘Harms Commission Report’, 77-79.

Harms proceeded to try and determine the motives of Dirk Coetzee but stated that “his personality is complex, and it is difficult to size him up.” Almost as if to justify his own impression of Coetzee, Harms cites Coetzee’s counsel’s impression of him and according to Harms, in “euphemistic terms”:

We do not suggest that Coetzee can be represented as a shining example of a crusader for what is right and just in a society, or as a person whose word and whose statements should simply be accepted at face value and without question, or whose evidence is reliable in every material respect. There are, in fact, many unsatisfactory features about his evidence and some of the details recounted by him.⁴¹

Harms then summed up Coetzee as having “strong psychopathic tendencies”:

Coetzee is highly intelligent and has a remarkable memory. In addition, he has a fertile imagination. Under gruelling cross-examination, he displayed self-confidence and saw himself as the victor of the struggle... Coetzee describes himself as a killer, housebreaker, thief, liar, perjurer and illicit diamond dealer. Although some of the incidents can be traced back to his association with the Security Police (in light of his evidence), other incidents have no connection with it. He says that he feels remorse about what he did. However, he shows no sign of remorse. Although he sees himself as the leader of a hit squad, time and again he distances himself from the crimes and, on his own evidence, leaves the execution to someone else. He believes that because he has confessed his deeds and conscience is clear and that he can no longer be called to account. He is now entitled to a new life. He always put the blame for his own actions on others even if he himself had initiated or committed the deed. To sum up, he showed strong psychopathic tendencies.⁴²

Going into some detail, Harms proceeded to point out the “problems” he had with Coetzee’s evidence. This included that much of Coetzee’s evidence was “hearsay”; his testimony given at the London hearings of the Commission conflicted with that which was given earlier to the journalist Jacques Pauw in Mauritius and that Coetzee was “debriefed by the ANC and briefed by the ANC” before the commission hearing.

After this Harms once again returned to a discussion so as “throw light on his [Coetzee’s] personality”. For Harms it is Coetzee’s internal South African Police

⁴¹ ‘Harms Commission Report’, 79-80.

⁴² ‘Harms Commission Report’, 80-81.

(SAP) disciplinary trial in 1985 that is important to take into consideration because it “is the fact that as a result of the findings he [Coetzee] left the police an embittered man.” Furthermore, Coetzee’s medical condition of having diabetes is underscored and Harms states that “his condition is hard to control, and his brain function is affected. His mental problems started in March 1981 [and] as a result of his mental state he is irresponsible, aggressive and impulsive and he also has diminished responsibility.” These were part of the findings at Coetzee’s disciplinary trial some five years before the Commission and were based upon the testimony of a medical practitioner. The implications for Harms and his evaluation of Coetzee’s evidence is thus articulated as follows:

Coetzee does suffer from diabetes but he says the other findings by the physician are based on fabricated facts which, he, Coetzee, gave the physician. Coetzee’s object was to be certified unfit on the basis of this false evidence so that he could leave the SAP on a disability pension. This creates a dilemma. Either Coetzee is mentally unbalanced and not criminally responsible as testified by the medical practitioner [at the 1985 disciplinary trial], or he is a man who is prepared to fabricate evidence for a trial to achieve his own ends.⁴³

Harms then moved in his narrative to establish the motives Coetzee might have in, “as argued by the SAP, *falsely* incriminating himself and thereby also several members of the SAP [and] leaving the country and joining the ANC.” [My emphasis] Harms provides a number of responses as to Coetzee’s motives:

Coetzee’s hatred of the SAP runs deep and his grudge has roots in events that took place as long ago as 1979 to 1980. Although Coetzee initially wanted to pretend that this is not so, in time he was to admit his hate frankly. The basis of his grudge lies mainly in the belief that there was and is a conspiracy against him in the police. This fear or belief resulted in Coetzee’s firmly believing, when Nofemela made his allegations, that the police were going to trump a case against him around the Nofemela allegations and that he was going to be in for it alone. Coetzee also saw no future for himself in South Africa.

⁴³ ‘Harms Commission Report’, 83-84.

To this must be added his delusions of grandeur and the fact that he sees a great future for himself in the ANC. He is confident not only that in due course he will have a high rank in the new police force but also that perhaps he will 'one day be privileged enough to be the chief investigating officer in South Africa's very own post-war Nuremburg trials'. Although he at one stage wanted to pass these ideals of his off as a joke, there is no doubt that they reflect his sentiments. It should also be remembered that he was being used by the ANC's publicity department and is dependent on the ANC. If these factors are considered in conjunction with his impulsive and irrational nature there would not be anything odd about his falsely incriminating himself or the SAP or leaving the country and joining the ANC.⁴⁴

The above, presented as part of the judicial discourse that Harms's Report represents, reminds the historian of Shahid Amin's observation that, "judgement is a representation of what 'really' happened. It produces a master narrative by shifting and shuffling through its own records as well as observations inscribed in the margin of the record of events. These observations are about the dress, demeanour, tone and expression of the witnesses. In this way judicial discourse presents itself as self contained and internally consistent."⁴⁵ Ginzburg of course aims to disrupt the internal consistency of Marino's confession as evidence produced by the judge's acceptance thereof in their construction of the judicial discourse comprising the Sofri Case.

Through an application of an "evidential paradigm", Ginzburg's aim is to show why Marino's confession, his testimony and evidence, was unreliable.⁴⁶ Ginzburg questions the judges' acceptance of Marino's evidence through a process of evaluating evidence that invokes a problematic conception shared by both historians and judges, namely context as, and supplement to, evidence. While Ginzburg is somewhat forgiving of the historians' use of context, though not uncritically so, the "abuse of contextual proof" by judges' is, according to Ginzburg, unforgivable

⁴⁴ 'Harms Commission Report', 84-87.

⁴⁵ See S. Amin, *Event Metaphor, Memory: Chauri Chaura 1922-1992* (Berkeley: University of California Press, 1995), 82.

⁴⁶ For Ginzburg's analysis on the emergence of the "evidential paradigm" See C. Ginzburg, 'Clues: Roots of an Evidential Paradigm' in *Clues, Myths, and the Historical Method*, trans by J. and A.C. Tedeschi (Baltimore: The Johns Hopkins University Press, 1992).

because the stakes are supposedly and are presupposed to be higher, the conviction of innocent people, a “miscarriage of justice.”

By underscoring an “abuse of contextual proof”, Ginzburg draws a distinction between the historians’ use of context, for example in the construction of biographies, that is understood as “an array of historically determined possibilities [that] serves to fill in what documents fail to tell us about an individual.”⁴⁷ In contrast, context, or “contextual proof” as deployed within “judicial historiography” refers to context appearing “primarily in the form of mitigating elements or circumstances, of a biological or historical nature...[that] means slipping tacitly (and illicitly) from the place of mere possibility to the level of asserting a fact; from the conditional to the indicative.”⁴⁸ For Ginzburg therefore, “a historian has the right to detect a problem where a judge might find an ‘absence of grounds for proceedings’.”⁴⁹ Thus, as Donald Reid reads Ginzburg,

If a historian (like Natalie Zemon Davies in *The Return of Martin Guerre*) can construct context ‘to fill in what documents fail to tell us about an individual’, this is an illicit practice for judges to use in determining if an actor actually performed an action – but one that Ginzburg shows the judges in this case using. The social or political context may be appropriate to consider in determining an individual’s responsibility for criminal actions in setting punishment, but it cannot reveal whether an individual committed an act...history may involve a creative reconstruction of the past but he argues this is not the purview of judges - and history is not limited to such an aesthetic project, for it involves rigorous assessment and logical analysis of sources to determine what more likely *really* happened, which is why a historian can critique judges’ interpretation of sources to assess guilt.⁵⁰

Reid offers an insightful reading of Ginzburg’s analysis of the Sofri Case in pointing to certain limits of the approach followed by Ginzburg. Reid argues that readers of *The Judge and the Historian* might have expected the text to include the cultural

⁴⁷ C. Ginzburg, *The Judge and the Historian*, 116.

⁴⁸ C. Ginzburg, *The Judge and the Historian*, 117, 119.

⁴⁹ C. Ginzburg, *The Judge and the Historian*, 17.

⁵⁰ D. Reid, ‘The Historian and the Judges’ in *Radical History Review*, Issue 80 (Spring 2001), 139.

worldview of Marino based on Ginzburg's earlier work on the Inquisition such as *The Cheese and the Worms* and *The Night Battles*.⁵¹ Such an application of the 'evidential paradigm' is at the core of 'microhistories', the "method based on rigorous evaluation of documentation and exploration of the lives and thought of the apparently marginal to reveal aspects of the past missing in dominant paradigms."⁵² According to Reid, Ginzburg eschews such evocation of context in the analysis of the Sofri Case as well as the social and cultural worlds of Sofri and his co-accused. This, argues Reid, Ginzburg does in favour of a critical examination of Marino's confession as evidence but without also asking after the 'worldview' of the judges.

By comparing Ginzburg's writing on the Sofri Case to his work on the Inquisition, Reid suggests a possible way to access the judges 'consciousness' or their 'worldview'. Reid suggests that, "the judges worldview might be made accessible through analysis of their particular ways of selecting and reading evidence." Such an analysis, according to Reid, would bring into focus the politics of the Sofri Case in that "judges' faced with the traumatic experiences of the political terrorism of the 1970s [in Italy] perverted the legal code and the interpretation of testimony [in the Sofri Case], without being aware they were doing this, so as to confirm what they already believed to be true."⁵³ Reid argues that Ginzburg "limits himself in *The Judge and the Historian* to demonstrating that the evidence is insufficient to show that this event happened", which is that Sofri ordered the murder he is accused of. But, argues Reid, "the next step would be to ask why the trials did" and asking this question "could then lead to an interpretation of the politics of the condemnation of Sofri and

⁵¹ See C. Ginzburg, *The Cheese and the Worms: The Cosmos of a Sixteenth Century Miller*, trans by J. and A.C Tedeschi (Baltimore: The John Hopkins University Press, 1992) and C. Ginzburg, *The Night Battles: Witchcraft and Agrarian Cults in the Sixteenth and Seventeen Centuries*, trans by J. and A.C Tedeschi (Baltimore: The John Hopkins University Press, 2013).

⁵² D. Reid, 'The Historian and the Judges', 138.

⁵³ D. Reid, 'The Historian and the Judges', 141.

his colleagues [by the judges] that is absent from *The Judge and the Historian*.”⁵⁴ In other words, what could have been revealed according to Reid, is “a narrative of fears and apprehensions and their revelation in the creation of an event that never happened.”⁵⁵ With Reid’s reading of what is missing from Ginzburg’s analysis of the Sofri Case in *The Judge and the Historian*, I return to consider the “judicial historiography” presented by Harms through his Report so as to underscore a disciplining of Kondile, Mthimkulu and Madaka as missing at the Harms Commission by focussing in particular on Harms’s anatomy of disappearances, which is the way Harms responded to the question ‘what happened’ through the question ‘who lied?’

The judge’s anatomy of disappearances⁵⁶

The first time in the Harms Report (in chapter “C Vlakplaats [sic]”) that the names Sizwe Kondile and Sipiwo Mthimkulu appear is in a Chronology provided by Harms “in order to place the events in perspective.”⁵⁷ The “events” referred to include the ‘allegations’ that Coetzee, Nofemela and Tshikalanga had made relating to operations carried out of Vlakplaas. In the Chronology, the following dates are listed in connection with Kondile and Mthimkulu:

10 August 1981: Release of Kondile (Bloemfontein)
20 October 1981: Alleged poisoning and release of Mthimkulu in Port Elizabeth.⁵⁸

For the historian that has no prior or rather has limited knowledge relating to the circumstances surrounding the disappearances of Kondile and Mthimkulu, their entries in the Chronology implicitly signals that the security police could have had

⁵⁴ D. Reid, ‘The Historian and the Judges’, 142.

⁵⁵ D. Reid, ‘The Historian and the Judges’, 142.

⁵⁶ This sub-heading is inspired by the title of Hisham Matar’s 2012 novel *Anatomy of a Disappearance*.

⁵⁷ ‘Harms Commission Report’, 94.

⁵⁸ ‘Harms Commission Report’, 94.

nothing to do with their ‘alleged’ disappearances. They were released, presumably alive and, in the case of Mthimkulu, while ‘allegedly poisoned’, definitely not ‘disappeared’ from or while in police custody. These dates signal to the historian not the disappearance of these men, but the dates on which, according to police records (as will become clear below), they were released from security police custody. What is significant about these entries is that while this is the first time their names appear in the Report, there is no indication to the historian that they are ‘disappeared’, or rather, that they are missing. This is in contrast to two other entries in the Chronology:

16 February 1982: Ace Moema *disappears* in Eastern Transvaal
 23 tot [till] 24 September 1985: *Disappearance* of Japie Maponya –
 Krugersdorp ⁵⁹

In the above-cited entries, the historian is explicitly made aware that these individuals are ‘disappeared’; and ‘disappeared’ here meaning nothing more than in its use as an intransitive verb, as missing.⁶⁰ After discussing and refuting ‘allegations’ made by Coetzee and Nofemela with sometimes corroborating testimony from Tshikalanga regarding a number of other ‘alleged occurrences’, Harms arrived at the sub-section he titled, ‘Disappearances’:

[a] number of members or former members of the ANC disappeared during 1981 and 1982. According to [Dirk] Coetzee, they were killed by the Security Police and he usually had a hand in the incident.⁶¹

Harms continued to name the persons referred to as ‘disappeared’⁶²:

⁵⁹ ‘Harms Commission Report’, 95 -96. My emphasis.

⁶⁰ According to Dirk Coetzee, Ace Moema, an Askari operating from Vlakplaas, was killed by one Vermeulen on the basis that Vermeulen told Coetzee that Moema could no longer be ‘trusted’. Harms rejected Coetzee’s claims. See ‘Harms Commission Report’, 115-117.

Based on Nofemela’s testimony, Eugene De Kock ordered him to abduct Japie Maponya. The reason for the abduction was that Maponya’s brother, Oderile Maponya was a suspect in a murder and he had joined the ANC, thus a target for Vlakplaas operatives. Japie was to be interrogated about his brother’s whereabouts. Nofemela also mentioned that part of the reason was that he could be identified by Japie Maponya as an askari. While being interrogated, Japie Maponya was assaulted and shot in the head by De Kock and according to Nofemela, De Kock got rid of the body. Harms did not accept Nofemela’s account of the fate of Japie Maponya. See ‘Harms Commission Report’, 107-109.

⁶¹ ‘Harms Commission Report’, 110.

Nkosinathi Peter Dhalamini
Vuyani Mavuso (Vusi)
Isaac Moema
Ginisizwe Kondile
Siphiwo Maxwell Mtimkulu

‘Topsy’ Madaka’s name does not appear.

Significantly with regards to the names of Nkosinathi Peter Dhalamini and Vuyani

Mavuso (Vusi) is that they also appear in the Chronology but there the entry is:

18 to 22 October 1981? : Alleged murder of Peter en [and] Vusi at Komatipoort .⁶³

In the Chronology Peter Dhalamini and Vusi Mavusi are listed as being ‘allegedly murdered’ and in the sub-section ‘Disappearances’ they are listed as ‘disappeared’. It will be recalled that with all the names of the ‘disappearances’ listed, Coetzee claimed they all had been killed. Thus in Coetzee’s account, it is their dead bodies that are missing.

It is in the sub-section of ‘Disappearances’ that the names Kondile and Mthimkulu are categorised as ‘disappeared’ for the first time in the Report. At first sight this category/status simply denotes that they are missing, their whereabouts

⁶² A striking absence, or who is missing from this list, is Japie Maponya. As will be recalled in the main text above, in the Chronology the “disappearance of Japie Maponya” is listed. Maponya *appears* in the Report, again, in the section immediately after the Chronology where Harms discusses and refutes the allegations of Coetzee, Nofemela and Tshikalanga. More specifically, the positioning of Harms’s refuting of the ‘allegation’ by Nofemela (see above footnote) is just before where the sub-section ‘Disappearances’ begins. Based on the opening paragraph of the sub-section ‘Disappearances’ that appears to list a major criteria for the individual names that are there, namely being a member or former member of the ANC, Japie Maponya was not labelled as a member or former member of the ANC; it was his brother that was a member of the ANC. Another observation is that all the individuals named in the ‘Disappearances’ sub-section have Dirk Coetzee as the primary witness testifying to their ‘disappearances’. It is Nofemela that ‘alleged’ and testified to Japie Maonya’s ‘disappearance’.

⁶³ See ‘Chronology’ in ‘Harms Commission Report’, 94. Dhlamini (Peter) and Mavuso (Vusi) were Askaris operating from Vlakplaas. According to Dirk Coetzee, he was ordered to ‘eliminate’ them because Dhlamini “was of no value to the police and had become a nuisance. Mavuso was killed because he did not want to co-operate with the Security Police.” Dhlamini and Mavuso, according to Coetzee, were poisoned, shot and their corpses burnt at Komatipoort. The ‘allegation’ that Coetzee was to get the poison from General Lothar Neethling, the head of the police forensic laboratory, and the publishing of these ‘allegation’ by the *Weekly Mail* and *Vrye Weekblad*, led Neethling filing a civil suit against these two newspapers. For Harms findings on the ‘disappearances’ of Dhlamini and Mavuso, in which he refuted Coetzee’s account, see ‘Harms Commission Report’, 112-115.

unknown as well as whether they are alive or dead, unknown. A point that needs to be emphasised is that Harms names the ANC as the common denominator (so to speak) that links the individuals that Harms has in the list of ‘disappearances’. This is the biographical context he provides. Harms continued by providing a brief police account of the ‘disappearances’ of Kondile, Mthimkulu (including Nkosinathi Peter Dhlamini, Vuyani Mavuso (Vusi) and Isaac Moema). Harms states that according to the police:

Kondile was arrested at a border post on the Lesotho border on 26 June 1981. He was detained and *was released on 10 August 1981*.

Mthimkulu was arrested on 31 May 1981 after sustaining a gunshot wound in the course of arrest. He was *released on 20 October 1981*. Shortly afterwards he showed signs of poisoning and was taken seriously ill. On 14 April 1982 he and one Topsy Madaka went to hospital and did not return. The motor vehicle was later found abandoned on the Transkei – Lesotho border.⁶⁴

According to this brief police account as presented by Harms, Kondile’s assigned status as one of the ‘disappearances’ is (temporarily) revoked with no mention of him going missing, despite the historian knowing that he is missing (alive or dead) given that his name appears in this sub-section. This account is thus similar to the entry in the Chronology, without the detail of where Kondile was released but with the addition of where and when he was arrested. Regarding Siphiwo Mthimkulu and ‘Topsy’ Madaka, and this is the first time Madaka appears in the Report, the historian is provided with some detail as to when Mthimkulu was arrested and the historian is made aware that he was injured at that time. As with Kondile, the release date from police detention for Mthimkulu is included and Harms provides the reader with additional information as to the physical condition of Mthimkulu – not only was he shot in the course of arrest, he was released with signs of poisoning approximately

⁶⁴ ‘Harms Commission Report’, 110-111. My emphasis.

five months later – and Madaka is joined to the ‘fate’ of Mthimkulu: they did not return from hospital, they disappeared.

The police account as presented by Harms goes further and the historian is implicitly made aware of the possible whereabouts of Mthimkulu and Madaka: that their “motor vehicle was later found abandoned on the Transkei – Lesotho border”. Since it was common knowledge that the ANC was banned within South Africa and had headquarters in Lesotho, the implication was they had joined the ANC, like so many other anti-apartheid activists. Thus, in this brief police account, any notion of police involvement in the ‘disappearances’ of Kondile, Mthimkulu and Madaka is already implicitly refuted (the dates of their release, Kondile and Mthimkulu, from police custody is stressed again, following the Chronology), which should come as no surprise, given that it is after all, a (brief) police account that Harms is presenting. Indeed, why would the police implicate themselves? As pointed out earlier, this is a question that Harms asked of Coetzee, as a former police captain and self-confessed leader of a death squad. Harms continued to make his first ‘striking’ observation:

What strikes one immediately is that all these people were members of the ANC, were connected with the Security Police and disappeared during the period August 1981 to April 1982. Since then not one of them has been heard of by either his family or the police. This therefore leads to the submission that [Dirk] Coetzee’s evidence that these people were killed by the Security Police is probably true. However, a factor that detracts from the strength of this argument is the fact that, with the possible exception of Mtimkulu, these people fall into a category of persons who had to be eliminated in accordance with ANC policy. As traitors they would have been marked men, and the policy was that traitors and informers had to be killed. So-called official ANC publications from time to time actually claimed responsibility for the death of several alleged informers and traitors...⁶⁵

The ‘striking’ aspect for Harms is that the identities of “all these people” are directly linked to the ANC; they were, according to Harms, “members”. That they were

⁶⁵ ‘Harms Commission Report’, 111-112.

‘connected’ with the Security Police is not elaborated at this point and the historian, following Harms, is to assume one of three things: either their connection is linked to being informers for the Security Police (as was the case of Dhlamini, Mavuso and Moema); they were held in custody by the security police (Kondile and Mthimkulu); or that they were held in custody before becoming informers (as was suggested of Kondile). These assumptions are indirectly alluded to by Harms. The historian also has to assume with regards to specifically Kondile, Mthimkulu and Madaka, based on the Chronology and brief police account provided by Harms, that they only ‘disappeared’ *after* ‘official’ release from police custody in that “since then not one of them has been heard of by either his family or the police.” For a very brief moment, Harms appears to be open to the possibility that Dirk Coetzee’s ‘allegation’ of them being killed by the Security Police might have some veracity. But, and this is indeed striking, Harms immediately detracts from that possibility by re-emphasising the connection between the ANC and its members (“with the possible exception of Mthimkulu”). Mthimkulu is excluded from this connection with the ANC since no evidence was submitted to suggest that he was a police informer.

Those identified by Harms as being ‘disappeared’ (read as an intransitive verb) with a ‘connection’ to the security police are now ‘disappeared’ (read in the sense of a transitive verb with its legal connotations of the disappearance being ‘politically’ motivated) individuals with direct links to the ANC and its policy of dealing with persons identified as ‘traitors’ and ‘informers’. This move by Harms explicitly shifts any notion of “alleged occurrence” of murder by the security police to one of ‘suspicion’, supposedly based on ‘fact’ with evidence being “so-called official ANC publications”, cast on the ANC. In other words, a politics of blame is introduced by Harms. I wish to emphasise my reading that Harms’ uses the term ‘disappeared’ as

a transitive verb in the sense that it is the ANC that ‘possibly’ has a connection to their ‘disappearances’ in the context of the ANC’s policy of dealing with persons identified as ‘traitors’ and ‘informers’. Yet in the ‘Introduction’ to the Report, Harms argued that with regards to the distinction between allegation, fact and suspicion:

This is a distinction which during the course of the Commission was continually ignored...Any fact finding body, be it a court of law or a commission, must base its findings on fact and not on allegations and suspicions.⁶⁶

The question that Harms introduces within a politics of blame regarding who is to be held responsible for their ‘disappearances’, contradicts Harms own assertion that a commission’s ‘findings’ must be based on “fact and not on allegations and suspicions.” A further point that needs to be made at this juncture, and elaborated upon in Chapter Four of this dissertation, is that Kondile specifically is now conscripted by Harms through both legal and historical subjectivities. By this I mean that Kondile is identified as an (suspected) ‘informer’ for the security police while also as a member of the ANC and Harms invokes a ‘history’ – as context through evidence- of the ANC’s dealing with its members that become ‘informers’. In following this logic, Harms then suggests that Kondile is implicitly responsible not only for his own disappearance but also his death at the hands of the ANC. It would follow then that this is the only instance, through Harms’s rendering, where Kondile is not merely missing as a result of his disappearance, but that by implication, it is his dead body that is also missing. However, unlike Coetzee’s ‘allegations’ that it is the security police who are to be held accountable, here it is the ANC that is to be held accountable and responsible.

⁶⁶ ‘Harms Commission Report’, 28-30.

Harms thus not only refutes Dirk Coetzee's 'allegations', but also draws on an apartheid state discourse of what that discourse depicted as a 'total onslaught' by the ANC, and, by implication, its more questionable strategy of "eliminating traitors and informers" that warranted a 'total strategy' in response by the apartheid state.⁶⁷ There is therefore recourse by Harms, to a 'history' whose work is understood as that of providing a context though evidence - by association - that ultimately for Harms serves as evidence. In other words, if following Ginzburg, there is an "abuse of contextual proof" at work. Harms was presented, as evidence, with numerous security documents relating to the activities of Mthimkulu, Madaka and Kondile, 'official' police documentation describing the arrest, detention, interrogation and release of Mthimkulu and Kondile as well as documents pertaining to activities of the ANC and other anti-apartheid movements. Indeed, Harms had read copies of publications (*Sechaba* and *Mayibuye* amongst others) and police data (including graphs of ANC and SACP 'terrorist' activities) amounting to roughly 1000 pages of policy and activities relating to the ANC, SACP, and PAC etc. Strewn across the publications were calls for individuals identified as 'traitors', 'collaborators' and 'informers' to be 'dealt with' and some explicitly calling for their death and as Harms states, claiming responsibility thereof.⁶⁸ However, by Harms casting suspicion – as opposed to him accepting the veracity of police documentation that Coetzee during his testimony before the Commission in London had argued could be and was manipulated⁶⁹ - on "so-called official ANC publications" (my emphasis), he detracts from any notion of

⁶⁷ Elsewhere I have written about this in relation to the practice of necklacing. See R. Moosage, 'On the apartheid state discourse in relation to the practice of necklacing' in 'The Impasse of Violence', 22-48.

⁶⁸ Reading in the Harms Commission archive through this collection of evidence that Harms had read, I found a number of instances where specific paragraphs or articles were marked suggesting Harms had noted those and might very well have informed his rationale.

⁶⁹ Indeed, during his testimony Coetzee claimed that time-sheets, documents security police and police officers had to fill out detailing their whereabouts, vehicle log sheets etc were often manipulated. See for example Coetzee's cross examination on the 27 April 1990, 400-430.

that literature as constituting ‘facts’, thus blurring the very distinction he argued should not be blurred - that of between fact, allegation and suspicion.

Harms continued to provide his findings, based on his evaluation of the testimony and evidence, provided by Dirk Coetzee on the specific cases of Kondile and Mthimkulu and Madaka. With regards to Kondile:

[Dirk] Coetzee’s evidence on Kondile amounts to the following: Kondile was detained by the Security Police. During his detention he received brain damage when he fell through a window. A plan was then made to release him, kidnap him and then kill him. The plan was executed and, after being given a sopoforic [sic], Kondile was shot and burnt.

Harms then proceeded with a “probable sequence of events”:

The evidence is not always easy to follow, but the probable sequence of events is as set forth below:

Kondile was arrested by the Security Police on 26 June 1981 and detained at Bloemfontein. He was in possession of Chris Hani’s (the [then] present leader of Umkhonto we Sizwe) car. He had come by this vehicle before that in Lesotho. He did not cross the border at the border post. According to the police, Kondile was caught on his way back to Lesotho, but according to argument on behalf of Kondile’s family the police abducted Kondile in Lesotho.

Kondile was transferred to the Eastern Cape and detained there. During his detention he helped to identify ANC infiltrators, among others, and passed important information on to the police, particularly about Hani and the ANC in general. However, the ANC members pointed out by him escaped the police. Meanwhile, the car has been kept hidden in Bloemfontein. According to the police documents and police evidence Kondile undertook to become a police informer and was brought back to Bloemfontein from the Eastern Cape, the car was returned to him, and he was allowed to go free. This happened on 10 August 1981. Since then nothing has been heard of him. His disappearance caused a sensation and questions were, for example, raised in Parliament about his detention and release. There were also numerous press reports about these events.

Harms’s “probable sequence of events” is a more detailed re-presentation of the police account of what happened to Kondile despite the evidence “not [being] always easy to follow”. This then is one version of a narrative that is part of a “judicial historiography”, a narrative produced by Harms based on police evidence, which is

meant to capture a context, understood as the immediate circumstances preceding the ‘disappearance’ of Kondile. Harms then proceeded by providing a more detailed account of Dirk Coetzee’s version:

The gist of Coetzee’s version is that during or on approximately 13 to 14 September he had seen Kondile in detention at Jeffery’s Bay. He was told that Kondile had brain damage and could therefore not be released. He was told about the plan to let Kondile go free and then to kidnap him. After the killing of Dhlamini and Mavuso (in other words after 18 October 1981) Kondile was taken from the Eastern Cape to Komatipoort. For the purpose of killing him [Kondile], two senior officers of the Security Police travelled from the Eastern Cape to Komatipoort; Coetzee and others travelled from Pretoria with a soporific to be administered before the killing; and the local members of the Security Police turned up as spectators and co-perpetrators. An unknown member of the Security Police then shot Kondile and the corpse was burnt. The group spent the whole night sitting around the fire.

Whereas the police version of the narrative that Harms presented was based on “police documents and evidence”, Dirk Coetzee’s version is presented by Harms as based on hearsay - “he was told” - and Harms provides no indication that Coetzee’s version is based on any evidence that can be considered reliable. Indeed, Harms emphasises this notion of Coetzee’s testimony being based on hearsay when he (Harms) turned to his analysis, or rather, his findings, of the conflicting and competing narratives, that of the police and that of Dirk Coetzee:

There is no corroboration whatever for any of Coetzee’s allegations. The basic fact of Kondile’s disappearance was common knowledge. Other information was obtained by Coetzee after November 1989 from the ANC. Coetzee’s version is also inherently improbable and riddled with contradiction. Some aspects that strike one immediately are the following:

*Coetzee testified that he saw Kondile’s car at Jeffreys Bay. In his Mauritius statement, however, he said that he did not see the vehicle.

*According to his testimony the brain damage occurred before 10 August 1981, and Kondile was kidnapped on 10 August 1981. If the Security Police were worried about Kondile dying in detention as a result of his injuries, surely they would not have detained him for a further two months, and then in a place where he was literally accessible to the public.

*It is also inconceivable that they would have returned a car to a man with a serious brain injury for him to drive, and then to kidnap him afterwards.

*No plausible reason was given why Coetzee specially had to convey a soporific from Pretoria to Komatipoort for administration before the murder.

*No plausible reason was given why Kondile has to be taken from the Eastern Cape to Komatipoort to be shot by an unknown person. Coetzee said that the reason for this was that Kondile's car was to be left in Swaziland. That motive does not hold water. There was no reason for taking Kondile to Komatipoort. In any case Komatipoort is rather far from the nearest entry to Swaziland for people travelling from the Eastern Cape.

*The place and the manner of the burning are also inherently improbable.

The last paragraph of Harms's narrative dealing with Kondile returns to an assigning of blame for his 'disappearance' to the ANC but also casts blame on Kondile himself:

Kondile's actions would have qualified him as a traitor in the eyes of the ANC. He had disappeared with Hani's car, had identified ANC members and after a period of complete absence suddenly reappeared. It is not for the Commission to establish or to speculate upon what became of Kondile, but only to determine whether the Security Police killed him as alleged by [Dirk] Coetzee. It is certain that [Dirk] Coetzee's version is false.⁷⁰

Despite Harms stating that "it is not for the Commission to establish or speculate upon what became of Kondile", he does exactly that by inferring from "ANC policy" that Kondile would have been regarded as a traitor, an informer, and hence killed by the ANC.⁷¹ In so doing, the security police are exonerated by Harms of the 'allegation' as 'alleged' by Dirk Coetzee and paradoxically Coetzee is also exonerated from possible prosecution through his self-incriminating testimony.

The very next section relates to Mthimkulu. Note that Madaka's name does not appear in the sub-heading. According to Harms:

As has been said, Mtimkulu was arrested on 31 May 1981. He was released on 20 October 1981 and was apparently healthy at that stage. Shortly after his release, however, he showed symptoms of thallium poisoning. He was seriously ill but began to recover gradually. In December 1981 he brought a claim against the SAP on the ground of alleged assault on him during his detention. On 2 April 1982 he instituted the claim against the SAP [South African Police] on the ground of poisoning. As has already been said, he left his house on 14 April 1982 in the company of Madaka in Madaka's vehicle. Later that evening Madaka returned alone to Mtimkulu's house and left again. On 18 April 1982 the vehicle was found abandoned at the Telle bridge on the

⁷⁰ 'Harms Commission Report', 117-120.

⁷¹ In Chapter Four of this dissertation, 'Categorically missing', I elaborate more on the implications of Sizwe Kondile cast as an 'informer'.

border between Transkei and Lesotho. No trace has since been found of Madaka or Mtimkulu. The poisoning of Mtimkulu also caused a sensation at the time. Questions were raised in Parliament and the matter received considerable press coverage. [Dirk] Coetzee has also increased his knowledge of Mtimkulu since November 1986.

The above is the police account and Harms's official version of the circumstances surrounding Mthimkulu's and Madaka's 'disappearance'. Dirk Coetzee had not claimed, as in the case of Kondile, that he had been personally involved in Mthimkulu and Madaka's 'disappearance'. Rather his 'allegations', by his own admission, *were* based on hearsay. Following a similar sequence of rationale as with the findings of the Kondile 'case', Harms proceeded to provide Dirk Coetzee's version as follows:

Coetzee's version is briefly that while he was in Durban he received instructions to travel to Port Elizabeth to assist the planned kidnapping and killing of Mtimkulu. Mtimkulu was also to be released, kidnapped and killed. He travelled to Port Elizabeth via Lindley in the Free State. There he was stopped. After that Brigadier Van der Hoven allegedly travelled from Durban to Pretoria to fetch the poison and take it to Port Elizabeth. The poison was administered on the day of the release, but was insufficient to kill Mtimkulu. Thereafter Mtimkulu was kidnapped and killed and his body hidden.

As with the section on Kondile, Harms proceeds to lay out the "problems" with Dirk Coetzee's version:

The problems concerning Coetzee's evidence are manifold:

- *Coetzee was in Durban only during the period 11 to 21 November 1981. By then Mtimkulu had already been poisoned. According to Coetzee's version the poison must have been administered during that period or later.
- *When Mtimkulu was released, Coetzee was busy killing Dhlamini and Mavuso in the Eastern Transvaal and was nowhere near Durban.
- *No plausible reason could be furnished why Van der Hoven would have travelled from Durban to Pretoria to take poison to Port Elizabeth.
- *The planning and the administration of the poison are, in the light of Coetzee's evidence, at best a second-hand hearsay tale.
- *In the light of Coetzee's first version, the kidnapping and killing of and doing away with Mtimkulu were guess-work, and according to his subsequent version second-hand hearsay.
- *Coetzee was not even consistent about who the source of the hearsay was.

The ‘suspicion’ of Dirk Coetzee’s version by Harms is grounded in the principle of hearsay as not being sufficient to constitute evidence that can be regarded as fact, the basis, according to Harms, in making a finding. Next came Harms’s analysis:

In the light of the foregoing it is not surprising that it was not argued that [Dirk] Coetzee’s version might be true. In argument it was assumed that this Commission can make no finding on the allegations of assault during detention. If [Dirk] Coetzee’s version is ignored, we are back in 1982 and no additional facts have come to the Commission’s knowledge. Mtimkulu might have been poisoned during his detention. The poison used is not freely available. The Commission is unable to identify a probable poisoner. Nor has it been possible to find a probable motive for the poisoning. The whole affair will shortly be unravelled in a civil suit and possibly those proceedings will provide the answer. [Referring to the civil case involving Lothar Neethling.⁷²] The scenario now presented to the Commission is also different from that painted by [Dirk] Coetzee. On the one hand it is suspicious that Mtimkulu disappeared shortly after the summons was issued. On the other hand the evidence on his poisoning already existed and would at the time have aroused – and did arouse – suspicions of police involvement. It is doubtful whether a policeman would have murdered him merely to frustrate the civil proceedings.

And finally:

To sum up, there is no evidence to support this suspicion. No available clues were found. Nothing could be found pointing to the possible existence of other outstanding clues. The conclusion is therefore that no finding can be made in respect of the poisoning and that, in respect of the disappearance, there is no evidence that the Security Police were responsible for it.⁷³

The above seemingly responds to a question of how it was that Harms arrived at his findings that refuted Dirk Coetzee’s ‘allegations’ as it relates to the disappearances and killings of Kondile, Mthimkulu and Madaka. Harms first discredited Coetzee as a reliable witness, and thereafter, through an “abuse of contextual proof” and through a process of “judicial historiography”, Harms presented his own anatomy of their disappearances so as to account for those. Coetzee’s version and the versions of the

⁷² It was suggested by Dirk Coetzee that the thallium poisoning might have come from the South African Police Forensic Laboratory headed by Lothar Neethling.

⁷³ ‘Harms Commission Report’, 120-124.

security police were not sufficient for Harms at “establishing that a crime had been committed” and of “identifying criminals in order to bring them to justice.”

If following Ginzburg’s analysis of the Sofri case, the historian can plausibly argue that it was through a process of “contextual proofing”, a “slipping tacitly (and illicitly) from the plane of mere possibility to the level of asserting a fact; from the conditional to the indicative” leading to a “logical error, paradoxically based on an abuse of so-called ‘logical proof’ ”⁷⁴ that Harms was able to present his anatomy of “events” that never happened – the *enforced* disappearances of Kondile, Mthimkulu and Madaka. Coetzee claimed that they were *enforcibly* abducted, killed and remains disposed of by members of the Eastern Cape security police. The historian might suggest that Coetzee gave voice to “a narrative of fears and apprehensions and their revelation in the creation of an event that never happened”⁷⁵ through Harms’s refuting of Coetzee’s claims and ‘allegations’. For Harms, and with regards to Mthimkulu and Madaka, the “creation of an event that never happened” was that they went into exile to join the ANC and thus were responsible for their own disappearance and, for Kondile, that he was killed by the ANC and responsible for his own disappearance and death. In other words, a refiguring of the ‘event’ that is Harms’s anatomy of the disappearances of Kondile, Mthimkulu and Madaka, is a disciplining of the missing.

My reading of Donald Reid’s engagement with Ginzburg’s *The Judge and the Historian* suggests that the “event that never happened” – that Sofri and his co-accused ordered and committed the murder – might be interpreted by the historian as having been constructed and narrated by the judges through an account of their “fears and apprehensions” that manifests through what Ginzburg calls an “abuse of contextual proof.” Yet this places the historian in a double bind, or at an impasse, in

⁷⁴ C. Ginzburg, *The Judge and The Historian*, 118-119.

⁷⁵ D. Reid, ‘The Historian and the Judges’, 142.

that the “abuse of contextual proof” by the judges would then be used by the historian to account for the judges “fears and apprehensions” where the “contextual proof” comes to serve as the very evidence that the historian would use to construct the “fears and apprehensions” of the judges. As this relates to Harms, the historian might then suggest that his “fears and apprehensions” were influenced by an apartheid state discourse of a ‘total onslaught’. This might be confirmed through Harms’s reading of “so-called official” ANC and other anti-apartheid literature, state security documents, “official” police documents describing and detailing the arrest, interrogation and release of specifically Mthimkulu and Kondile; all of which depicted a ‘total onslaught’ – ‘total strategy’ representational bind.

While an examination (by the historian) of Harm’s reading (as judge) of Coetzee’s (as witness) testimony and evidence is necessary, it is, I argue, insufficient for the historian in accounting for the figuring of Kondile, Mthimkulu and Madaka and the disciplining of them as missing. Similarly it might be necessary but insufficient to merely account for the judge’s worldview by constructing, through an examination of his deployment of an “abuse of contextual proof”, his “fears and apprehensions.” If the task of the historian is merely to evaluate Coetzee’s evidence and show that it was in fact ‘reliable’ and evaluate the security police evidence to show the contradictions and gaps that would lead to an arguing that if there was a “miscarriage of justice” - albeit in a somewhat different articulation - it would be in Harms’s refuting of Coetzee’s ‘allegations’ by accepting the security police evidence and testimonies as ‘reliable’. Indeed, this is precisely Harms’s, as the judge, anatomy of disappearances.

The above, I argue, would be tantamount to asking and abiding by a question of ‘who lied?’ Asking and abiding by a question of ‘who lied?’ was precisely the

logic within which Harms understood and carried out his mandate. The historian abiding by this question cannot adequately engage the implications of Harms refuting of Coetzee's 'allegations' for a writing of history that must account for the disciplining of the missing. Indeed, it would constrain an elaboration of an examination of the disciplining of the missing by not accounting for Sizwe Kondile, Siphiwo Mthimkulu and Topsy Madaka as missing through the script that was the Harms Commission.

The historian's anatomy of disappearances

The historian's anatomy of disappearances I argue, borrowing from Premesh Lalu, is to consider the disciplining of the missing as being caught up in "the event of history." To be caught up in "the event of history", according to Lalu, is to be caught up "in the enunciative modalities of history that define the difference of what [can] be said and what [is] actually said."⁷⁶ As I elaborate below, what both Coetzee and Harms could say and what they actually said about Sizwe Kondile, Siphiwo Mthimkulu and 'Topsy' Madaka as missing was the very condition of possibility at disciplining the missing. And yet, I caution against an expectation of naming the Harms Commission as an "event" *in* history that would amount to an understanding of "the event of history" as "a major rupture in the march of time and narrative." Rather it is more productive, as Lalu argues, to understand "the event of history" as "that painfully consistent measure of the complicity of the discourse of history as a normalizing structure of knowledge that returns the subject to a subordinate position in the statement."⁷⁷ Situated on the cusp of formal negotiations between the apartheid government and the ANC and other liberation movements, the Harms Commission

⁷⁶ P. Lalu, *The Deaths of Hintsa: Postapartheid South Africa and the Shape of the Recurring Pasts* (Cape Town: HSRC Press, 2009) p. 10.

⁷⁷ P. Lalu, *The Deaths of Hintsa*, p. 268.

could not but return Kondile, Mthimkulu and Madaka to a subordinate position in its statement on their disappearances.

Kondile, Mthimkulu and Madaka were disciplined as missing at the Harms Commission through what could be said and what was said about the ‘allegations’ of who was responsible and to be held accountable for their disappearances and killings. This was based on Coetzee’s ‘confession’, his testimony and evidence together with Harms’s rejection thereof and his alternative versions. Coetzee’s ‘allegations’ detailed how Kondile and Mthimkulu and Madaka were produced as missing persons and as missing dead bodies and those responsible to be held accountable. Based on Coetzee’s ‘allegations’, Kondile, Mthimkulu and Madaka’s physical bodies were missing. For Harms though, by a process of an “abuse of contextual proof” within a “judicial historiography” (Ginzburg), Kondile, Mthimkulu and Madaka were registered as missing only insofar as Harms operated within a system of discipline as “a political anatomy of detail” (Foucault) that enabled his anatomy of disappearances.

In other words, if to discipline the body- the docile body- following Michel Foucault, is to register that “discipline is a political anatomy of detail”⁷⁸, Harms’s evaluation and dismissal of Coetzee’s ‘allegations’ about the disappearances of Kondile, Mthimkulu and Madaka figured them as missing within competing and mediating discourses. These discourses – judicial and political but mediated by the discourse of history through its iterations of conflating evidence and context - served to implicate the missing as responsible for their own disappearances. Harms’s anatomy of disappearances disciplined the disappeared as missing through presenting alternative versions to counter those of Coetzee’s ‘allegations’ and in so doing, could not account for the missing as missing through what Lalu, in a different context,

⁷⁸ M. Foucault, *Discipline and Punish: The Birth of the Prison* (London: Penguin Books, 1991), 139.

articulates as “the fabrication of historical subjectivity” – that “process by which the subject is necessarily cast as the very object of historical discourse.”⁷⁹ Yet the missing are by no means docile, no matter how attempts at docility through disciplining in its various guises might be figured.

Harms’ refuting of Dirk Coetzee’s ‘allegations’ through a disciplining of the missing was based on an abiding question of whether Coetzee was lying, and overwhelmingly Harms responded in the affirmative. In response to the Harms Report, Coetzee penned a letter addressed to Harms that was published in the newspaper *Vrye Weekblad*. The newspaper decided to use the concluding sentence of that letter, ‘Jy sal nog agterkom ek het nie gelieg nie’ [You will realise that I did not lie] as the title.⁸⁰ In 2010 Harms maintained, “you must remember, much of what Dirk Coetzee said was inherently untrue” but later in the newspaper article, he conceded, “Look, Coetzee had moments of truth in his evidence.”⁸¹ To abide by the question ‘who lied?’ is to operate within the logic of the judge as historian, the historian as judge and Dirk Coetzee as the perpetrator-witness. It might therefore be tempting for the historian’s anatomy of disappearances to present an alternative version of the missings’ disappearances following Ginzburg’s rational but by including Reid’s analysis as a way into such an alternative narrative. Such an alternative narrative however, as I suggested above, places the historian in the double bind of seeking to make sense of assertions of events that never happened constituted by a re-reading of the “abuse of contextual proof” by Harms that would be used by the historian to account for his “fears and apprehensions” where the “contextual proof” comes to serve as the very evidence that the historian would use to construct the “fears and apprehensions” of both Harms (judge) and Coetzee (witness – perpetrator).

⁷⁹ P. Lalu, *The Deaths of Hintsa*, 13.

⁸⁰ D. Coetzee, ‘Jy sal nog agterkom ek het nie gelieg nie’ in *Vrye Weekblad* (16 November 1990).

⁸¹ J. Smith, ‘Judge who came in harm’s way’ in *Saturday Star* (16 October 2010).

I suggest therefore that the historian take heed of David Scott's point that, "the way one defines an alternative *depends* on the way one has conceived the problem. And therefore, reconceiving alternatives depends in significant part on reconceiving the object of discontent and thus the longing that stimulates the desire for an alternative."⁸² The object of discontent that drives the historian's desire to account for the missing and their disciplining would be to not only reverse, albeit historically as a reading of, a miscarriage of justice, but to show how 'justice' had both been administered and executed as an exercise. Yet, and borrowing from Scott again, what historians should be preoccupied with is a reading "historically not just for the answers that this or that theorist produced but for the questions that are more or less the epistemological conditions for those answers." Reading historically, to clarify, is an "appreciation of prior understandings of the relation between pasts, presents and futures [which] is to think of different historical conjunctures as constituting different conceptual-ideological problem-spaces, and to think of these problem-spaces less as generators of new propositions than as generators of new questions and new demands."⁸³ It is this understanding of not merely reading historically, but also thinking historically that is productive for the historian's anatomy of disappearances.

If abiding to a 'who lied?' question constitutes a problem-space in the way Scott articulates it, the historian's anatomy of disappearances should entertain a provocation by Luise White when she asks, "what if historian's didn't care about which versions of events was true?" The historian not caring about which version is true, according to White, allows for narratives about pasts and presents to "tell

⁸² D. Scott, *Conscripts of Modernity: The Tragedy of Colonial Enlightenment* (Duke University Press, 2004), 6.

⁸³ D. Scott, *Conscripts of Modernity*, 7.

more.”⁸⁴ Indeed, abiding by a question of ‘who lied?’ is to abide by the very logic of a system of subjection and subjugation and in so abiding is to miss an opportunity - a ‘telling more’ - at discerning the stakes of a history that must account for the disciplining of the missing. What might this ‘telling more’ entail and ‘reveal’?

I suggest that a ‘telling more’ as it relates to the disciplining of the missing requires a re-thinking and re-reading historically of the administrative apparatus of the commission of inquiry itself, specifically within apartheid South Africa. Such a re-thinking and re-reading enables an elaboration of what I suggested above in so far as what both Coetzee and Harms could say and what they actually said about Kondile, Mthimkulu and Madaka as missing was the very condition of possibility at disciplining the missing and can be gleaned when considering the genealogy of a particular kind of commission of inquiry in apartheid South Africa. This telling more then is to consider the Harms Commission itself as part of, albeit a variation of, what Adam Sitze calls apartheid’s ‘Tumult Commissions’.

What Sitze for “heuristic purposes” calls ‘Tumult Commissions’, were commissions of inquiry generally appointed following and/or during violent state repression of riots or disturbances and that form a “loose yet coherent unity”, a “loose but internally consistent genre.”⁸⁵ Apartheid’s ‘Tumult Commissions’ were concurrent with what Adam Ashforth calls the ‘Grand Tradition’ of the ‘Native Question’ Commissions of Inquiry that sought to understand ‘race relations’ in South Africa.⁸⁶ Yet whereas ‘Native Question’ commissions’ studied ‘race relations’ so as

⁸⁴ L. White, ‘Telling more: lies, secrets and history’ in *History and Theory*, Vol. 39, No. 4, Theme Issue: “Not Telling”: Secrecy, Lies and History (Dec; 2000), 12. See also L. White, *The Assassination of Herbert Chitepo: Texts and Politics in Zimbabwe* (Bloomington: Indiana University Press, 2003).

⁸⁵ A. Sitze, *The Impossible Machine: A Genealogy of South Africa’s Truth and Reconciliation Commission* (Ann Arbor: The University of Michigan Press, 2013), 15, 160.

⁸⁶ See A. Ashforth, *On the Native Question: A Reading of the Grand Tradition of Commissions of Inquiry into the Native Question in Twentieth-Century South Africa* (Oxford: Oxford University Press, 1987).

to avoid “racial strife”, ‘Tumult Commissions’ studied ‘race relations’ where it “was already too late to avoid racial strife, where racial strife already had manifested itself in violence and repression, and where the aim of the Commission of Inquiry was consequently to present remedies for avoiding the recurrence of racial strife (or, at least – and indeed more often – the avoidance of its expression in the form of violence.)”⁸⁷ The ‘Tumult Commission’ took up the abiding problems of amongst others, that of safety as it relates to secret organisations, assassinations and police and military forces.⁸⁸ ‘Tumult Commissions’ were tasked with gathering information about acts of violence committed by functionaries of the apartheid state and according to Sitze, shared some remarkable features that instead of securing public confidence in the government of the day, was instead largely viewed as a ‘whitewash’ by those opposed to its policies. Sitze traces the emergence and genealogy of such commissions through its colonial and apartheid (re)iterations and underscores incomplete repetitions and insufficient differences that are also evident through South Africa’s Truth and Reconciliation Commission (TRC).

Some of the features that Sitze names as being evident in reading reports of ‘Tumult Commissions’ can be gleaned from the Commission of Inquiry appointed in 1836 into the death and ‘alleged’ beheading of the Xhosa King Hintsa in 1835.⁸⁹ That commission shared a reading strategy that Sitze names as the historiographical modes of accuse, exonerate and mourn most explicitly evident in the colonial Jamaica Royal Commission (JRC) Report that investigated the Morant Bay Rebellion of 1865. Through a reading thereof and contemporaneous readings, Sitze underscores the ways in which indemnity jurisprudence and its emergence influenced the ways in which colonial commissions of inquiry reported findings of violence enacted upon colonial

⁸⁷ A. Sitze, *The Impossible Machine*, 161.

⁸⁸ A. Sitze, *The Impossible Machine*, 161.

⁸⁹ See also P. Lalu, *The Deaths of Hintsa*, 31-64.

subjects – ‘natives’ - by functionaries of colonial power and how those findings were read, interpreted and put to use.

Sitze recounts and narrates the 1866 attempt of John Stuart Mill, a prominent leader of the Jamaica Committee comprised of a group of “English radicals”, to have Governor Edward Eyre prosecuted for his violent suppression of the Morant Bay Rebellion that included the issuing of marshal law and the executing of George William Gordon, one of the leaders of the rebellion. Sitze deftly shows how Mill read the report to ‘accuse’ Eyre, how the British undersecretary of state, Charles Bowyer Adderly, read the report to ‘exonerate’ Eyre. This Adderly did by claiming that the report could not be read as “cause” for legal action but simply as a description of the evidence and how the colonial secretary, Edward Cardwell, read the report as neither to prosecute nor to exculpate, but to ‘mourn’, to “grieve, to lament, to experience a tragedy all the more poignant for the fact that it was, as all the evidence clearly showed, unavoidable.”⁹⁰ None of these readings, Sitze posits, “ can be said to be a misreading” because,

[t]he report did not at all exclude the possibility of prosecuting Eyre and his cronies for the suffering they caused. To the contrary, the epistemic field it produced carefully left that possibility open...at the same time, however...it painstakingly neutralised that same possibility, compensating for its allowance of one reading of its findings by pointedly opening up the possibility of a reading opposed to it. The report did not, then, *rule out* the possibility of prosecution. It produced an epistemic field that *cancelled out* that possibility. It hosted the possibility of accusation – a calling to account – but it equally hosted the possibilities of exoneration and, differently, of depoliticised suffering. The report was written as if its purpose was to validate all three historiographical modes at one and the same time, each compensating for the other through a carefully calibrated latticework of weights and counterweights – as if the governmental task of restoring equilibrium *to* the colony could only be accomplished if the principle of equilibrium first governed the report on disequilibrium *in* the colony. Thus did the JRC’s report establish a subtle but decisive paradigm for the interpretation of the victims of colonial violence.

⁹⁰ A. Sitze, *The Impossible Machine*, 147.

Judicious without also being judicial, it accused without prosecuting, exonerated without pardoning, and mourned without fury or rage.⁹¹

Sitze argues that apartheid's 'Tumult Commissions' inherited, in varying iterations and calibrations but with incomplete repetitions and insufficient differences, these historiographical modes of accuse, exonerate and mourn that were intimately connected to indemnity jurisprudence as it evolved in South Africa.⁹² More specifically apartheid's 'Tumult Commissions' inherited from those colonial 'Tumult Commissions' attempts to go to great lengths to publicise their hearings and to invite all with vested interests to testify, yet,

[on]ly to express considerable doubt and sometimes even scorn regarding the veracity, credibility, and reliability of the resulting testimony (which commissioners repeatedly found to be filled with lies, inconsistencies, and excessive narration.) Most, but not all of these commissions', were, like the JRC, mandated to investigate the question of the necessity of the use of police and military force in suppressing riots and rebellions, and like the JRC, some of these commissions' did end up finding fault with the military and police authorities for their actions. But in each case where a commission ensured that the violent acts of colonial authorities were, as Mill put it in 1866, 'so deservedly but so mildly condemned', that condemnation would always be qualified in familiar ways. In some cases where state officials were found to have committed crimes, Tumult Commissions did end up recommending prosecution. More often however, nothing happened at all. Like the JRC before it, the Tumult Commission carefully calibrated condemnations of police not only with criticisms of the natives themselves but also with praise of the promptness and even the severity of authorities responses.⁹³

Sitze thus argues that, "this carefully calibrated 'evenhandedness' would become so formal and regular, would become such a hallmark of the Tumult Commissions' epistemic field, that it would even determine the grammar of certain Tumult Commission reports."⁹⁴ Sitze continues and posits that as apartheid neared its legal dissolution as a system of governance, its 'Tumult Commissions', as opposed to its

⁹¹ A. Sitze, *The Impossible Machine*, 149. Italics original.

⁹² See A. Sitze, *The Impossible Machine*, 72-97; 98-130.

⁹³ A. Sitze, *The Impossible Machine*, 163.

⁹⁴ A. Sitze, *The Impossible Machine*, 164.

colonial predecessors, “was no longer mainly...a governmental technique for the management of populations that also – in the course of its self-criticism of state violence – happened to justify the ‘lamentable necessity’ or ‘necessary evil’ of violent state action:

It now became mainly a discourse through which the state justified its violent repression of agitators to its critics abroad, and only secondarily served as an attempt to inquire into populations in order to manage them, and as the source of a tragic narrative on the regrettable inevitability of violence as part of that management. This was not an epistemic break (in which the Tumult Commission assumed an entirely new way of knowing), but rather, a shift in emphasis...One sees here, in particular, a new declension of the tragic mode, in which the stress was less on the reciprocally terrible consequences of miscommunication and misunderstanding for all parties involved and more on the sense in which the police officer was unfairly at risk of becoming figured as a scapegoat, a flawed hero in whom collective guilt could be concentrated and at whose expense the public could absolve its own conscience.⁹⁵

There is much that the historian’s anatomy of disappearances can glean from Sitze’s rendering of the genealogy of ‘Tumult Commissions’ and its apartheid (re)iterations, while acknowledging the incomplete repetitions and insufficient differences. But it is his reading of the 1979 ‘Commission of Inquiry into the Riots at Soweto and Elsewhere’, a commission also headed by one man, Supreme Court justice Petrus Malan Cillié, hence its colloquial name of the Cillié Commission, which resonates with a reading of the Harms Commission that is able to pose the question of a ‘telling more’ as it relates to the disciplining of the missing.

Like the Harms Commission in 1990, those who opposed it politically boycotted the Cillié Commission of 1979. As such, and like the Harms Commission, it was mostly informed from the perspective of the police. And like the Harms Commission, the perspectives of the police, those accused of wrongdoing, were cast in a sympathetic light that was filled with great understanding: an attempt to avoid a

⁹⁵ A. Sitze, *The Impossible Machine*, 173.

narrative in which, as the quote above signals, “the police officer was unfairly at risk of becoming figured as a scapegoat, a flawed hero in whom collective guilt could be concentrated and at whose expense the public could absolve its own conscience.” Of course, and somewhat ironically, at the Harms Commission, one could read the figure of Coetzee as the scapegoat, as the flawed hero, who by Harms exonerating the police Coetzee implicated, exonerated and absolved Coetzee himself. Lastly, like the Harms Commission, the Cillié Commission was ultimately regarded as a ‘sham and a charade’.⁹⁶

Without going into too much detail of Sitze’s reading of the Cillié Commission Report via a critique of Richard Price’s detailed account of its Report, there are two main points that I wish to underscore.⁹⁷ The first point relates to Price’s reading that the Cillié Commission Report presented “apartheid as part of the South African problem rather than the solution” in that it was apartheid policies itself that established the conditions of the uprising. The second point was that the uprising was presented also as a result of external forces, particularly that of the USSR as “outside agitators.” The conclusion for Price was that through the Cillié Commission’s Report, it was evidence of a “ ‘dramatic indicator’ of the degree to which Soweto undermined the basis of and force of apartheid rule.”⁹⁸ While Sitze does not completely undermine this conclusion of Price, he does argue that a genealogical reading of the Cillié Commission shows the extent to which apartheid’s ‘Tumult Commissions’ pushed the internal logics of its colonial predecessors and earlier apartheid’s ‘Tumult Commissions’ to the extreme. This extreme, according to Sitze, enabled the Cillié

⁹⁶ A. Sitze, *The Impossible Machine*, 182.

⁹⁷ For a slightly different reading of the Cillié Commission, one which resonates, yet also challenges White’s provocation of asking what if historians did not care about which versions of events were true, see H. Pohlant-McCormick, ‘I saw a nightmare...’ Violence and the Construction of Memory (Soweto, June 16, 1976) in *History and Theory*, Vol. 39, No. 4, Theme Issue: “Not Telling”: Secrecy, Lies and History (Dec; 2000), 23-44.

⁹⁸ A. Sitze, *The Impossible Machine*, 182.

Commission (and some of apartheid's earlier 'Tumult Commissions'), to be publicly understood as,

conceal[ing] more than they revealed, to increase more than decrease hostility, to produce more than reduce hostility. No longer an effective mechanism of colonial governance, the Tumult Commission now had become little more than an empty ritual, a legal husk that continued to repeat colonial truths under postcolonial conditions, conditions in which those truths openly appeared as untruths. The Tumult Commission thus finally became what, latently, it always already was: an administrative means to the end of maintaining a colonial rule founded, in the last instance, on a militarised police force.⁹⁹

While I engage the significance of Sitze's overall argument as it relates to the TRC (in which he provocatively poses a question that questions the TRC as a Tumult Commission of a special type) and more importantly its implications for the figuring of the missing as 'Categorically missing' in the following chapter of this dissertation, the above has been to note some of the features of apartheid's Tumult Commissions. In so doing I wish to suggest that while the Harms Commission might not have precisely followed the script of such commissions, in its resonance therewith there are certain elements of the Harms Commission that enables a 'telling more'. This 'telling more' situates the disciplining of the missing within a mode of critique that Michel De Certeau points to as part of the historiographical operation:

As a substitute for the absent being, an enclosure of the evil genius of death, the historical text plays a performative role...Historiography uses death in order to articulate a law (of the present). It does not describe the silent practices that construct it, but it effects a new distribution of already semanticized practices...historiography furnishes death with a representation that, in placing the lack within language, outside of existence, has the value of an exorcism against anguish. But, through its performativity, historiography fills the lacuna that it represents; it uses this locus to impose on the receiver a will, a wisdom, and a lesson...the dead [missing] of which it speaks become the vocabulary of a task to be undertaken. Such is the ambivalence of historiography: it is the condition of a process and the denial of an absence; by turns it acts as the discourse of a law (historical saying opens a present to be made) and as an alibi, a realistic illusion (the realistic effect creates the fiction

⁹⁹ A. Sitze, *The Impossible Machine*, 187.

of another history). It oscillates between ‘producing history’ and ‘telling stories’, but without being reducible to either one or the other.¹⁰⁰

De Certeau’s insight into the historiographical operation, part of which I have shared above, is relevant for what I am calling the historians anatomy of disappearances that must ask what a ‘telling more’ might entail that both produces history and tells stories as the historian (re)reads the Report of the Harms Commission as a historical text. Indeed, Sitze offers readings of select Reports of some of apartheid’s ‘Tumult Commissions’ and responses to those so as to underscore certain internal logics that asks of the historian, as genealogist in the Foucauldian sense, to map out the grids of intelligibility that orders her readings thereof.¹⁰¹ Mapping out the grids of intelligibility of the Harms Commission genealogically then is to suggest that if the Harms Commission resonates with apartheid’s ‘Tumult Commissions’, as I suggest it does, the historian’s anatomy of disappearances must account for it as being caught up in the “event of history” as I pointed out earlier.

From Sitze’s reading of the genealogy of apartheid’s Tumult Commissions, and by entertaining Whites provocation of not abiding to a who lied question that enables a telling more, the historian’s anatomy of disappearances is left with a question that seeks not to present an alternative narrative of the way in which the Harms Commission disciplined the missing, but rather pose a question that foregrounds apartheid itself as a question and a problem. This is to suggest, and re-assert as I have earlier in this chapter, that my reading of Ginzburg and Reids’s intervention is productive in so far as Reids’s argument of that which is missing from Ginzburgs analysis of the Sofri Case is an account of both the fears and apprehensions of the witness Marino and the judges so as to glimpse their worldviews that subjects

¹⁰⁰ M. De Certeau, *The Writing of History* (New York: Columbia University Press, 1988) 101-102.

¹⁰¹ See M. Foucault, ‘Nietzsche, Genealogy, History’ in D. F Bouchard (ed.) *In Language, Counter-Memory, Practice: Selected Essays and Interviews* (Ithaca: Cornell University Press, 1977).

them to a particular history of Italy's "years of lead". Yet I argue ultimately that such a reading amounts to a conflation of evidence and context, as a "slipping tacitly (and illicitly) from the plane of mere possibility to the level of asserting a fact; from the conditional to the indicative" leading to a "logical error, paradoxically based on an abuse of so-called 'logical proof'".¹⁰² In other words, such an approach would be to operate within the very logic of Coetzee as perpetrator-witness and Harms as judge and in so doing, miss an opportunity to tell more, a telling more that cannot but foreground apartheid, in following Scott, as a question and a problem.

Thus, in following Sitze's genealogy of apartheid's 'Tumult Commissions', the judicial historiography of the judge that Ginzburg takes issue with, can now be re-read in the grammar of the 'Tumult Commission'. In so doing and more specifically as it relates to the Harms Commission, the 'evidential paradigm' that Ginzburg champions in so far as a reading for 'clues', will not be lost to the historians' anatomy of disappearances. Though importantly it must be acknowledged and posed as a problem that the grammar thereof orders her reading as a narrative strategy of accusations and exonerations (the question of mourning, or the empty place left to mourning in the script of the Harms Commission is taken up in the following chapter of this dissertation) that itself has a genealogy within apartheid as a system of subjection and subjugation – expressed through a genealogical account of apartheid's 'Tumult Commissions'.

By posing the question of apartheid, or rather by naming apartheid as a question and a problem, which is not reduced to evidence and context as an abuse of contextual proof, is to foreground a reading of apartheid that is deeply implicated in the disciplining of the missing, through not only its bureaucratic apparatus of its

¹⁰² C. Ginzburg, *The Judge and The Historian*, 118-119.

'Tumult Commissions', but also the historians' reading thereof, as a genealogist in the Foucaudian sense. This then is to read the Harms Commission as part of a system of subjection and subjugation that was the condition of possibility for what both Harms and Coetzee could and did say about the disappearances of Kondile, Mthimkulu and Madaka. More so, it enables an examination of what could not be said by Harms and Coetzee, namely, that their versions of events that happened and events that did not happen were caught up in "the event of history". It is the historians' anatomy of disappearances that must name that event of history, as a particular question, a particular problem and a particular critique of apartheid.

And yet a response to a question of posing apartheid as a question and a problem must necessarily take heed of Lalu's provocative argument that three questions have not guided the critique of apartheid: "what kind of disciplinary power did apartheid represent, what kind of normalising effects does it entertain and where would we mark the ends of apartheid?"¹⁰³ Provocative precisely because of its seeming obviousness and more so in relation to the Harms Commission, these questions nonetheless are significantly apt for thinking through what it might mean to write a history figured by and taking account of the disciplining of the missing. I would however add caution at wanting to too hastily arrive at responses to these questions.

My caution is in part prompted by a reading of a seminar paper presented by David William Cohen titled 'A Small Matter of the Truth'. In that paper, Cohen revisits an earlier text, *The Risks of Knowledge: Investigations into the Death of the Hon. Minister John Robert Ouko in Kenya, 1990*. Cohen re-asserts that he and his co-author E.S. Ateieno Odhiambo were not concerned with finding out whom exactly was

¹⁰³ P. Lalu, *The Deaths of Hintsa*, 26.

responsible for the murder of Ouko - they were, and he is still not, concerned with who lied. Rather, they were concerned with understanding “how the force of the question influenced the shifting frames of knowledge formation, politics and governance in Kenya.” Indeed, part of the force of *The Risks of Knowledge* is its concise mapping of the notion of ‘the production of history’.¹⁰⁴ It is the concluding remarks of Cohen’s paper that gives me pause in wanting to respond too hastily to Lalu’s three questions that he argues have not guided the critique of apartheid. Cohen writes:

I am not certain whether it is analogy, or the thing itself, but I find haunting Walter Benjamin’s ‘Critique of Violence’. One achievement of Benjamin’s essay is that he takes into his optic on violence something other than legalistic and victimological programs of defining particular acts of violence, or in the analogy, lies. By acknowledging the force of lies, or violence...there is more at hand than the challenge of mitigation...Benjamin’s essay is more a circle, and in the end, there is no end...to violence...or, by implication, no end to lies. But reading Benjamin’s essay raises the question of whether we can stand outside law, discipline, text, critique, performance, history, temporality...to recognise the powers and limits of these frames which we combine together and through which we view and act upon our world.¹⁰⁵

If the disciplinary power of apartheid in relation to enforced disappearances was represented through a disciplining of the missing by the Harms Commission understood within a genealogical tradition of apartheid’s ‘Tumult Commissions’, what then are its normalising effects and how might those effects be articulated in a way that does not amount to a “miscarriage of justice” to the missing? If following Cohen reading Benjamin, then there can be no escape from the violence of the apartheid ‘past’. Indeed, this is precisely what I read Lalu as suggesting when he

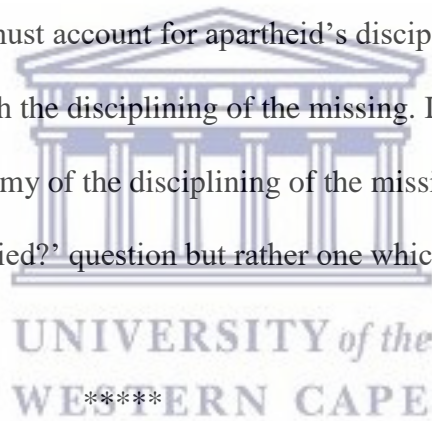
¹⁰⁴ See also L. White, *The Assassination of Herbert Chitepo: Texts and Politics in Zimbabwe* (Bloomington & Indianapolis: Indiana University Press – published in Cape Town: Double Story Books (Juta), 2003).

¹⁰⁵ D. W Cohen, ‘A Small Matter of Truth’, Paper presented at WISH Seminar, WISER, University of Witwatersrand (24 March 2016). 12, 18.

posits that, “if violence is the signature of our modernity, then we might say that this very violence is that which we cannot escape.” He continues by suggesting that

The uncertain relation of history to the intrinsic violence of modernity also places it in an uncertain relation to the encounter with the violence of apartheid. Given the aporia, it has become necessary to return to the place of history in this modernist predicament, not as a source, but as a symptom. If apartheid is symptomatic of modernism’s violence, then we might say that its history has not really escaped the realms of complicity. The discourse of history, we might say, hosts modernity’s supposedly inescapable paradox. That much is known to us.¹⁰⁶

My caution at not wanting to too hastily respond to Lalu’s provocation is prompted by the very question of where the ends of apartheid might be marked as it relates specifically to the disciplining of the missing but that cannot be attended to without a critique of apartheid that must account for apartheid’s disciplinary power and its normalising effects through the disciplining of the missing. In so doing, the historian too needs to offer an anatomy of the disciplining of the missing, but an anatomy that does not abide by a ‘who lied?’ question but rather one which seeks to tell more.



In response to the Harms Report and as mentioned in the Introduction to this chapter, The Independent Board of Inquiry into Informal Repression (IBIIR) distributed a discussion document titled ‘Who Lied?’ The document was “dedicated to the memory of Bheki Mlangeni”; the lawyer killed by an explosive device hidden in a Walkman meant for Dirk Coetzee was opened instead by Mlangeni, killing him instantly.¹⁰⁷ Lawyers who submitted documents detailing over two hundred acts of violence with an apparent political aim represented the IBIIR at the Commission. The

¹⁰⁶ P. Lalu, *The Deaths of Hintsa*, 264.

¹⁰⁷ On the 16 February 1991 a walk-man bomb intended for Coetzee killed ANC lawyer Bheki Mlangeni. Eugene De Kock later claimed responsibility for the attempted murder of Coetzee and the murder of Mlangeni. See E. De Kock, *A Long Nights Damage: Working for the Apartheid State* as told to Jeremy Gordin (Contra Press, 1998), 203-210.

‘Who Lied?’ document stated that “investigators for the Board succeeded in uncovering a host of corroborative evidence concerning various allegations made by [Dirk Coetzee]” that were submitted to the Commission. While acknowledging that in the Final Report of the Commission Harms had “commended and thanked the Board’s counsel for their assistance”, the document underscored criticisms of the Commission and pointed to differences between the IBIIR lawyers’ heads of argument and the findings of the Commission.¹⁰⁸

Significantly in the ‘Who Lied?’ document was the IBIIR’s assessment of Harms’ findings as it relates to Mthimkulu and Kondile. After laying out the IBIIR’s Heads of Argument and the Commission’s Report with regards to Mthimkulu, the IBIIR noted that, “The Commission is unable to find a probable poisoner despite the fact that Port Elizabeth security police officer Colonel Hermanus Barend du Plessis stated categorically that nothing could have happened to Mtimkulu in detention without his, (Du Plessis’s) knowing about it.” With Regards to Kondile, the IBIIR’s assessment was that, “The veracity of Coetzee’s account of this case and the Vusi and Peter killings was tested again in the case of Neethling versus the *Vrye Weekblad* and the *Weekly Mail*.”¹⁰⁹ The IBIIR noted that, “the contradictions between the Harms Commission findings and Judge Kriegler’s judgement [the Lothar Neethling civil suit], especially in regard to the credibility of Coetzee’s evidence, highlights the problems of the commission’s format in investigating these types of allegations.”¹¹⁰ Coetzee had claimed that the poison – knock-out drops- given to Kondile before he was shot dead - was provided by Lothar Neethling. Providing an account of the Lothar Neethling case (a civil suit based on defamation of character), a Lieutenant General in the South African Defence Force whom the *Vrye Weekblad* and *Weekly*

¹⁰⁸ ‘Who Lied?, 3.

¹⁰⁹ ‘Who Lied?’, 15.

¹¹⁰ ‘Who Lied?, 34.

Mail implicated in a number of criminal acts based on Coetzee's 'allegations', the 'Who Lied?' document argued that

In the Harms Commission Report Coetzee's version of ...the Kondile incident was rejected as either improbable or implausible. However Judge Kriegler found Coetzee's version... to be not only plausible but probable...a large part of the Harms findings on police activities were effected by Harms' assessment of Coetzee as an inherently unreliable witness. Kriegler found him to be a basically truthful witness and found that Neethling was not only an untruthful witness in his court, but had also misled the Harms Commission.¹¹¹

Harms concluded in his Report that, "in the course of the Commission it ... appeared that although allegations and accusations are rife as to who did what and why, there is a basic lack of evidential material that might put some flesh on the bones. In general, victims failed to furnish information."¹¹² In concluding, the 'Who Lied?' document noted that, "the whole issue of the abuse of power by the State is obviously one of prime public interest. However, after the conclusion of the Harms Commission...it is extremely doubtful whether the public is satisfied that all death squad allegations have been 'opened to the bone.'" ¹¹³ The IBIIR suggested that "some form of public inquiry" be established but "should not take the form of a commission of inquiry, which is subject [to] certain structural limitations, but rather a body independent of all state organs with powers to subpoena and grant indemnity, powers usually invested in a court."¹¹⁴ While not as a consequence of the IBIIR's suggestion, in 1995 the TRC was established that seemingly overcame the "structural limitations" that the IBIIR noted as evident in the Harms Commission.

Without the expectation of an affirmative response, this chapter has posed the question of what it might mean to offer a critique of apartheid through a reading of the disciplining of the missing through multiple powers expressed through the

¹¹¹ 'Who Lied?', 34.

¹¹² 'Harms Commission Report', 196.

¹¹³ 'Who Lied?', 34.

¹¹⁴ 'Who Lied?', 34.

administrative and bureaucratic institution of the Harms Commission that has resonances with apartheid's 'Tumult Commissions'. This chapter has been a consideration of what it might mean to think a history that must account for the disciplining of the missing. This is necessarily to ask questions about the category of history and how it might be deployed at activating a history that must account for the disciplining but also abide by the missing by not foregoing its and, their reckoning.

I argue that the Harms Commission is significant for the ways in which such a history begins to emerge as a politics of history and a history of apartheid that disciplines the missing. It provokes the question of what it might mean to write a history after apartheid that must account for this disciplining – a telling more! More specifically, how might a history after apartheid activate a postapartheid future that abides by the missing-ness of the missing? These questions are not mutually exclusive, for to think and write a history after apartheid is to imagine a postapartheid future in the wake of apartheid, in its wake. This chapter then has been a ground clearing in asking after a history that must account for the disciplining of the missing. The stakes of asking after such a history should be considered as a mapping of the contours of a critique of apartheid that abides by careful and measured attempts at articulating a question of missing-ness.

Categorically missing

On the 7 March 2013 it was reported by news agencies in South Africa and internationally that Dirk Coetzee had died of kidney failure. Recalling the previous chapter, Coetzee was a former captain in South Africa's apartheid security police and commander of the infamous Vlakplaas. He is known for his "revelations" about his involvement with apartheid death squad activities in the early 1980s that were first publicised in 1989.¹ Those "revelations" included details regarding the fate of Sizwe Kondile, an anti-apartheid activist who had joined the African National Congress (ANC) in Lesotho and who had 'disappeared' on the 26 June 1981. At Coetzee's 1996 testimony before the Truth and Reconciliation Commission's (TRC) Amnesty Committee, and as he had done before at the 'Harms Commission of Inquiry into Certain Alleged Murders' (1990), he vividly described the time it took and the "callousness" at burning a dead body. That description was based on his participating in the 1981 burning and disposal of the dead body of Sizwe Kondile, whose remains remain missing.

In the wake of Coetzee's death many obituaries were published recounting his infamous and checkered life.² One in particular, written by advocate and former director of the National Prosecuting Authority Vusi Pikoli, and a close friend of Sizwe

¹ See 'Bloedspoor van die SAP' in *Vrye Weekblad* (17 November 1989). See also J. Pauw, *In the Heart of the Whore: The Story of apartheid's death squads* (Johannesburg: Southern Book Publishers, 1991).

² See for example Philip De Wet, 'Rumour trails Dirk Coetzee to the grave' in *Mail and Guardian* (8 March 2013)

<http://mg.co.za/article/2013-03-07-rumour-trails-dirk-coetzee-to-grave>

(Accessed 30 August 2018);

Mandy De Waal, 'Jacques Pauw on Vlakplaas; Apartheid assassin, Dirk Coetzee' in *Daily Maverick* (8 March 2013)

<https://www.dailymaverick.co.za/article/2013-03-08-jacques-pauw-on-vlakplaas-apartheid-assassin-dirk-coetzee/>

(Accessed 30 August 2018).

Kondile, stands out notably with its strident title, “Dear Dirk, I will not miss you”.³ The subtitle of the obituary reads, “Former Vlakplaas death squad commander Dirk Coetzee killed many ANC comrades, including Sizwe Kondile. The same Coetzee was embraced by the same comrades while they branded Sizwe a traitor...”⁴ In the obituary Pikoli recounts not only Coetzee’s life, but places such a recount alongside the death and life of Sizwe Kondile whose physical remains remain missing. The obituary authored by Pikoli in response to the death of Coetzee is challenging to read. The challenge stems in part from not knowing to whom the obituary is addressed and whom (or what) is to be, or not to be, grieved and mourned given its title: “Dear Dirk, I will not miss you”. While seemingly an obituary as a notice of the death of Coetzee, I show that it is a notice of multiple ‘deaths’ and ‘lives’ that complicates both a reading of the life of Coetzee and Kondile. It is also challenging because not only is it published in a newspaper, the *Sunday Independent*, but significant parts of the obituary also appear in *My Second Initiation: The Memoir of Vusi Pikoli*, a memoir penned by journalist Mandy Weiner but co-authored with Pikoli that details his life.⁵ The challenge thus is in being able to pull apart the many strands that constitute the obituary filtered as it is through a number of discourses and discursive strategies of reading and writing that begs the question as to the function of the obituary and its presumed audience.

I rely specifically on the work of Judith Butler, Mark Sanders and Jacques Derrida to assist in the challenge of reading the obituary. This chapter then is framed by three readings of the obituary written by Pikoli so as to trace the ways in which

³ Vusi Pikoli, ‘Dear Dirk, I will not miss you’ in *Sunday Independent* (10 March 2013). For the online version see:

<https://www.iol.co.za/sundayindependent/dear-dirk-i-will-not-miss-you-1483724> (Accessed 30 August 2018).

⁴ V. Pikoli, ‘Dear Dirk, I will not miss you’ in *Sunday Independent* (10 March 2013).

⁵ V. Pikoli and M. Wiener, *My Second Initiation: The Memoir of Vusi Pikoli* (Johannesburg: Picador Africa, 2013).

Kondile is figured as categorically missing through history and its discourses by both naming and denying the eventfulness of him being missed and missing. In so doing, this chapter, and building on the previous chapter, asks how a history ‘after’ apartheid, in the wake of apartheid, might activate a postapartheid future that is able to abide by a question of missing-ness that apartheid-era disappearances give rise too. This chapter then is guided by a question that relates to the naming and denying of missing as event- its eventfulness- and the implications thereof for thinking mourning and its work that is symptomatic of a remembering of apartheid.

What the previous three chapters of this dissertation have suggested thus far is that a question of missing-ness can be understood as the figuring of persons’ such as Siphiwo Mthimkulu, ‘Topsy’ Madaka and as elaborated in what follows, Sizwe Kondile, through various discourses and discursive strategies, practices and processes, complicit in and implicated by history and its discourses. A question of missing-ness understood in this way clearly requires that what is named as apartheid is not only registered in its effects, implicitly confusing an effect for a cause, but also through what escapes the discourses of its, apartheid’s, naming. It is precisely as a category that sits uneasily in these discourses that a question of missing-ness acquires the full force of its implications for any attempt, even in its impossibility, at coming to terms with apartheid. Indeed, abiding by a question of missing-ness is to acknowledge, though without foregoing, a working through of the conditions of (im)possibility that so marks any history of the missing. To the extent that Kondile can be thought and abided by as an instance in which this destabilizing effect on the discourses surrounding apartheid becomes apparent, I argue that he is registered in the index of apartheid as categorically missing.

I suggest that the obituary be read as a text that enacts the work of mourning in so far as it is a text in and of mourning that underscores a reckoning at work in remembering and grieving Kondile as missing alongside what seems to be a prescription on the grievability of the life of Coetzee that, following Butler, underscores the precarity and precariousness of the obituary. I proceed to discuss the ways in which accounts of Kondile as missing victim and Dirk Coetzee as perpetrator is constituted through an intertwined narrative of incomplete accusations and insufficient exonerations that figures Kondile to the categories ‘informer’ and ‘traitor’ and is constitutive in naming and denying the eventfulness of Kondile produced as missing. In so doing, I underscore a question of mourning.

Through the specificity of Kondile produced as missing and maintained in that state, I suggest that what is at stake in the precarious obituary written by Pikoli is an asking anew of apartheid, of “what it was” and “what it *is*”, of remembering apartheid that complicates Mark Sanders notion that “apartheid *is* a proscription on mourning”.⁶ It might be possible to think apartheid, for to think apartheid is also to remember apartheid, more akin to a notion of “there shall be no mourning” following Jacques Derrida’s reading in ‘Lyotard and Us’.⁷ I argue in this chapter that we abide by - endure and reckon with- the question of missing-ness that the figuring of Kondile gives rise to.

A precarious obituary

Obituaries are public notices of death that are about life and lives expressing grief, loss, mourning and remembering. Bridget Fowler, in mapping a sociogenesis of

⁶ M. Sanders, *Ambiguities of Witnessing: Law and Literature in the Time of a Truth Commission* (Johannesburg: Wits University Press, 2007), 35.

⁷ J. Derrida, ‘Lyotard and Us’ in P. Brault and M. Naas (eds.), *The Work of Mourning* (Chicago: University of Chicago Press, 2001).

obituaries, notes five ‘genres’ discernable through the form of an obituary. She names those first as the ‘obituary and its positive form’, the “traditionally positive or neutral form, close to the eulogy”. Second is the ‘negative obituary’ understood as “a form of critical discourse” in which “the subject’s subversion of legal or ethical rules” is revealed and in so doing, the writer of the obituary “effectively undercuts the obits ostensible objective: to praise.” Third is the ‘tragic obituary’ that sees contradictions or social clashes in the life of the subject of the obituary. These, according to Fowler “possess tragic dimensions...the tragic element – as opposed to the purely negative – lies in the recognition of the structural forces stacked up against him or her.” Fourth is ‘the ironic obituary’ that, “subtly subvert[s] common obituary conventions by inviting a contrasting and distanced reading of the subject’s actions” For Fowler, here the “subject is subtly objectified: she or he can be safely mocked for elitism, but not excluded as a monstrous other...running through these obits is a broad vein of subjects selected as ‘characters’, judged to be beloved or dangerous according to the degree of subversive threat they represent.” Lastly is the increasingly numerous ‘untraditional positive obituary’ understood by Fowler as “miniature biographies [that] abandon the assumption of a steady ascent upward, as in the classical career. Instead, their subjects have been thrown by a roller-coaster of experience, sometimes feted, at other times marginalized.”⁸ Each of these ‘genres’, and to varying degrees, coalesces in the obituary written by Vusi Pikoli.

A key insight by Fowler is her argument that obituaries “mould collective memory” in so far as the contemporary obituary is able to “recapitulate the past, not just by delving into the bare bones of *Who’s Who* but – increasingly via memories of the subject’s unique experience, gathered from those in his or her group networks.” In

⁸ B. Fowler, *The Obituary as Collective Memory* (New York: Routledge, 2007), 17-22.

so doing, obituaries are able to “simultaneously reflect on an individual’s concrete, indeed unpredictable life, while also revalorising a certain view of the past.” For Fowler therefore, “there is a great tension between collective memory, vested in individuals, and history/ies.” Fowler thus posits that obituaries, “coming as they do as an overall verdict on a life – have provoked their own increasing demand for...authoritative accounts.” Yet, as she points out, “paradoxically, the more the obit has become stripped of its euphemistic codes, the higher are reader’s expectations for its judicious assessments.”⁹ In many ways then an obituary can be considered as a biographical ‘genre’, given that it is, despite being a notice of death, ultimately about life, lives.

Though as a ‘genre’ of biography, an obituary, which has its own sub-genres as noted above, might, as Carlo Ginzburg articulates the notion of ‘genre’, also be “defined by a series of characteristics which imply at the same time restrictions and possibilities.”¹⁰ While Fowler takes issue with Judith Butler’s rendering of the ‘genre’ of the obituary, that which Butler in *Precarious Life* initially articulates as, “where lives are quickly tidied up and summarized, humanized, usually married, or on the way to be, heterosexual, happy monogamous”, there is a resonance between Fowler’s articulation of the moulding of collective memory through obituaries and Butler’s concern at the stakes involved within a “hierarchy of grief.”¹¹ For Fowler, Butler is “somewhat dated in her view of contemporary obituaries: not all of them have subjects who are heterosexual and ‘married or on the way to be’. Although the focus of the obituary is on the public sphere, the distinguished are often now acknowledged to be in private, somewhat transgressive figures.” Despite this quibble, Fowler

⁹ B. Fowler, *The Obituary as Collective Memory*, 10-11; 25-40.

¹⁰ See C. Ginzburg, ‘Representing the Enemy’ in *Threads and Traces: True False Fictive*, trans. by Anne C. Tedeschi & John Tedeschi (California: University of California Press, 2012), 152.

¹¹ B. Fowler, *The Obituary as Collective Memory*, 3; J. Butler, *Precarious Life: The Powers of Mourning and Violence* (New York: Verso, 2004), 32.

acknowledges that, “there is an underlying validity in Butler’s view that some lives are more to be mourned than others.”¹² What Fowler argues as an increase in “reader’s expectations for [a] judicious assesment” of obituaries can be understood as resonating with an abiding question of Butler’s, namely that of what makes for a grievable life through the expression of the obituary? As such, an obituary has the potential for precarity.

It is to Butler that a notion of precarity is most urgently raised in so far as wrestling with a question of the apprehension and recognition of the qualification of certain lives as injured or lost “if they are not first apprehended as living.” Butler raises such a question on reflection of the aftermath of the vagaries of war, terrorism and violence in which certain lives do not qualify as lives and hence do not qualify as grievable. Evoking a question of precarity, for Butler, is to rethink “the complex and fragile character of the social bond and to consider what conditions might make violence less possible, lives more equally grievable, and, hence, more liveable.” The task then is to explicitly acknowledge that, “the more or less existential conception of ‘precariousness’ is thus linked with a more specifically political notion of ‘precarity’.” My reading of the obituary titled ‘Dear Dirk, I will not miss you’ implicates such a political notion of precarity in so far as “subjects are constituted through norms which, in their reiteration, produce and shift the terms through which subjects are recognized.”¹³ The obituary written by Pikoli is decidedly precarious – its precarity framed by the very modalities of violence inscribed within it.

Butler asks “us” to “ask, again and again, how the obituary functions as the instrument by which grievability is publicly distributed.” She suggests that the obituary “is the means by which a life becomes, or fails to become, a publicly

¹² B. Fowler, *The Obituary as Collective Memory*, 3-4.

¹³ J. Butler, *Frames of War: When is Life Grievable?* (London: Verso, 2009), 2-4.

grievable life, an icon for national self-recognition, the means by which a life becomes noteworthy.” Butler continues and posits that, “as a result, we have to consider the obituary as an act of nation-building.” As an act of nation-building however, Butler argues that “the matter is not a simple one, for, if a life is not grievable, it is not quite a life; it does not qualify as a life and is not worth a note. It is already the unburied, if not the unburiable.”¹⁴

At first glance the strident title of the obituary written by Pikoli, “Dear Dirk, I will not miss you”, suggests that the words following it are addressed solely to the figure of Dirk Coetzee. But, and adjusting one’s inflection slightly, when Pikoli writes later in the obituary, “I will not miss him”, it suggests that Pikoli appears to be addressing not only the figure of Coetzee, but, as a public statement about his life that is “publicly distributed”, addresses a public that, if following Butler, can be named as the nation. Pikoli addresses the figure of Coetzee and states, “I will not miss *you*”; implying ‘*your* life is not grievable’. Pikoli, in addressing the nation states, “I will not miss *him*”; implying ‘*his* life is not grievable’, a statement that can be read as either a proscription or prescription that is a question as to the grievability of the life of Dirk Coetzee.

Pikoli recalls his reaction on hearing the news of Coetzee’s death, “Did the news leave me cold or numb? I could not tell. The news evoked an ache in my heart. I will not miss him.”¹⁵ Pikoli asking “did the news leave me cold or numb” seems to be ironic in its calculability in that it is reminiscent of the words of apartheid minister of justice and police, Jimmy Kruger, who in his statement on the death of Steve Biko stated, “I am not saddened by Biko’s death and I am not mad. His death leaves me

¹⁴ J. Butler, *Precaious Life*, 34.

¹⁵ V. Pikoli, ‘Dear Dirk, I will not miss you’.

cold.”¹⁶ What Pikoli seems to register in this ironic calculability is precisely a question as to the grievability of the one whose death the obituary is seemingly indexing. Pikoli continues and writes, “I have never met him [Coetzee], but I always wanted to meet him...to ask him questions about Gcinisizwe Sylvester Khwezi Kondile, commonly known as ‘Sizwe’ or ‘Tshonyi’.”¹⁷

The questions that Pikoli would have liked to ask Coetzee, it seems, have to do with the exact location of where Sizwe Kondile was killed. A further question it seems that Pikoli would have liked to ask relates to, “From the time Sizwe disappeared in June 1981 in Maseru, Lesotho, until the revelation by Coetzee in 1989, he was labelled an enemy agent who had infiltrated the ANC.”¹⁸ The accusation of Kondile having been “labelled an enemy agent who had infiltrated the ANC”, it seems, is in part what “evoked an ache in [Pikoli’s] heart.” Indeed, Pikoli writes, “[Sizwe] paid the ultimate price, but was branded a traitor by his own comrades and yet was killed by Coetzee and his death squad. The same Coetzee was to be later embraced by the same comrades. What a twist of fate, how ironic, what a travesty of justice.”¹⁹ Pikoli states, “Dear Dirk, I will not miss *you*” and later “I will not miss *him*” and asks “us” to consider the grievability not of the death of Coetzee, but of his life.

To assist “us”, Pikoli describes a death that Coetzee is responsible and accountable for: “Coetzee told us the ‘truth’ we knew already; only the gory and gruesome details were new. What type of human being assaults another, shoots him in

¹⁶ See X. Mangcu, *Biko: A Life* (I.B Tauris, 2013), 262. See also J. W. Bucher, ‘Arguing Biko: Evidence of the Body in the Politics of History, 1977 to the Present’ (Unpublished PhD thesis: University of Minnesota, 2010).

¹⁷ V. Pikoli, ‘Dear Dirk, I will not miss you’.

¹⁸ V. Pikoli, ‘Dear Dirk, I will not miss you’.

¹⁹ V. Pikoli, ‘Dear Dirk, I will not miss you’.

the head and burns the body while ‘having a braai and drinking liquor’.²⁰ Pikoli underscores the effects and affect of the ‘abduction’ and killing of Kondile, primarily that Kondile was accused of being an ‘informer’, and the suffering he (Pikoli), his comrades and the family of Kondile had to endure because of that accusation. Indeed, Pikoli states that he too was “looked at with suspicion.”²¹ Pikoli recognises and acknowledges that Kondile was exonerated through the “revelation by Coetzee in 1989” but questions his motive by stating, “Had it not been for former apartheid askari Almond Nofomela, who was sentenced to death for some other non-political murder; the ‘courageous’ Coetzee would never have spoken out. Coetzee came out of the woodwork because Nofomela decided to spill the beans on the eve of going to the gallows. He became a ‘comrade’ to save his bacon.”²² The obituary is about Coetzee’s life, it is/was, recalling Butler above, “noteworthy”, “worth a note”, but only in so far as it is to register another’s death and life.

Pikoli figures Sizwe Kondile in the obituary as a life lost, “cut short at the age of 24”, “killed”, and “perished at [the] hands” of Coetzee.²³ He states that it was Coetzee who “commanded the death squad that coldly calculated to mercilessly and permanently remove [Kondile] from the society he loved.”²⁴ While Coetzee literally is buried, he is figured in the obituary, again recalling Butler above, as “the unburied” and seemingly always to be “the unburiable”. Coetzee’s life, seemingly, cannot be publicly grieved, for his is a life that must “fail to become a publicly grievable life.”

Juxtaposed in the obituary is a death and life that is and must but cannot, at least

²⁰ V. Pikoli, ‘Dear Dirk, I will not miss you’.

²¹ V. Pikoli, ‘Dear Dirk, I will not miss you’.

²² V. Pikoli, ‘Dear Dirk, I will not miss you’. As mentioned in Chapter Three of this dissertation, on the 19 October 1989, death row prisoner, Butana Almond Nofemela, submitted an affidavit on the eve of his scheduled execution, which the *Weekly Mail* published. Nofemela had named Coetzee as the leader of an assassination squad. In response, then Minister of Justice, Kobie Coetzee, appointed ‘The McNally Commission’ that found Nofemela’s “allegations” to be false. See J Pauw, *In the Heart of the Whore*.

²³ V. Pikoli, ‘Dear Dirk, I will not miss you’.

²⁴ V. Pikoli, ‘Dear Dirk, I will not miss you’.

not fully, be privately and publicly grieved. Not only is Coetzee held responsible and accountable by Pikoli for the death of Kondile, he is also held responsible and accountable for Kondile's remains remaining missing. Kondile is literally "the unburied" and will always be "the unburiable". Pikoli writes that, "Coetzee's assistance to the National Prosecuting Authority's Missing Persons Task Team [MPTT]...was not very useful. He could not point out the spot where they killed Sizwe to enable the task team to try and retrieve whatever remained of Sizwe."²⁵

After the success of the excavation and exhumation at Post Chalmers in 2007 as discussed in Chapter One of this dissertation, the MPTT decided to re-examine cases of missing persons' who had allegedly been burnt by security police as a means of disposal. Coetzee and other perpetrators who had applied for Amnesty at the TRC claimed that Kondile's body had been burnt on a surface fire that was lightly covered with soil and that his remains were left uncovered on the site. This would have exposed Kondile's physical remains to greater deterioration and disintegration than those of the 'Pebco 3' and Siphiso Mthimkulu and 'Topsy' Madaka at Post Chalmers. Yet the MPTT still held hope that if the location of where Kondile's body had been burnt could be identified, they could excavate and sieve soil to attempt to recover any burnt human bone fragments left. In 2009 the then head of the Priority Crimes Litigation Unit within the NPA, Advocate Anton Ackerman, approached Dirk Coetzee to assist the MPTT.

While initially reluctant, Coetzee accompanied the MPTT team to Komatipoort and he pointed out a possible site. Coetzee recalled two farms that were relevant as the possible location, Avondstond and Castilhopolis. Coetzee also recalled that there

²⁵ V. Pikoli, 'Dear Dirk, I will not miss you'. See also N. Davids, 'Apartheid secrets die with Coetzee' in *Times Live* (8 March 2013).
<https://www.timeslive.co.za/news/south-africa/2013-03-08-apartheid-secrets-die-with-coetzee/>
(Accessed 30 August 2018).

were three concrete or cement bases or foundations at the site. However, after the site was trenched and examined by members of the MPTT team that included forensic archeologists' and anthropologists', nothing was found that indicated a large fire or any burnt human fragments and the site was excluded as a viable site. After the failure of the first search, the MPTT decided to continue investigating that included interviewing numerous persons and local police in the area. Two further sites were identified. However, the search did not yield any probable success of recovery of Kondile's remains.²⁶

Paging through the *Sunday Independent* (10 March 2013) to get to page 13, where the obituary was printed, the reader's gaze is immediately struck by a blown up photograph, which as shown below, is an image within an image. In stark contrast to the way in which Coetzee was described at the Harms Commission by journalist David Beresford as "a stocky figure, smart in a checked jacket and dark slacks with a tongue of hair slicked across the forehead of his solid, rugby player's face"²⁷, and notwithstanding the passage of time, the photograph framing the obituary portrays a serious, grim and somewhat feeble looking Coetzee.

The picture frames Coetzee standing in a clearing surrounded by lush green vegetation. Coetzee is staring straight at the camera with pursed lips and wearing blue jeans and a grey short-sleeved shirt. Like a mugshot, he is holding a placard stating the location - 'Komatipoort' with 'Mpumalanga Prov' beneath it and followed by a series of letters not very clear to the reader (perhaps 'SA-KNT-01?'), and on the

²⁶ Report of 'Missing Persons Task Team Investigation: Location of the Sizwe Kondile Site Near Komatipoort'. See also V. Pikoli and M. Wiener, *My Second Initiation*, 224-229.

²⁷ David Beresford, 'In the Art Deco theatre, a gardener talks of murder' cited in *Weekly Mail* (3 May 1990), 10.

bottom right corner a date, “30 03 2009”.²⁸ Behind him is a building structure with corrugated roof and an unidentified woman sitting, legs stretched out, on what appears to be a delapidated wall in front of the building. Immediately to the left of where Coetzee is standing is another building structure with large stones set upon its roof.

Inserted to the right and positioned higher than the figure of Coetzee at the top left hand corner of the main picture just described, is an “insert” - pasted onto the image of the lush green vegetation - a face and partial torso, three fingers of a hand just visible, a young man wearing what seems to be a navy blue or black jersey with a lighter coloured shirt collar just visible, his eyes glanced to the right of the frame - away from the figure of Coetzee - and smiling widely, mischievously even, and yet, somewhat shyly - Sizwe Kondile.



Figure 6: ‘**Sins of the Past**: Dirk Coetzee at a site near Komatipoort where Sizwe Kondile’s (insert) body was believed to have been burnt. Main Picture: NPA Missing Persons Task Team.’²⁹

²⁸ In his published memoir, Pikoli has a close up of Coetzee’s face that seems to be the same image published in the *Sunday Independent*. It is there that the wording of the placard is more visible as opposed to the image published in the *Sunday Independent*.

²⁹ Note that the online version of the article does not include the ‘insert’ of Sizwe Kondile.

Butler argues that, “when a picture is framed, any number of ways of commenting on or extending the picture may be at stake.” However, as she continues, “the frame tends to function, even in a minimalist form, as an editorial embellishment of the image, if not a self commentary on the history of the frame itself.” For Butler then, “this sense that the frame implicitly guides the interpretation has some resonance with the idea of the frame as a false accusation.” Looking at the above image certainly resonates with an understanding of ‘to be framed’ in the sense of “if one is ‘framed’, then a ‘frame’ is constructed around one’s deed such that one’s guilty status becomes the viewer’s inevitable conclusion.”³⁰ Coetzee is guilty and it is the “insert” of the face of Kondile together with Pikoli’s rendering of the life and death of Kondile that registers this. Though the question the photograph above evokes in relation to the obituary is not about *who* is framed but *what* is being framed in the sense of the caption framing the frame that requires no punctuation – ‘Sins of the past’ – not only are the “Sins of the past” registered as Kondile’s physical remains remaining missing, but through the text of the obituary, also that he was accused as being an informer.

The framing of the text of the obituary, the above image, captures both Pikoli’s prescription at the grievability of the life of Coetzee and lament of Kondile’s grievable life that underscores his physical remains remaining missing. Certainly the photograph is meant to capture Coetzee as not being able to identify the location of where Kondile’s body was burnt and in so doing, exacerbate Pikoli’s lament in the content of the obituary of Coetzee not being able to point out the spot as Pikoli states, “where they killed Sizwe to enable the task team to try and retrieve whatever remained of Sizwe.” The caption surely attests to this.

³⁰ J. Butler, *Frames of War*, 8.

But prefaced with “Sins of the past” as the caption does, the framing of the frame, or “ ‘frame the frame’ or indeed the ‘framer’” as Butler posits by drawing on the work of Trinh Minh-ha, is to “expose the the ruse that produces the effect of individual guilt.” The point is that calling the frame into question “is to show that the frame never quite contained the scene it was meant to limn, that something was already outside, which made the very sense of the inside possible, recognisable.” In other words, “the frame never quite determine[s] precisely what it is we see, think, recognise, and apprehend.”³¹ Thus it is not merely that the picture frames the obituary written by Pikoli, and it is not that the obituary frames the photograph, rather it is through a framing of the frame that the precarity of the obituary comes to the fore.

The image supplied to the *Sunday Independent* was provided by the MPTT, as the caption makes clear. We are not told who provided the “insert”, the face of Kondile. The “insert” of the face of Sizwe Kondile serves as a particular kind of trace, one which re-affirms the precariousness of the obituary itself. The visual trace of the “insert” affirms that the photo of Kondile’s face cannot restore the integrity to the body it registers. This integrity is such that it must, but cannot restore the exoneration of the accusation of Kondile as an informer. This integrity is such that it attempts, but cannot render, let alone restore the integrity of Kondile’s physical remains because Coetzee is figured as both responsible for the accusation and for Kondile’s remains remaining missing. Indeed, as Butler posits, “the visual trace is surely not the same as the full restitution of the humanity of the victim, however desirable that obviously is.”³² The framing of the frame with both the face of Coetzee and Kondile registered in the photo suggests, as Butler argues, that no understanding of humanization, or rather an understanding of the image and humanization that Pikoli ascribes to Kondile

³¹ J. Butler, *Frames of War*, 9.

³² J. Butler, *Frames of War*, 78.

in the obituary, can take place “without a consideration of the conditions and meanings of identification and disidentification.”³³ But identification, as Butler reminds, is such that “it always relies upon a difference that it seeks to overcome, and that its aim is accomplished only by reintroducing the difference it claims to have vanquished.” In this regard, the frame of the obituary is such that as a “critical image”, following Butler, “it must not only fail to capture its referent, but show this failing.”³⁴ And yet who or what is the referent of the “critical image” framing the frame of the obituary?

The face of Kondile, the “insert” into “Sins of the past”, haunts. According to Avery Gordon, photographs “provide the evidence that a disappearance is real only when it is apparitional, only when the missing or the lost or the not there shines through, there where it might not have been expected, there in that moment of affective recognition that is distinctive to haunting.”³⁵ But the face of Coetzee, staring straight ahead, haunts as well. Emmanuel Levinas, whom Butler draws upon by engaging his notion of the ‘face’, considers the ‘face’ as evoking a moral and ethical demand and Butler posits that, “the ‘face’ of the other cannot be read for a secret meaning, and the imperative it delivers is not immediately translatable into a prescription that might be linguistically formulated and followed.”³⁶ For Levinas, as Butler cites him,

The approach to the face is the most basic mode of responsibility...the face is not in front of me (en face de moi), but above me; it is the other before death, looking through and exposing death. Secondly, the face is the other who asks me not to let him die alone, as if to do so were to become an accomplice in his death. Thus the face says to me: you shall not kill. In relation to the face I am exposed as a usurper of the place of the other...The face is what one cannot kill, or at least it is that whose meaning consists in saying ‘thou shall not kill’.

³³ J. Butler, *Prekarious Life*, 145.

³⁴ J. Butler, *Prekarious Life*, 145-146.

³⁵ A. Gordon, *Ghostly Matters: Haunting and the Sociological Imagination* (Minneapolis: University of Minnesota Press, 2008), 102.

³⁶ J. Butler, *Prekarious Life*, 131.

Murder, it is true, is a banal fact: one can kill the Other, the ethical exigency is not an ontological necessity...³⁷

By offering an engaging reading of Levinas and his notion of the 'face' so as to elaborate on her ethics of precarity that for Butler is a demand upon "us", she posits that while "the face makes various utterances at once: it bespeaks an agony, an injurability, at the same time that it bespeaks a divine prohibition against killing."³⁸ In this sense, the beginning of the caption framing the obituary written by Pikoli, "Sins of the past" has a certain resonance to the faces depicted in the photograph. Literally and descriptively this might be translated as Kondile's face, in spite of the smile upon it, uttering agony and injurability as well as uttering the prohibition to his killing - you shall not kill - to the face of Coetzee, cast as the Other through Pikoli's prescription as to the grievability of Coetzee. But the face itself does not speak. The face, "the name for the face, and the words by which we are to understand its meaning - 'Thou shalt not kill' - do not quite convey the meaning of the face...[for] precisely the wordless vocalization of suffering that marks the limits of linguistic translation here."³⁹ What this underscores is that Levinas, for Butler, provokes a question as to the relation between representation and humanization:

When we consider the ordinary ways that we think about humanization and dehumanization, we find the assumption that those who gain representation, especially self-representation, have a better chance of being humanized, and those who have no chance to represent themselves run a greater risk of being treated as less than human, regarded as less than human, or indeed not regarded at all. We have a paradox before us because Levinas has made clear that the face is not exclusively a human face, and yet is a condition for humanization. On the other hand, there is the use of the face, within the media, in order to effect a dehumanization. It would seem that personification does not always humanize.⁴⁰

The paradox for Butler, is the paradox between the evacuation of the face that does

³⁷ Levinas cited in J. Butler, *Prekarious Life*, 131-132.

³⁸ J. Butler, *Prekarious Life*, 135.

³⁹ J. Butler, *Prekarious Life*, 134.

⁴⁰ J. Butler, *Prekarious Life*, 141.

humanize and how personification can at times perform its own dehumanization. Butler suggests that we need to consider the different ways that violence can happen and one of those ways is precisely through the production of the face in the media. If following Butler's logic, not only is Coetzee's face, but the very mugshot pose in which the face is captured, presented as the face of tyranny and the face of deception.

It is evident that Coetzee is presented both through the text of the obituary and the image framing it as a personification of 'evil'. Thus, "a certain commensurability is asserted between that ostensible evil and the face." In this regard, and drawing on Butler, "this face is evil, and the evil that the face is, extends to ...generalised evil... We personify the evil...through a face that is supposed to be, to capture, to contain the very idea for which it stands. In this case, we cannot hear the face through the face. The face here masks the sounds of human suffering and the proximity we might have to the precariousness of life itself."⁴¹ Kondile's face, as an "insert", is presented as giving a face that underscores the terror, a face underscoring the evil of the "Sins of the past" named as 'Thou shall not kill', but only through the juxtaposition of Coetzee's face in the very same frame - the face of evil and deception. What the framing of the frame of the images suggests then is precisely a kind of unrepresentability. Butler articulates a distinguishing among kinds of unrepresentability:

In the first instance, there is the Levinasian view according to which there is a 'face' which no face can fully exhaust, the face understood as human suffering, as the cry of human suffering, which can take no direct representation. Here the 'face' is always a figure for something that is not literally a face. Other human expressions, however, seem to be figurable as a 'face' even though they are not faces, but sounds or emissions of another order. The cry that is represented through the figure of the face is one that confounds the senses and produces a clearly improper comparison: that cannot be right, for the face is not a sound. And yet, the face can stand for the sound precisely because it is not a sound. In this sense, the figure underscores the incommensurability of the face with

⁴¹ J. Butler, *Precarious Life*, 145.

whatever it represents. Strictly speaking, then, the face does not represent anything, in the sense that it fails to capture and deliver that to which it refers.⁴²

It is to the “Sins of the past” that the ‘face’ of the framing of the frame, the photo and the text, and indeed the form of, the obituary fails to capture and deliver. There is no explicit violence shown in the images, but there certainly is a violence registered through the frame in what is shown in the images. The violence done to Kondile is framed by a mechanism – that of the framing of the frame – in which his life and death is unrepresentable but is at the same time representable through the ‘capturing’ of the “Sins of the past” through the ‘face’ of Coetzee. This violence is both effacement through occlusion and effacement through representation itself.⁴³

It is not a simple matter apprehending and recognizing the referent of the images framing the obituary. It is not a simple matter reading this precarious obituary that frames the images through its framing of the frame. Both Kondile and Coetzee *are* figured as “icon[s] of national self-recognition”, through Pikoli asserting the grievability of the death and life of Kondile who is missing and missed through a prescription that questions the grievability of the life of Coetzee. This double register at work in the obituary and the images in its double framing leaves ‘us’ to account for such doubleness. In other words, figuring Kondile and Coetzee, though for differing representations as “icon[s] of national self-recognition”, the obituary, its framing, and the framing of the frame of the images, registers a call to remember the very conditions of possibility that renders its (in)visibility.

Remembering incomplete accusations and insufficient exonerations

⁴² J. Butler, *Precarious Life*, 144.

⁴³ J. Butler, *Precarious Life*, 147.

Productive to think with in continuing my reading of the precarious obituary written by Vusi Pikoli is Mark Sanders insightful reading of what it means to remember apartheid in an aptly titled chapter, 'Remembering Apartheid'. Sanders posits that ways of remembering in South Africa are bound up with the work of TRC. He notes that before anything else, the task of the TRC was to "foster repair" and that this was underscored in its Report variously as "national memory", "public memory" and "social memory" that which Adam Sitze points out has been understood as historical catharsis.⁴⁴ Sanders questions that which was placed into such memory in so far as a legacy of apartheid is concerned. He argues that the TRC Report did not fully take into account what had been taking place at TRC hearings in the ways in which witnesses who testified remembered and expressed apartheid's legacies. Sanders argues that through the TRC Report, apartheid is remembered in a particular way:

Aside from the interpretation that it explicitly rejects, that apartheid is continuous with colonialism, and other interpretations - apartheid as 'racial-capitalism' - that have an equally marginalised place in the report, what such an account asks the readers of the report to do is to remember apartheid as a system of which the main architect and builder was the state, whose main instruments and tools were an array of laws. With its investigations and report restricted to the 'gross violation' of human rights, this characterisation of apartheid, although central to the picture, is like a ghost in it and cannot be a fully acknowledged presence in its account. It is certainly there, the commissioners appear to say, and it haunts our every word, but we have no mandate to deal with it.⁴⁵

According to Sanders, to remember apartheid is to ask, "what it was" and "how it is being remembered", but is also to ask, "what *is* apartheid". In other words, to know what apartheid was, it is implied; we will know what apartheid is. Acknowledging the aporia inherent in his formulation in that "the essence of what apartheid is has been derived from an activity of remembering that is historically contingent", Sanders seeks to traverse the aporia "provisionally [but] without eliminating it." In so doing

⁴⁴ A. Sitze, *The Impossible Machine: A Genealogy of South Africa's Truth and Reconciliation Commission* (Ann Arbor: The University of Michigan Press, 2013), 193-201.

⁴⁵ M. Sanders, *Ambiguities of Witnessing*, 38.

the title of his chapter, 'Remembering Apartheid' "lays claim to knowledge. It announces: this is apartheid, for this is what apartheid was." Sanders therefore states that remembering apartheid must "acknowledge that just as forensic evidence assembled by the [TRC] may be bound up with the grieving of witnesses, no claim about the nature of apartheid can be untouched by the affective demands of those who bear the burden of remembering." He continues and states that "the legacy of apartheid of which they speak is of undiscovered bodies, of bodies denied a proper burial [and] they seek the help of the [TRC] in rectifying this state of affairs."

According to Sanders therefore, and he poses this as a question, "can we then not say: apartheid *is*, at least for those who remember the worst deeds committed under it, and who attach to them a particular affect, a proscription on mourning the other?" In response to this question, Sanders asserts, "viewed from a purely forensic point of view, it is far from clear that we possess evidence to impeach this testimony."⁴⁶

Thus in contrast to the way in which apartheid is remembered through the TRC Report, and in aiming to "deepen what it means to remember apartheid", Sanders argues that what is evident when examining the numerous requests made to the TRC for "bodies and body parts, for information about the site of burial of a relative, or for exhumation and proper re-burial" was an invitation extended to both the TRC and its audience. The audience, "those present at the hearing, as well as those following them on television and radio, or reading the transcripts after the fact" according to Sanders, were invited to enter in "mourning-with, as condolence."⁴⁷ Somewhat similar to Butler's articulation of the obituary, insofar as it functions as a public acknowledgment of death(s) that are about lives that are to be acknowledged as publicly grievable, Sanders posits that,

⁴⁶ M. Sanders, *Ambiguities of Witnessing*, 34-35.

⁴⁷ M. Sanders, *Ambiguities of Witnessing*, 34.

[w]hen a witness [made such] a request of the commission, he or she ask[ed] it to join materially in the work of mourning. This enlistment instantaneously multiplie[d] through the dynamics of substitution and transference - to the extent that the commission represen[ted] the national public, an assortment of victims, bystanders, and beneficiaries - and indeed [stood] in as proxy for the perpetrator who refus[ed] to come forward and make good for the violations he or she has committed. Testifying on behalf of the deceased 'victim', the witness before the commission invit[ed] condolence.⁴⁸

Sanders argument that “apartheid is a proscription on mourning the other” is prompted, as explained above, by the requests at TRC hearings for the return of the missing remains of loved ones. Reading the obituary written by Pikoli however, as is reading testimonies from the TRC as Sanders underscores, is historically contingent and Sanders claim is based specifically on one testimony in particular, that of Joyce Mthimkulu. He relies on the moment in Joyce Mthimkulu’s testimony where she held up her son’s, Sphiwo Mthimkulu, clump of hair with scalp attached. As will be recalled from Chapter One of this dissertation, Sphiwo Mthimkulu had been poisoned with Thallium and an effect of the poisoning was that his hair fell out. Joyce Mthimkulu kept some of that hair and at the TRC held it up so as to provide evidence, forensic evidence that her son had indeed been poisoned. Placing that moment at the centre of his reading of Joyce Mthimkulu’s testimony, Sanders reads her testimony as indicative not only of the forensic procedure of witness testimonies, but also as a moment where the work of mourning is most ambivalently evident and where the proscription on mourning is seemingly undone through a “mourning-with, as condolence” that seemingly both affirms and undoes apartheid’s proscription on mourning the other.⁴⁹

Following Sanders, and recalling Butler’s articulation of the work of an obituary, it is certainly tempting to read the precarious obituary written by Pikoli as

⁴⁸ M. Sanders, *Ambiguities of Witnessing*, 40.

⁴⁹ M. Sanders, *Ambiguities of Witnessing*, 41-49.

enacting a work of mourning that invites condolence through an assertion that “apartheid *is* a proscription on mourning the other.” Though this might be too hasty a foregone conclusion to a reading of the precarity of the obituary.

Through his reckoning with Kondile as missing, Pikoli laments in the obituary that which remains un-told of the work of the TRC by placing emphasis on two of what the TRC termed ‘associated violations’. These fall within the categories of ‘corpse’, which the TRC defined as “violating a corpse after death” and ‘framing’, defined as the “labelling as an informer.”⁵⁰ The TRC Report defined ‘associated violations’ as “not gross violations of human rights, but important for understanding the context of the violation[s]”, or as Sanders puts it, they are “supplementary to the event.”⁵¹ The ‘associated violation’ of ‘corpse’ that is “supplementary to the event” is seemingly what would frame missing as event and figure Kondile as missing through his physical remains remaining missing. While Pikoli emphasises this particular ‘associated violation’ done unto the dead body of Sizwe Kondile, it is also the ‘associated violation’ of ‘framing’, where Kondile was accused of being an ‘informer’, that is underscored in the obituary. In the language of the TRC the ‘associated violation’ of the category ‘corpse’ in the ‘story’ of Kondile is overshadowed by the category of ‘framing’, both as categories “supplementary to the event”. The categories ‘corpse’ and ‘framing’ however cannot be understood without the account of Coetzee as perpetrator. Sizwe Kondile produced as missing in this sense is figured as categorically missing.

So as to elaborate on this limit, it is necessary to return to the TRC through Pikoli’s testimony there. For indeed, in writing and presenting the precarious obituary

⁵⁰ See TRC Report, Volume. 5, Chapter 1, Appendix 1, ‘Coding Frame for Gross Violations of Human Rights’, 22.

⁵¹ M. Sanders, *Ambiguities of Witnessing*, 40. See also TRC Report, Vol. 5, Chapter 1, Appendix 1, ‘Coding Frame for Gross Violations of Human Rights’, 15.

there is a sense in which Pikoli reprises his role as witness/victim at the TRC. In his memoir, and in a chapter titled, ‘The Truth and Reconciliation Commission’, there where much of the content of the obituary he writes is repeated, Pikoli states, “While I played an official role in the TRC, I also had a personal investment in the process. I had spent years in exile as a freedom fighter against the apartheid government and my best friend, Sizwe Kondile, had been kidnapped and killed by the regime. In April 1996, I personally appeared before the TRC sitting in East London.”⁵²

Pikoli had testified before the Human Rights Violations Committee (HRVC) of the TRC on the 17 April 1996 after Sizwe Kondile’s mother, Mrs Charity Kondile, presented her testimony. There he was asked to state his relationship with Kondile, their political activities, and what had transpired on the fateful day that Kondile disappeared. TRC Commissioner Dumisa Ntzebeza then continued:

Now you have heard testimony of confusion that took place in Lesotho at [that] time...to you as a friend and as a close friend, it must have been a painful nine years.
MR BIKOLE [sic]: It was.⁵³

The “confusion” was related to Charity Kondile’s testimony in which she described how she went in search for her son in Maseru, Lesotho, and was confronted by accusations from ANC members that her son was a “traitor”. On the 26 June 1981, the day he was abducted and last seen in Maseru, Sizwe Kondile had borrowed the car of Chris Hani, a senior member of the ANC in exile in Lesotho, to get to a telephone booth to call his girlfriend. He was asked by Hani to fill the car with petrol but had not returned and was not seen since.⁵⁴ Kondile’s family assumed that the South

⁵² V. Pikoli and M. Wiener, *My Second Initiation*, 113.

⁵³ TRC Human Rights Violation Hearing (HRVC), Case EC0021/96 - East London (17 April 1996). (Hereafter Kondile HRVC Hearing.)

<http://www.justice.gov.za/trc/hrvtrans/hrvel1/kondile.htm>

(Accessed 30 August 2018).

⁵⁴ Kondile HRVC Hearing.

African security police were holding him in custody. The reason, it seems, is that on the 23 October 1980, a Sergeant Visser of the Eastern Cape security branch had questioned Kondile's father, Mr Dumile Kondile, as to the political activities of his son. In 1990 Dumile Kondile recalled that:

[w]hen Sgt Visser asked me to hazard a guess why he [Sizwe Kondile] was in Lesotho I said probably he wanted to further his education...He had never given me any idea he was interested in politics. His main interest, other than books, was rugby. He was even captain of the University 1st XV. If he had interest in politics now and especially after the disturbances at Fort Hare and the fact that he was a senior student at the time, he must be a product of the times in which he lives...⁵⁵

It is as a "product of the times in which [Kondile] live[d]" that his family received information, in response to their enquiries, from a Captain Hawkins of Security Police head office in Pretoria on the 30 September 1981 that he had been detained in terms of section 6 of the Terrorism Act, 1967 (Act 83 of 1967) and that, "this office is not aware of the present whereabouts of Mr Kondile. He was detained on 1981-06-26 and released on 1981-08-10 from his place of detention in Port Elizabeth."⁵⁶ After receiving this information, Charity Kondile went to Maseru to search for her son. There she was confronted by accusations that he had stolen the car of Chris Hani and that he was working for the security police. When Charity Kondile tried to tell them that he had been arrested, she was told that he should have been able to communicate with them, even in detention.⁵⁷ By April 1982 Kondile's parents were still trying to locate him and received a more detailed response from security police, dated 27 April 1982:

⁵⁵ Statement of Dumile Kondile in 'Memorandum on the Disappearance of Gcinisizwe Kwezi Kondile', Box B5.7 (Evidence: File on Kondile) of Independent Board of Investigation into Informal Repression AG 2543 at Wits Historical Papers. (Hereafter IBIIR Collection.)

⁵⁶ Official communication between Herbert Fischat and Associates [lawyers acting on behalf of the Kondile family] and Pretoria Head Office of the Security Branch (1989 -09- 30) in 'Memorandum on the Disappearance of Gcinisizwe Kwezi Kondile' - IBIIR Collection, Box B5.7.

⁵⁷ Kondile HRVC Hearing.

On the 26 June 1981 [Kondile] was arrested at the Van Rooyenshek border post, between the Republic of South Africa and the Kingdom of Lesotho. He was returning to Lesotho from South Africa in a yellow Datsun Stanza, 1980 model, with registration number A9987. He was taken to...Bloemfontein, where he was held until 1981-07-10 on which date he was removed for further investigation. The vehicle in which he had been travelling at the time of his arrest was left at Bloemfontein.

He was released from custody in Port Elizabeth on 1981-08-10 and taken back to Bloemfontein by Captain Du Plessis, of the Security Branch at Port Elizabeth, where he was placed in possession of the motor vehicle and allowed to proceed to wherever he wanted to go. He has not been seen by any member of the Security Branch since his departure at Bloemfontein and his present whereabouts are unknown.⁵⁸

The above was 'confirmed' on the 2 June 1982 by Louis le Grange, then Minister of Law and Order, in response to questions about "the mystery surrounding Gninisizwe Kondile" raised in parliament.⁵⁹ Thus at the TRC's HRVC hearing not only "was it a painful nine years" for Pikoli based on his not knowing the fate of his close friend, it was also "painful" because of the label attached to the name Sizwe Kondile by members of the ANC, that of "enemy agent". That is, until the "revelations" of Dirk Coetzee in 1989.

As discussed in the previous chapter of this dissertation, Coetzee contested the version of the security police as to the fate of Sizwe Kondile. He told his 'story' on the existence of death squads and their activities, including the 'matter' of Kondile - though at that stage, Coetzee did not know the name Sizwe Kondile and referred to him as "n tweede Biko" (a second Biko) - to journalist Jacques Pauw in 1989 that was published in the Afrikaans newspaper *Vrye Weekblad* on the 17 November 1989.⁶⁰

One of the consequences of the exposé was that Coetzee went into exile fearing repercussions from the security establishment and found sanctuary with the ANC in

⁵⁸ Official communication between Mr. D. S. S. Kondile [Sizwe Kondile's father] and Pretoria Head Office of the Security Branch (1982-04-27) in 'Memorandum on the Disappearance of Gcinisizwe Kwezi Kondile' - IBIRR Collection, Box B5.7.

⁵⁹ See 'PE Man missing after his release from detention' in *Cape Times* (3 June 1982).

⁶⁰ See J Pauw, *In the Heart of the Whore*.

exile.⁶¹ A further consequence was that it led to intense public pressure and scrutiny both in South Africa and internationally, and former South African state president F. W. de Klerk appointed ‘The Harms Commission of Inquiry into Certain Alleged Murders’ (1990), to investigate Coetzee’s “allegations”.

In preparation for his testimony before the Harms Commission, Coetzee, with the aid of his brother, wrote his ‘testimony’ in the form of manuscript.⁶² It is in the section titled ‘Vlakplaas enters the hit squad arena’ that Coetzee’s recounting of the ‘Murder of Sizwe Kondile’ appears: “The title of this section could be ‘murder of security police detainee’ because it is only since I have been in exile that the ANC told me who this man was.” Coetzee went on to describe how he came to see Sizwe Kondile in the “‘white’ single quarters” at Jeffery’s Bay police station in September 1981 and described Kondile as a “somewhat slender black man of medium height [sic]. He had a full but not bushy beard.” He explained that he was told that

during [Kondile’s] detention and interrogation [Kondile had] dived through a window with his hands cuffed behind his back and landed on his head on the cement outside [and] his behaviour became peculiar afterwards and they got in a friend who was a medical doctor to examine the prisoner. The doctor warned them that this was a potential second Biko case.

Coetzee described how plans were made “to get rid” of Kondile and how he collected knock-out drops from General Lothar Neetling⁶³ because “[t]he reason why the

⁶¹ As noted in Chapter Three, on the 16 February 1991 a walk-man bomb intended for Coetzee killed ANC lawyer Bheki Mlangeni. Eugene De Kock claimed responsibility for the attempted murder of Coetzee and the murder of Mlangeni. See E. De Kock, *A Long Nights Damage: Working for the Apartheid State* as told to Jeremy Gordin (Contra Press, 1998), 203-210. For a provocative reading on this event, see A. Erasmus, ‘Dispatch: Education, Sound, and the Senses’ (Seminar paper presented at Centre for Humanities Research & Department of History, University of the Western Cape South African Contemporary History and Humanities Seminar, 15 May 2018).

⁶² See Manuscript of Captain Dirk Coetzee ‘Hitsquads: Testimony of a South African policeman: The Full Story’, 173

⁶³ A further consequence of Coetzee’s “revelations” was that Neethling filed a civil suit against the *Vrye Weekblad* and its English counterpart, the *Weekly Mail* for publishing Coetzee’s “allegations” against him. For a summary of the case, see ‘Who Lied? Discussion of the Findings of the Harms Commission of Inquiry prepared by the Independent Board’ (published by The Independent Board of Inquiry into Informal Repression, 1991[?]), 31-34.

victims were thus doped, in my opinion, is that nobody involved had the courage to shoot a helpless and full conscious man at point blank range.” Coetzee described how “The body was put on a huge pyre of dense, heavy bushveld wood and tyres, and cremated. The hands, feet and face are destroyed quickly but it takes about seven to nine hours before nothing but ashes remain. All the while we were carrying on with talking and drinking around a braai.” Coetzee then concluded by stating

I also gathered from the discussion that night that the victim was arrested when he came into South Africa from Lesotho, that he had been officially detained, officially released and then unofficially kidnapped. In exile I established that the Datsun Stanza that the victim had used, belonged to Chris Hani, commander of the military wing of the ANC. I suspect that when I saw this prisoner at Jeffrey’s Bay, he was already illegally held. Prisoners are not kept in single quarters and their vehicles are not kept in police garages. Eventually we all returned to our bases.⁶⁴

Coetzee verbally testified to the above at the London sitting of The Harms Commission in June 1990. It is necessary to recall that his “allegations”, including those regarding Sizwe Kondile, were deemed “unverifiable” and the chairman, Justice L. T. C Harms, concluded that, “It is certain that Coetzee’s version is false.”⁶⁵ Coetzee claimed that Kondile was killed by the security police because they did not want another “Biko case” while the security police claimed that Kondile was released after he agreed to become an ‘informer’ and they had no further information regarding Sizwe Kondile being missing.

Evidence submitted to Harms by the security police included testimony and documents indicating the “release date” of Sizwe Kondile from police custody as well as those that seemed to indicate that he had agreed to become an ‘informer’. It is worth noting that one of the investigating officers at the Harms Commission was none

⁶⁴ Dirk Coetzee ‘Hitsquads’ Manuscript, 81-84.

⁶⁵ Commission of Inquiry Into Certain Alleged Murders - Report, The Honourable Mr Justice L.T.C Harms, Presented to the State President ‘during September 1990’, 120. (Hereafter, Harms Commission Report)

other than Hermanus Barend Du Plessis, the officer named by Pretoria head office of the security police as having taken Kondile from the Eastern Cape to Bloemfontein where he was “released” together with the car which he had been in possession of when arrested. Du Plessis provided an affidavit to the commission with supporting security police documents together with his testimony that alleged that Kondile had given sensitive information to the security police, “particularly about Hani and the ANC in general” and had agreed to become an ‘informer’.⁶⁶ Coetzee’s version however, suggests nothing of Kondile as an ‘informer’ but points to the motive for Sizwe Kondile being abducted, killed and his remains burnt.

While categorically stating that “It is not for the Commission to establish or to speculate upon what became of Kondile, but only to determine whether the Security Police killed him as alleged by Coetzee”, Harms explicitly “speculate[d]” that “Kondile’s actions would have qualified him as a traitor in the eyes of the ANC. He had disappeared with Hani’s car, had identified ANC members and after a period of complete absence suddenly reappeared.”⁶⁷ This was qualified by Harms stating earlier in the Report that, “[Kondile] fall[s] into a category of persons who had to be eliminated in accordance with ANC policy. As [a] traitor [he] would have been a marked [man], and the policy was that traitors and informers had to be killed. So-called official ANC publications from time to time actually claimed responsibility for the death of several alleged informers and traitors.”⁶⁸ Contradictorily, in the ‘Conclusion’ of the Report, Harms wrote, “that although allegations and accusations are rife as to who did what and why, there is a basic lack of evidential material that

⁶⁶ Harms Commission Report, 118. See also ‘Getuieverklaring van Hermanus Barend Du Plessis’, B152 in Box 4(4) (Exhibits) - IBIIR Collection.

⁶⁷ Harms Commission Report, 120.

⁶⁸ Harms Commission Report, 111-112.

might put some flesh on the bones.”⁶⁹ This distasteful metaphor of “flesh on the bones” is certainly reflective of the question of precariousness in so far as whose life counts as grievable and the dignity to be bestowed on both the life and death on such a person. For Harms, Sizwe Kondile’s life and death was not warranted as grievable and therefore did not warrant accountability.

Harms, as per his mandate, was not able to establish that a crime had been committed insofar that Kondile had been killed by the security police and thus not able to “identify criminals in order to bring them to justice.”⁷⁰ Those criminals would have included Coetzee who had implicated himself. Yet through Harms refuting Coetzee’s version, Harms also exonerated Coetzee. Those implicated by Coetzee were exonerated by Harms in that: “apart from the argument that the police possibly conspired to give false testimony, neither under cross-examination nor in argument were falsehoods or improbabilities pointed out in the evidence.”⁷¹ While Kondile would have been exonerated as a “traitor” insofar as the motive for killing him as testified to by Coetzee had nothing to do with Kondile being assigned the category of “traitor”, through Harms exonerating of Coetzee, Sizwe Kondile was re-accused of being a “traitor” who fell “into a category of persons who had to be eliminated in accordance with ANC policy.”⁷²

Thus at the Harms Commission, Sizwe Kondile as missing and the eventfulness of him produced as missing, was relegated to a speculative context (“so-called official ANC publications”) and assertion (‘official’ police documentation) that in so doing assigned particular categories - ‘informer’ and “traitor” - by both the security police and the ANC in figuring Kondile. That speculative context and

⁶⁹ Harms Commission Report, 196.

⁷⁰ Harms Commission Report, 1,5,19.

⁷¹ Harms Commission Report, 91.

⁷² Harms Commission Report, 111-112.

assertion was constituted by a regime of truth at work through the interplay of accusations and exonerations that the figure of Dirk Coetzee gave expression to. A (re)iteration of this interplay is evident before the HRVC and Amnesty hearings of the TRC.

According to the testimony of both Charity Kondile and Pikoli before the HRVC, they first became aware of the fate of Sizwe Kondile through reading an article in the *New Nation* in February 1990 as well as Coetzee's testimony before the Harms Commission where the Kondile family had a legal team present. It appears as if it was TRC Commissioner Ntzebeza's leading of the testimony in such a way so as to continuously refer to Coetzee's "revelations" as being the factor to exonerate Kondile from the accusations that he was a "traitor" and in so doing figuring Coetzee as witness, perpetrator and exonerator. Indeed, recalling Sanders, this is the moment where the TRC, as proxy for the perpetrator, is approached and probed in so far as "mourning would make good for the violations of the apartheid era [and] where apartheid would be undone through condolence."⁷³

TRC Commissioner Ntzebeza began by asking Charity Kondile to "tell us in [her] own words how it is to be the mother of a child whom [she has] never buried", followed by such interspersed questions and statements:

Now all of a sudden, after almost a decade after your son had disappeared, after all of accusations and counter accusations, confusion sown by the police, it appeared that what you had said to his comrades in Lesotho has been confirmed, by independent sources, namely that he had been kidnapped by the police. Did you have an opportunity to speak to anyone who was high ranking in the ANC after these revelations [of Dirk Coetzee], which seemed to exonerate your son?

...

Now Mrs Kondile, you have told us a horrifying story, all at once a story of the tragic murder of your son at the hands of the security police, but I think where it is most depressing and sad, through no fault of anybody, but perhaps

⁷³ M. Sanders, *Ambiguities of Witnessing*, 49.

through the fault of those same security persons, a story of how the abduction and kidnapping of your child was not believed by his own comrades.

...
But is it not consolation that at least from the revelations of Dirk Coetzee... that your son and his commitment has been vindicated? That on an objective of all known facts, it can now be established that he never turned traitor? ⁷⁴

The question of “consolation that at least from the revelations of Dirk Coetzee” that Kondile was not a “traitor”, it seems, is both adequate and inadequate for Charity Kondile. It is adequate only insofar as that from the “revelations” of Coetzee, Charity Kondile came to know that her son was dead, had been ‘abducted’ by the security police, was poisoned, shot and killed and his remains burnt. However it is more a question of public acknowledgment from the ANC that Kondile was never a “traitor”, which Charity Kondile seeks.⁷⁵ In her testimony she recalled how she had telephoned Chris Hani a few months before his assassination and he had acknowledged that Kondile was not a “traitor”.⁷⁶

If there is to be “consolation” about the exonerating of her son, it seems, that “consolation” comes not from the “revelations” of Coetzee, but from Chris Hani who accepted those “revelations” and that he “accepted the truth”.⁷⁷ Indeed, Hani had submitted an affidavit to the Harms Commission that was also submitted as evidence to the TRC in which he stated “I am advised that when a Leut-Colonel [Hermanus] Du Plessis gave evidence at Harms Commission he suggested that Sizwe may be in Lesotho or in the hands of the ANC. Such suggestion has no truth in it and I deny

⁷⁴ Kondile HRVC Hearing.

⁷⁵ In the ANC submission to the TRC a list of ANC members listed as missing was included and the name Sizwe Kondile does not appear on that list. See ‘African National Congress: Statement to the Truth and Reconciliation Commission (August 1996)’

<http://www.justice.gov.za/trc/hrvtrans/submit/anctruth.htm#ancedied>
(Accessed 30 August 2018).

⁷⁶ Kondile HRVC Hearing.

⁷⁷ Kondile HRVC Hearing.

most emphatically that Sizwe is with the ANC...⁷⁸ Thus as part of the formulaic questioning of HRVC hearings, that of what the witness/victim would like to ask of the Commission, Charity Kondile asked “the commission to see what it can do to pacify the Kondile family” by providing “information of Sizwe’s character” so as to restore the “damage to the Kondile family’s dignity... especially his siblings, his father, his closest friend [Vusi Pikoli], Bantu [his son] and myself.”⁷⁹

The emphasis placed by Commissioner Ntzebeza on the “revelations” of Coetzee as exonerating Kondile was also posed to Pikoli:

MR NTSEBEZA: And would I be right in saying, in some ways, though it is sad, that the [sic] only for you to discover this actual truth as to what happened to him is to know that he died and he died in such a gruesome way? You are none the less relieved that he is not in fact what people suspected he was? Is that right?

MR BIKOLE [sic]: Yes that is correct... It came as a big relief... that at least there is a person who seems to know exactly what has happened to Sizwe and this being in the person of Dirk Coetzee.⁸⁰

This response was not without qualification. Also amongst the formulaic questioning at HRVC hearings was whether or not the witness testifying on behalf of the deceased victim, here the missing deceased victim, would oppose amnesty applications should they be forthcoming from perpetrators. Pikoli stated he would not oppose amnesty applications insofar as “[they] come forward to make full disclosure and their act or mission having been associated with its political objective, then those people shall be granted amnesty.”⁸¹

Coetzee applied for and was granted amnesty for 23 separate incidents, including that of the “Murder of Goniswe [sic] Kondile: (a) the abduction and

⁷⁸ ‘Affidavit of Martin Thembisile Hani (popularly known as Chris Hani) signed on the 21 June 1990’ in B181-B184, Box 4(4) - IBIIR Collection.

⁷⁹ Kondile HRVC Hearing.

⁸⁰ Kondile HRVC Hearing.

⁸¹ Kondile HRVC Hearing.

murder of Goniswe [sic] Kondile during or about November 1981 at Komatipoort and (b) the administration of poison to or assault of Goniswe [sic] Kondile during or about November 1981.”⁸² Nicolaas Janse van Rensburg, Hermanus Barend du Plessis, Johannes Gottfried Raath and Gerrit Nicholas Erasmus also applied for and were granted amnesty for the Kondile ‘incident’.⁸³ While the Kondile family opposed the amnesty application of Coetzee, he appeared as a witness for the family in their opposition to the amnesty applications of Du Plessis, Van Rensburg, Raath and Erasmus with the aim of seeking “the truth” of what had happened to Kondile.

If at the HRVC hearing Sizwe Kondile was exonerated from the accusation that he was a “traitor” through the “revelations” of Coetzee, at the Amnesty Hearings of the four applicants for his murder, Kondile was once again accused of being an ‘informer’, a “double agent”, for the security police and that that was the reason for him being killed. Indeed, in as much as Harms could state that Kondile “fell into a category of persons who had to be eliminated in accordance with ANC policy”, at the Amnesty hearing so too was Kondile assigned that very same category according to which he had to be eliminated by the security police, the category of “traitor”.

During the Amnesty hearings, the accusation, as alleged by Du Plessis, that Kondile “eventually” agreed to become an ‘informer’ was repeated. However Du Plessis amended his version, so as to meet the requirements of amnesty (that of a clear political objective for the ‘killing’), to claim that the motive for killing Kondile was that a note was found in the cell where he was being held which indicated that

⁸² See Truth and Reconciliation Commission: Amnesty Committee Decision AC/2001/279. <http://www.justice.gov.za/Trc/decisions/2001/ac21279.htm> (Accessed 30 August 2018).

⁸³ Truth and Reconciliation Commission: Amnesty Committee Decision AC/99/0037. Nicolaas Janse van Rensburg (AM 3919/96), Hermanus Barend Du Plessis (AM 4384/96), Johannes Gottfried Raath (AM 4397/96) and Gerrit Nicholas Erasmus (AM 4134/96). http://www.justice.gov.za/Trc/decisions/1999/99_van%20rensburg.html (Accessed 30 August 2018).

Kondile was in fact still loyal to the ANC. Du Plessis claimed that sensitive information regarding activities of the security police within Lesotho had been given to Kondile and that this information would find its way to the ANC by Kondile. After consulting with Van Rensburg and Erasmus, it was agreed that Kondile would have to be killed. Coetzee was called in to assist with the killing and the destruction of the body together with Raath.⁸⁴ The Amnesty Committee accepted this version of the motive for the killing and not Coetzee's version that Sizwe Kondile had been killed because the security police feared another "Biko case".⁸⁵ In the TRC Report, both versions are presented.⁸⁶

I am sympathetic to Sanders's argument as explained above. However, I share with Maurits van Bever Donker, Ross Truscott, Gary Minkley and Premesh Lalu a "nagging sense that Sanders's formulation may confuse an effect, a proscription on mourning, for a cause, apartheid; that is, it sets to work on the very terrain that...apartheid sought to produce in the first place."⁸⁷ To traverse in the wake of apartheid then, according to van Bever Donker, Truscott, Minkely and Lalu, is to "attend to the repetitions that impede but also make possible another social beyond the horizon of apartheid, beyond apartheid's ordering of extrinsic difference."⁸⁸ The discourse used to inscribe Sizwe Kondile as missing is itself a remainder of the system that the TRC sought to transcend. It is a reiteration of a particular apartheid

⁸⁴ See Amnesty Hearing transcript for Du Plessis (9-11 February 1998)
http://www.justice.gov.za/Trc/amntrans/capetown/capetown_1kond1.htm
http://www.justice.gov.za/Trc/amntrans/capetown/capetown_1kond2.htm
http://www.justice.gov.za/Trc/amntrans/capetown/capetown_1kond3.htm
(Accessed 30 August 2018).

⁸⁵ See Amnesty Committee Decision AC/99/0037
http://www.justice.gov.za/Trc/decisions/1999/99_van%20rensborg.html
(Accessed 30 August 2018).

⁸⁶ See TRC Report Volume 2, 234-236 and Volume 3, 72-73.

⁸⁷ See M. van Bever Donker, R. Truscott, G. Minkley and P. Lalu, 'Traversing the Social' in M. van Bever Donker, R. Truscott, G. Minkley and P. Lalu (Eds.), *Remains of the Social: Desiring the Postapartheid* (Johannesburg: Wits University Press, 2017), 32, Footnote 14.

⁸⁸ M. van Bever Donker, R. Truscott, G. Minkley and P. Lalu, 'Traversing the Social', 6.

discourse. Though does this reiteration offer sufficient difference? One must not only remember apartheid, but also remember the apparatus through which it is remembered, in this case, the TRC, and so to mark its genealogy.

History and mourning remains in the wake of apartheid

While it is indeed far from clear, as Sanders puts it, that “we possess evidence to impeach [witness] testimony”, Vusi Pikoli asks in the obituary, and perhaps rhetorically so, “Am I still angry and in agony after so many years? Am I not supposed to forgive and forget and preach reconciliation? After all, the man [Dirk Coetzee] was granted amnesty by the TRC.”⁸⁹ Pikoli’s provocation of what it might mean to remember, and not forget, resonates with that which the TRC Report took pains to underscore: “That the last moment in a victim’s life should be recorded for posterity through the voices and versions of those who killed them is of itself an act of violence [and this] needs to be acknowledged and remembered.”⁹⁰ What does it mean to both acknowledge and remember this violence? This is a question that haunts the precarity of the obituary Pikoli writes. Toward the end of the obituary, he states that, “[t]he South African story has still to be told. The TRC did half the job, with half-truths and half reconciliation, quarter reparations but full amnesty.”⁹¹

Jacob Dlamini, who writes about collaboration and betrayal in a ‘story’ about the anti-apartheid struggle cites Pikoli’s grievance. He suggests that Pikoli’s criticism of the TRC is “at best unfair.” Dlamini argues that, “It was Pikoli’s job (as well as that of the government of which he was a part) to prosecute those whose amnesty applications were rejected – and the [NPA] chose not to take that road.” Dlamini argues that, “the commission [TRC] did make possible the confessions of killers such

⁸⁹ V. Pikoli, ‘Dear Dirk, I will not miss you’.

⁹⁰ See TRC Report, Volume 2, 222.

⁹¹ V. Pikoli, ‘Dear Dirk, I will not miss you’

as Eugene de Kock [and Dirk Coetzee], the exposure of how apartheid's repressive machinery worked, and the uncovering of paper trails showing who gave the orders and, in some instances, who pulled the trigger.”⁹² Somewhat coincidentally, it was during the TRC process that veteran journalist Max du Preez stated “like him or hate him, Dirk Coetzee was the man who started the truth process when he exposed police death squads in 1989. One wonders if we would have had a truth commission now if it had not been for the ball he started rolling.”⁹³ Whether or not this statement of Du Preez holds any ground is not at issue here because Coetzee's revelations cannot account for the ‘truth’ of what happened to Sizwe Kondile. This much is clear from the obituary Pikoli writes.

Sizwe Kondile produced as categorically missing, as I have described above, is figured through a (re)iteration of a regime of truth complicit in and implicated by a history that marks him as such. This is a history that seeks to present an alternative by both aggregating and disaggregating forms of evidence and context, though without acknowledging the aporia and its potential therein. The aporia and its potential, at least in so far as understanding the work of mourning is concerned, can be discerned by recalling a question that continues to haunt the work of the TRC and haunts Sanders articulation of naming apartheid as a proscription on mourning and its undoing through “mourning-with as condolence.” That question, succinctly articulated by Premesh Lalu, is “how could a form of evidence once used to cover up acts of

⁹² J. Dlamini, *Askari: A Story of Collaboration and Betrayal in the Anti-Apartheid Struggle* (Johannesburg: Jacana Media (Pty) Ltd., 2014), 15 -16.

⁹³ See ‘Special Report’ that reported on the TRC process and hearings: *Truth Commission: Special Report*, Episode 26, Section 7.

<http://sabctrc.saha.org.za/tvseries/episode26.htm>
(Accessed 30 August 2018).

violence be depended on to offer us an escape from the violence of the apartheid past?”⁹⁴

Adam Sitze’s rendering of apartheid’s ‘Tumult Commissions’ and certain continuities of its epistemic field through the TRC reflects the complicity of history and its discourses in both being able to name yet deny the eventfulness of instantiations of apartheid violence. Sitze invokes Lalu’s argument about the ‘event’ of the death(s) of King Hintsa in 1835, the subsequent colonial commission of inquiry (1836) and the claims of Nicholas Gcaleka at the same time in which the TRC was beginning its work as that which poses apartheid as a question in so far as what it means for a history ‘after’ apartheid, or rather, of what it means for a history in the ‘wake’ of apartheid that must also account for apartheid as a question. Lalu’s argument, for Sitze, questions not only “the troubling continuities between the disciplinary apparatus of colonial history and that of postapartheid history” but also treats that troubling continuity “as a symptom capable of throwing into relief the regime of truth that governed the TRC’s inquiry into the conflicts of the past.”⁹⁵ The implication of this symptomatic rendering of the complicity of history and its discourses, for Sitze, is that a question is raised when examining the TRC and colonial and apartheid’s ‘Tumult Commissions’ that suggests “the TRC is an heir to and perhaps even unwittingly deploys the same disciplinary apparatus that governed and enabled the writing of colonial [and apartheid] history.”⁹⁶ Sitze’s overall aim is to offer a critique of transitional justice scholarship in so far as it is not able to account for the TRC’s genealogy within indemnity jurisprudence and the apparatus of the commission of inquiry itself, which so marks transitional justice’s claims of the

⁹⁴ P. Lalu, *The Deaths of Hintsa: Postapartheid South Africa and the Shape of Recurring Pasts* (Cape Town: HSRC Press, 2009), 7.

⁹⁵ A. Sitze, *The Impossible Machine*, 16. See also P. Lalu, *The Deaths of Hintsa*, 4-7.

⁹⁶ A. Sitze, *The Impossible Machine*, 16.

ingenuity of the TRC. As crucial as this critique of Sitze's is, it is his argument about an impasse that the TRC ran up against through the grammar of the calibration of the historiographical mode of accuse, exonerate and mourn that is of significance here.

In Sitze's rendering of apartheid's 'Tumult Commissions', and its colonial precedents, the historiographical mode of accuse, exonerate and mourn was/is a "decisive paradigm for the interpretation of victims of colonial [and apartheid] violence." In so doing, it was "judicious without also being judicial, it accused without prosecuting, exonerated without pardoning, and mourned without fury or rage."⁹⁷ Harms' rendering of his findings in relation to Sizwe Kondile certainly expressed such a narrative strategy, though did not express any form of mourning, neither any fury nor rage. The findings of the TRC in relation to Kondile as I have outlined above through the Amnesty decision and the TRC Report's rendering of both versions of the event of his disappearance, re-iterates, albeit within a particular frame that begs a question of mourning in its fury and rage, such a narrative strategy. The implication of this is that it comes up against an impasse in so far as a question of history and mourning remains in the wake of apartheid is concerned.

Recourse to evidence at the TRC's HRVC hearing where Pikoli testified was enveloped in the language of the category of 'framing' (a language of accuse and exonerate) that itself was supplementary to the language of the category of 'corpse' (a language of accuse, exonerate and mourn). This recourse however was dependent on the "revelations" of Coetzee as both historical and forensic evidence but coupled with and in the language of accuse and exonerate in which Coetzee himself is figured by way of his "allegations" being dismissed at the Harms Commission where he was accused of fabricating his "revelations". In the process, Sizwe Kondile was figured as

⁹⁷ A. Sitze, *The Impossible Machine*, 149.

an ‘informer’ by the production of ‘police evidence’ and responsibility and accountability for him produced as missing shifted from the security police to the ANC. In this sense the Harms Commission operated within a regime of truth that was articulated as the impossibility of the apartheid state’s sanctioning of hit-squads.⁹⁸

The TRC might then be understood as having provided a certain ‘truth’ to a ‘knowing’ as it relates to the covert operations of the security arm of the apartheid state and its less than savoury methods of intelligence gathering and engagement of the ‘total onslaught’ of the anti-apartheid movements. More specifically, the TRC might be understood as having provided a ‘truth’ to the ‘knowing’ of the disappearance and killing of Sizwe Kondile. While Coetzee’s evidence was used through the Harms Commission to mask the violence of enforced disappearances at the hands of functionaries of the apartheid state, at the TRC, it was that very evidence relied upon to mark out and name a violence of apartheid. In other words, it was the evidence of Coetzee, that through the Harms Commission was used to cover up the violence of the enforced disappearances, killing and disposal of the remains of Kondile (and Siphiwo Mthimkulu and Tobekile ‘Topsy’ Madaka), which had been re-offered through the TRC as a seeming escape from the violence of apartheid. In so doing however, and as expressed through my reading of the precarious obituary written by Pikoli, a question of mourning remains.

In *The Work of Mourning*, a text comprising a collection of essays written by Jacques Derrida on the mourning of friends, the editors Pascale-Anne Brault and Michael Naas suggest that “to reckon: that is to say, to recount, or narrate, to consider, judge, or evaluate, even to estimate, enumerate, and calculate. Such a reckoning is

⁹⁸ Indeed, as reported in a newspaper article in 2010 where Harms reflected on the Commission, it was reported that “He [Harms] had a powerful acceptance that many white South Africans had [according to Harms] ‘a preconceived idea that the police could do no wrong, that the army could do no wrong, and there is, of course, the principle in law that presumes that people do not do horrible things.’” See J. Smith, ‘Judge who came in harm’s way’ in *Saturday Star* (16 October 2010).

perhaps to be expected when it comes to politics, where accounts must be given, judgments rendered and calculations made.” But, they continue, “when it comes to mourning, to texts of mourning, texts written after the deaths of close friends and dear colleagues, to ask for a reckoning, to ask someone not only to recount but to take account, even to calculate, may seem indecent or at the very least, lacking in taste.”⁹⁹ It cannot be debatable that Pikoli has a grievance with Coetzee through his grievability of the precarity of the life and death of Kondile as missing. Sizwe Kondile was accused of being an informer and his physical remains remain missing. This grievance as a reckoning, that which is expressed through the precarious obituary, is inextricably connected.

While the obituary written by Pikoli seemingly is registering that “apartheid is a proscription on mourning”, in Pikoli’s articulation of what Sanders calls “the worst deeds committed under [apartheid]”, emphasis is not only on the burning of the body and the missing remains of Kondile as I have shown above. It seems as if through the obituary and through the TRC’s HRVC hearing where Pikoli and Charity Kondile testified, there lurks a question of something worse than the worst of not being able to bury a loved one. Neither Charity Kondile nor Pikoli in their public testimony before the HRVC explicitly asked the commission to locate the remains of Sizwe Kondile so that his remains could be re-buried and proper funeral rites accorded.

Where Charity Kondile invokes her son’s missing dead body - “as one of those who did not return” - it is in relation to both how she came to know of the fate of her son, through the “revelations” of Coetzee and her disgust at the manner in which his dead body was treated.¹⁰⁰ Similarly Pikoli stated, “what induces a sense of shock and revulsion, is the method and manner of how people were killed” though

⁹⁹ P. Brault and M. Naas (eds), ‘Editors Introduction’ in J. Derrida, *The Work of Mourning*, edited by P. Brault and M. Naas (Chicago: University of Chicago Press, 2001), 2-3.

¹⁰⁰ Kondile HRVC Hearing.

prefaced with “in the course of our liberation discussions we always believed that death is not really an issue because death is an integral part of a liberation struggle.”¹⁰¹ However, it must be recalled that in the precarious obituary Pikoli laments, “Sizwe’s wandering spirit still needs to be laid to rest. We need to lay [him] to rest in the African way.”¹⁰² In his memoir *My Second Initiation*, which is in many ways framed by his relationship with Sizwe Kondile, Pikoli explains what he means by “in the African way”. Pikoli states there that, “According to my beliefs and customs, it is important to be able to go to the exact spot where he died and bring his spirit back, even if all we find is a minute finger bone...I will only rest the day we can retrieve Sizwe’s remains, even if it is just a fragment of a bone.”¹⁰³ In the same memoir, journalist Mandy Weiner recounts her June 2013 interview with Charity Kondile: “while Sizwe’s mother wants some kind of formal acknowledgement from the ANC government and a tombstone or monument, she is not concerned about reclaiming any of his remains. As far as she is concerned, there is nothing left to find. She repeatedly remarks about how she wanted his clothes, above all.”¹⁰⁴ Might we say that not only *is* apartheid a proscription on mourning because there are no remains to be buried, but that through apartheid being a proscription on mourning, there is also a question of a worse, something worse than not being allowed to mourn.

What can be worse? In the last essay in *The Work of Mourning*, titled ‘Lyotard and Us’, Derrida mulls over how to interpret and think through a phrase written by Lyotard in his ‘Translators Notes’ - “there shall be no mourning”. Derrida writes,

‘there shall be no mourning’... this phrase gets carried away all by itself. It holds itself back or withdraws; one can neither understand it nor be deaf to it; neither decipher it nor understand nothing of it; neither keep it nor lose it,

¹⁰¹ Kondile HRVC Hearing.

¹⁰² V. Pikoli, ‘Dear Dirk, I will not miss you’.

¹⁰³ The memoir was published a few months after Coetzee’s death and includes much of the text of the obituary. See V. Pikoli and M. Wiener, *My Second Initiation*, 121, 122.

¹⁰⁴ V. Pikoli and M. Wiener, *My Second Initiation*, 178.

neither in oneself nor outside oneself. It is this phrase itself, the phrasing of this unclassifiable phrase, drifting far from the categories analyzed even by its author, that one feels driven to go through mourning (*faire son deuil*), precisely at the point where this phrasing says to us: over me, there shall be no mourning. Over me, the phrase says, or at least the phrasing of the phrase says, you will not go into mourning. You will especially not organise mourning, and even less what is called the work of mourning. And of course the ‘no mourning’, left to itself, can mean the perpetual impossibility of mourning, an inconsolability or irreparability that no work of mourning shall ever come to mend.¹⁰⁵

Derrida points to the difficulty at registering to whom the phrase is addressed and the difficulty at discerning a fixed context to the phrase. In reflecting on Lyotard’s earlier work, particular *The Differend*, in an attempt, even if impossible as Derrida laments, to contextualize and make sense of the phrase “there shall be no mourning”, Derrida points to an “empty place left to mourning” that raises a question of ‘the worse’.

Derrida suggests that he discerns a question, a question of the worse, of a “worse than death” and posits that all work of mourning tends towards this “worse than death” where the work of mourning “seeks neither to save from death nor to deny it, but to save from a ‘worse than death’”¹⁰⁶ It is his reflections on Lyotard’s naming of two types of ordered deaths, the “worse than death” as expressed by Adorno (“since Auschwitz, fearing death means fearing something worse than death”) and what Lyotard calls “the magical death” or the “beautiful death” that Derrida thinks through the phrase “there shall be no mourning” and a question of the worse.

Where Lyotard in *The Differend* states that “‘Auschwitz’ is the forbiddance of the beautiful death”, Derrida hypothesizes that in both cases, that of the “beautiful death” (where death has meaning) and that which is “worse than death”, ‘Auschwitz’, “there is no - there shall be no - mourning” but for “diametrically opposed

¹⁰⁵ J. Derrida, ‘Lyotard and Us’, 220-221.

¹⁰⁶ J. Derrida, ‘Lyotard and Us’, 230. See also M. Naas, ‘History’s Remains: Of Memory, Mourning and the Event’ in *Research in Phenomenology*, Vol. 33 (2003), 75-96.

reasons.”¹⁰⁷ According to Derrida, “‘Auschwitz’ [as] the forbiddance of the beautiful death” is such because “it is an exception...because the victim is not the addressee of the order.” Derrida emphasises that while both the beautiful death and ‘Auschwitz’ are deaths that follow an order, “‘Die’ – [in the former] ‘Die, I decree it’ [and in the latter] ‘That s/he die, I decree it’ [or] ‘That I die, s/he decrees it’ - between these two deaths, these two ‘Die’s’, the heterogeneity is absolute, so that ‘Auschwitz’ cannot, except through an abuse of rhetoric, be turned into a ‘beautiful death.’”¹⁰⁸ What is striking for Derrida is that “mourning never comes up” insofar as it relates to Lyotard’s meditation on ‘Auschwitz’ and the two deaths: “Mourning’ never appears, and the word ‘mourning’ has no grounds for appearing. As if the phrase ‘there shall be no mourning’ had already been heard, and taken into account, in its most extreme consequences.”¹⁰⁹ Mourning, “[i]f there is to be no grounds for having to go through mourning” is because

In the ‘beautiful death’...death has meaning: it brings to fulfillment a life full of meaning; this death gets over itself, overtakes or sublates itself, in this meaning. In the case of ‘Auschwitz’, on the contrary, ‘worse than death’, it is the extinction of the very name that forbids mourning, given that this murder of the name constitutes the very meaning of the order ‘die’, or ‘that he die,’ or even ‘that I die’. In both of these orders, the ‘there shall be no mourning’ is implicitly so radical that the word ‘mourning’ does not even need to be uttered. Which would seem to suggest that whenever the word is uttered we are perhaps - we are no doubt - dealing with another case, where mourning is at least possible enough to be averted by the ‘there shall be no mourning.’¹¹⁰

What if, reading the obituary written by Pikoli, we are to read a similar question of the worse insofar as it relates to Sizwe Kondile figured as categorically missing? It is a question of how does one mourn Kondile produced as missing, whose remains are missing and who because of him being missing, was accused of being an ‘informer’.

¹⁰⁷ J. Derrida, ‘Lyotard and Us’, 235.

¹⁰⁸ J. Derrida, ‘Lyotard and Us’, 236.

¹⁰⁹ J. Derrida, ‘Lyotard and Us’, 236.

¹¹⁰ J. Derrida, ‘Lyotard and Us’, 237.

Recall Pikoli's response to Commissioner Ntzebeza before the HRVC: "in the course of our liberation discussions we always believed that death is not really an issue because death is an integral part of a liberation struggle." Might this be thought of as invoking a notion of "the beautiful death" where death has meaning? Pikoli's impossible attempt at mourning Sizwe Kondile through the obituary by describing his death, while simultaneously expressing a prescription on the grievability of Coetzee's life, might point to the denial of "the beautiful death" through Kondile accused of as a "traitor", and this despite Coetzee's "revelations" that is thought to have exonerated Kondile.

In the obituary Pikoli provides evidence for his seeming prescription on the grievability of Coetzee's life in death that so questions the work of condolence in undoing apartheid. Coetzee is responsible and always to be held accountable not only for the 'killing' of Sizwe Kondile, but for his participation in the burning of Sizwe Kondile's dead body while "having a braai [barbeque] and drinking liquor" and for "scattering the ashes in the Nkomati River". The exoneration of Kondile as "traitor" through the "revelation by Coetzee in 1989" is insufficient for absolving Coetzee. Coetzee as perpetrator had "come forward [to] make good for the violations he [had] committed" in 1989, at the Harms Commission in 1990 and at the TRC amnesty committee in 1996 but for Pikoli, that "making good" is questionable and is neither adequate nor sufficient in so far as Coetzee failed to make full disclosure that might have acknowledged condolence for the 'killing' of Sizwe Kondile. The amnesty granted to Coetzee by the TRC is put into question because for Pikoli, Coetzee only told "truths we knew"; there was no full disclosure. What Pikoli would have liked to ask Coetzee is a forensic, factual 'truth'; the specific location of where Sizwe Kondile's dead body was burnt to ashes. Might the obituary be an invitation for a

“mourning-with, as condolence”, an invitation that the TRC was unable to fully extend? And in so doing, is this impossibility reflective in the obituary as a certain worse?

It is not a simple matter for there is a sense in which the obituary also gestures towards “an empty place left to mourning.” This “empty place left to mourning” in the obituary might be articulated by considering Sizwe Kondile as a double victim, or even as the “doubly missing”¹¹¹, insofar as not only was he killed and his remains are missing but also in that he is caught between incomplete accusations and insufficient exonerations of him being categorized as a “traitor” thus a denial of a “beautiful death”. Kondile is the double victim of a double wrong, “a damage accompanied by the loss of means to prove the damage”, the very understanding of a differend.¹¹² In other words, reckoning with Sizwe Kondile for Pikoli through the obituary might then be an attempt to acknowledge a wrong, to translate a wrong into damages, but at the same time underscore the very impossibility thereof through an empty place left to mourning where no mourning is a place keeper for that which is worse.

Derrida juxtaposes two series of statements that Lyotard wrote in *The Differend* regarding “a certain duel, even divorce” between ‘Israel’ and ‘Auschwitz’ and underscores the absence of the word ‘mourning’ therein, an “empty place left to mourning.” He reads through Lyotard’s meditations and suggests that,

in establishing damages that can be repaired, in thinking that it can translate the wrong into damages and the differend into litigation, which is and remains impossible, it is as if Israel had wished to go through mourning. The state of Israel would have sought to signify the mourning of Auschwitz, precisely there where mourning has no meaning.¹¹³

¹¹¹ See J. Edkins, *Missing: Persons and Politics* (Ithaca: Cornell University Press, 2011), 6.

¹¹² See J. F. Lyotard, *The Differend: Phrases in Dispute*, trans. by G. Van Den Abbeele (Manchester: Manchester University Press, 1988), 5.

¹¹³ J. Derrida, ‘Lyotard and Us’, 237.

For mourning, in the case of Israel and Auschwitz that Lyotard reflects on, according to Derrida,

implied either a litigation concerning damages, or else some kind of wrong, that is, some differend. Without litigation or differend, there can be no mourning. In a way, then, what is worse than death, as well as non-mourning, is that there *not even be a differend*.¹¹⁴

We might read a certain resonance in the South African ‘story’ that Pikoli laments as being un-told when he writes in the obituary that, “The South African story still has to be told.” That apartheid *is* a proscription on mourning, as argued by Sanders, suggests that those who could not be mourned might have the possibility of being mourned through the return of remains (‘symbolic’ reparation), but only through translating a wrong of apartheid, and here the specificity of Sizwe Kondile produced as missing and maintained in that state, into a form of litigation. Though taking into consideration Derrida’s reflection of the phrase “there shall be no mourning” and that what might be the worse than death and ‘no mourning’ “is that there not even be a differend”, the question turns not into who can be mourned, but rather, that which cannot be mourned.

Derrida writes that ‘no mourning’ “can also oppose testimony, attestation, protestation, or contestation, to the very idea of a testament, to the hypothesis of a mourning that also has, unfortunately, as we know, a negative side, at once laborious, guilt ridden and narcissistic, reactive and turned to melancholy. And when it borders on celebration, or *wake*, one risks the worst.”¹¹⁵ There appears then to be a limit in Sanders argument, dramatized through the obituary, in that if apartheid is the proscription of mourning certain lives, the postapartheid is a symmetrical image of that, an inversion, even perhaps a mirror image: then Sizwe Kondile, now Coetzee.

¹¹⁴ J. Derrida, ‘Lyotard and Us’, 237.

¹¹⁵ J. Derrida, ‘Lyotard and Us’, 221.

Reading Butler alongside Sanders means working through the foreclosed loss: mourning the exemplary apartheid figure, Coetzee, lest we melancholically identify with him.

Through Pikoli's address in the obituary he writes, there is a sense of an impeding "national melancholia", that which Butler articulates as, "a disavowed mourning."¹¹⁶ If melancholia can be understood as a confronting of loss through an adamant refusal of closure, and mourning understood as the pain of relinquishing a loss, then mourning and melancholia are inseparable conditions and symptomatic re-iterations through the very precarity of the obituary written by Pikoli and its frames.¹¹⁷ For the question evoked by the precarity of the obituary seemingly suggests a diagnosis through, and importantly, a *naming* of *who* and "*what* counts as a livable life and a grievable death."¹¹⁸ A question of mourning that which remains of a lost history while at the same time reflecting on a history of loss is provoked in the obituary in that the consecration of Kondile in the wake of apartheid, is through a particular naming and remembering of apartheid as that condition which so marks Sizwe Kondile as missing - as categorically missing.

"We" might have to re-ask what Pikoli is registering in the obituary he writes and what the function of the obituary is that is not limited to it being an instrument that, recalling Butler, enacts nation-building. For perhaps it is not so much a question of 'nation-building' as much as it is asking how the 'nation' comes to be constituted, which is not the same question, as counterintuitive as it might sound. In other words, what if "we", before considering the "obituary as an act of nation-building", consider the obituary written by Pikoli as that which prompts a re-asking of how, in South

¹¹⁶ J. Butler, *Precarious Life*, xiv.

¹¹⁷ See D. L. Eng and D. Kazanjian, 'Introduction: Mourning Remains' in D. L. Eng and D. Kazanjian (eds.), *Loss* (Berkeley: University of California Press, 2003), 3-5.

¹¹⁸ J. Butler, *Precarious Life*, xiv-xv.

Africa, the 'nation' is thought of as having come into being. To do so, requires "us" to remember and question what is thought to be the inaugural moment in which something like 'the South Africa nation' imagines itself as being in opposition to. In other words, if it is the moment of the TRC as event that might be considered as the moment in which something like the 'South African nation' is thought to have been constituted, its constitution is remembered as being 'other' than that from which it was considered to be 'transitioning' from - apartheid – in its wake.

Sanders argues that, "to remember apartheid is to remember that what made for its conditions of possibility can be repeated in the very acts of remembrance that, by linking epistemic and mournful practice, undertake to give an account of, and make reparation for, apartheid."¹¹⁹ It is therefore necessary to hold onto the point, as Butler does, that "precariousness has to be grasped not simply as a feature of *this* or *that* life, but as a generalised condition whose very generality can be denied only by denying precariousness itself."¹²⁰ In other words, the ethics of precarity that Butler's work seeks to underscore is that of a relational ontology and is such that "we" need to understand precarious life as a process that is conditioned. But its conditioning is not "as the internal feature of a monadic individual or any other anthropocentric conceit." If understanding Butler then, and in seeking to name the precarity at work in the obituary written by Pikoli, what needs to be underscored is that "our obligations emerge from the insight that there can be no sustained life without those sustaining conditions, and that those conditions are both our political responsibility and the matter of our most vexed ethical decisions."¹²¹ The most vexed ethical decisions that Butler underscores is also one that calls into being a question of justice through remembering, that which Pikoli certainly provokes and evokes.

¹¹⁹ M. Sanders, *Ambiguities of Witnessing*, 58.

¹²⁰ J. Butler, *Frames of War*, 22.

¹²¹ J. Butler, *Frames of War*, 23.

The precarious obituary written by Pikoli is one that seeks to express a question of justice through a work of mourning, a framing of justice through the precariousness of the obituary itself that calls for a remembering. This framing however is such that it is marked by the very violence of the framing of the frame - “Sins of the past”. Seeking to name the precarity of the obituary, I suggest, is conditioned by a history expressed as a remembering of incomplete accusations and insufficient exonerations that renders such a history as one of loss through that which remains: Sizwe Kondile as missing and as categorically missing.

An obituary, taken as an expression of a reckoning, invites the danger of a responsibility that “we” risk in so far as “we cannot mourn for those another has mourned - or at least not in the same way.” In other words, the act of writing an obituary necessarily implies that “we” become responsible for the inadequacy of our attempt at mourning, as Brault and Naas suggest further: “They could not have touched us in the same way, and so we betray them in reading - though this betrayal will have been made possible, if not inevitable... by the very publicity, the very readability, of mourning’s inscription.”¹²² There is a necessity in reckoning with the dead, and I might add the missing dead. This is so even as ‘we’ acknowledge that necessity as a “taking stock, of calculating and negotiating between them, of giving them their due in a language that is repeatable, even predictable, and that perhaps cannot help but commit... a kind of ‘posthumous infidelity’.”¹²³ Thus in my reading of Pikoli’s and Charity Kondile’s testimony at the TRC and the precarious obituary that Pikoli writes, it is perhaps that condolence can only ever be extended through that which marks the betrayal of mourning’s inscription, and that has as a condition the risk of only ever being inconsolable - “there shall be no mourning”.

¹²² P. Brault and M. Naas (eds), ‘Editors Introduction’, 8.

¹²³ P. Brault and M. Naas (eds), ‘Editors Introduction’, 3.

A question of missing-ness that this chapter has given rise to is such that it must account for apartheid, in apartheid's wake. This is no easy task as this chapter clearly shows. Attempting to account for Sizwe Kondile as missing, as categorically missing, that which I argue is at stake in the precarious obituary written by Vusi Pikoli, is at best uncertain and at worst, must by necessity fail. This is so because of the very elusiveness of what it might mean to mourn, even there where mourning is impossible and where a question of the worse than not being able to mourn, there where there can be no mourning, is a risk that history must abide by. Whether a question of missing-ness can then be fully articulated is at best uncertain.

What is certain though, at least through my reading of the obituary, is that Pikoli, in some ways, shares an intimate relationship with Dirk Coetzee. It is intimate insofar as Sizwe Kondile was Pikoli's best friend and Pikoli cannot remember, cannot reckon - account, recount, narrate - Sizwe Kondile, who is dead, missing and missed by Pikoli, without reckoning with the life of Dirk Coetzee. Pikoli writes, "Dear Dirk, I will not miss you" and "I will not miss him", but concludes the obituary by affirming, "One day, all will be well, Tshonyane [Sizwe Kondile]."¹²⁴

¹²⁴ V. Pikoli, 'Dear Dirk, I will not miss you'.

Conclusion

Abiding by a question of missing-ness

The argument of this dissertation calls for an abiding by missing-ness as it relates to the apartheid-era disappearances of Siphiwo Mthimkulu, ‘Topsy’ Madaka and Sizwe Kondile and the vicarious ways in which they have been produced and (re)figured into a postapartheid present as missing. This dissertation has raised more questions than I have been able to respond to in the preceding pages. Let me however attempt to map out some of the more salient points I have attempted to make through recalling another journey, not dissimilar to the one I had undertaken to Post Chalmers at the end of August in 2015.

On the 29 June 2016, I once again found myself a passenger in a car (a *bakkie* to be fair) on my way to another site of killing and disposal of human remains. That morning I had flown from Cape Town to Johannesburg. Not having a driving licence, at the airport I was met by a friend, Dane Davids, who had agreed to drive me to Komatipoort, a small town in the Northern Province of Mpumalanga. Dane and I had been in the same first year History class at the University of the Western Cape in 2004.

It is about a four –hour drive to Komatipoort from Johannesburg’s Oliver Tambo International Airport and during the drive I had much to mull over and question. A week before I had been informed by Madeleine Fullard, the head of the Missing Persons’ Task Team (MPTT), that a ‘spiritual repatriation’ and ‘symbolic reburial’, organized by the MPTT, the TRC Unit in the National Prosecution Authority, the ANC government and Freedom Park, was going to take place for Selby Vuyani Mavuso, Johannes Sweet Sambo and Sizwe Kondile.

Like Kondile, Mavuso (1981) and Sambo (1991) had been enforcedly abducted, killed and their remains obliterated. Mavuso had been drugged and shot after which his body was burnt and his remains thrown into the Komati River. Sambo was killed during interrogation and in covering up his murder, security police took his body to a site in Komaatipoort and repeatedly blew up his body with explosives until nothing remained. The MPTT determined that it was not possible to recover any of their physical remains.

During the four-hour drive, and interspersed between catching up, Dane asked me to explain my PhD research. A question all PhD candidates dread while writing, and even after writing an entire dissertation; I nonetheless tried.

I began by recounting the question (as expressed by Premesh Lalu) that has in so many ways come to guide my work: how could a form of evidence once used to cover up the violence of apartheid be re-offered as a form of redemption from the violence of apartheid, from apartheid as violence. I recalled to Dane a question posed by Michael Morris in the 'Prologue' to *Every Step of the Way: The journey to freedom in South Africa*, "what do we do with these facts in 2004, and in the years to come?" that now includes the forensic 'facts' of exhumation and identification. My responses, I explained, would be formulated and articulated through the ways in which I planned to argue Siphiwo Mthimkulu as forensically missing (Chapter One), how 'Topsy' Madaka is missed as missing (Chapter Two), how Mthimkulu, Madaka and Sizwe Kondile were and are disciplined as missing (Chapter Three) and how Kondile as missing is figured as categorically missing (Chapter Four). In so doing, I narrated the 'stories' of what is known, and how it is known, about the apartheid-era disappearances of Mthimkulu, Madaka and Kondile, that which I have elaborated in some detail in the preceding chapters of this dissertation.

I explained to Dane that in relation to Sizwe Kondile, our trip would be most important. For in rehearsing those arguments, I said, what would be foregrounded throughout is a question of missing-ness. At the time, I had drafts of those chapters, in various stages of ‘completion’ and I was convinced I would be able to argue my way through the chapters as I ‘completed’ them. Dane seemed intrigued, though somewhat confused by my lack of detailed explanation. More specifically, he wanted to know what I meant by missing-ness. I did not know how to respond.

We arrived in Komatipoort and met with the MPTT. I had a brief informal meeting with Madeleine Fullard and she explained the proceedings that would be taking place. The next morning we attended and witnessed the ‘spiritual repatriation’ of Mavuso and Sambo. It was late afternoon when both Dane and I were sitting at the back of an army truck on the way to the site on the border with Mozambique where it is believed Sizwe Kondile was killed and his body burnt, with whatever was left of his body thrown into the Komati River. It was a convoy of three army trucks that had left the Macadamia military base in Komatipoort and we were in the back of one of those. The road, rather the gravel path, was long and bumpy, over an hour long, and we both ended up covered in dust. We arrived at the site as dusk was rapidly falling. Our time of arrival was not lost to Madeleine Fullard. As she narrated the ‘story’ of Sizwe Kondile, she informed all of us gathered there that Sizwe Kondile had arrived at the site at around the same time in 1981.

Early the next morning, Dane and I, in our hired *bakkie*, joined a large convoy from Komatipoort to Freedom Park in Pretoria. I was not very talkative during that part of the journey. While I enjoyed being a part of what is colloquially termed ‘the blue light brigade’, I was, and continue to be haunted by what I had witnessed in Komatipoort, specifically that of the previous evening as Sizwe Kondile’s spirit was

retrieved so as to be ‘symbolically reburied’ at Freedom Park. The songs sung that night, the words spoken, continue to echo.

At Freedom Park, I witnessed the ‘symbolic burials’ of the men whose remains can never be recovered and I wondered about rehumanisation and personhood to the missing. Before I had to leave to catch my flight back to Cape Town, I searched the Wall of Names at Freedom Park for the names of Siphiwo Mthimkulu, ‘Topsy’ Madaka and Sizwe Kondile. I spent almost an hour searching. Eventually, I located their names engraved into the Wall. It seemed to me, then, that I had found ‘my guys’. However, as this dissertation has shown, they are missing.

As we drove from Pretoria to Oliver Tambo International Airport, Dane again asked me what I meant by missing-ness. I tried to explain, though I suspect, failed.

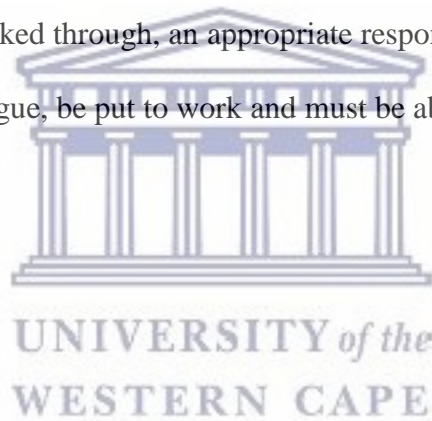
My deployment of missing-ness as a question in this dissertation has been put to work in underscoring notions of history and its relation to a category of missing persons in South Africa as they emerge and are figured through various discursive strategies constituted by and through apartheid’s violence and iterations thereof. A question of missing-ness, I have showed, can be understood as the figuring of persons such as Siphiwo Mthimkulu, ‘Topsy’ Madaka and Sizwe Kondile, through various discourses and discursive strategies, practices and processes, complicit in and implicated by history and its discourses. A question of missing-ness and the ways in which it has been deployed in the preceding chapters has in part indexed the obliteration of physical bodies and the dislocation of personhood through physical acts of apartheid’s violence and iterations of its discourses as well as attempts at recovering physical remains and a restoring, through relocating, of personhood. A question of missing-ness has also been deployed, and importantly so, to index various discourses and discursive strategies, practices and processes, complicit in and

implicated by history and its discourses. A question of missing-ness understood in this way, I argue, clearly requires that what is named as apartheid is not only registered in its effects, implicitly confusing an effect for a cause, but also through what escapes the discourses of its, apartheid's, naming. It is precisely as a category that sits uneasily in these discourses that a question of missing-ness acquires the full force of its implications for any attempt, even in its (im)possibility, at coming to terms with apartheid. Indeed, abiding by a question of missing-ness is to acknowledge, though without foregoing, a working through of the conditions of (im)possibility that so marks any history of the missing. The productivity of deploying missing-ness and an abidance to it in the ways I have argued rests precisely on not explicitly naming it, but rather by holding onto its elusiveness by marking the contours of discourses on which it simultaneously touches upon and is constitutive of.

Indeed, to abide by missing-ness is to be abided by the missing through the question of missing-ness provoked. Missing-ness, as I have evoked the term, works to foreground a process of becoming that is its potentiality. This is to point to the lack and excess, the potentiality, which haunts histories seeking to account for apartheid in its wake. As an abstract noun, the suffix '-ness' in missing *-ness* serves to signal such lack and excess, an instability, as a condition and symptom of being, missing. Articulating it thus is to affirm missing-ness as a question.

In the time since my journey to Komatipoort and Freedom Park, I have concluded that what I do know is that this dissertation has been an attempt at completing a story. Yet this story, I have shown, is amputated by an absence not merely of death, but one that provokes a question of missing-ness. It so doing, I have pointed to a *something* that remains missing. Perhaps that *something* has to do with the profound statement made by Walter Benjamin in his 'Theses on the Philosophy of

History’, “only that historian will have the gift of fanning the spark of hope in the past who is firmly convinced that *even the dead* will not be safe from the enemy if he wins.” The very next line after reads, “And this enemy has not ceased to be victorious.” The questions evoked for the historian who is convinced that even the missing will not be safe from the enemy if he wins, relates to how what is and is not known about the missing is known. The implication of asking this question is also to pose a question of history in the wake of apartheid? For indeed, to abide by a question of missing-ness as it relates to the missing is to foreground, acknowledge and re(affirm) the patience to stay, to endure, to work with, even as it appears unbearable, unending and even unendurable. In relation to all that you, my readers, have read, thought and hopefully worked through, an appropriate response is to affirm missing-ness as a question that I argue, be put to work and must be abided by.



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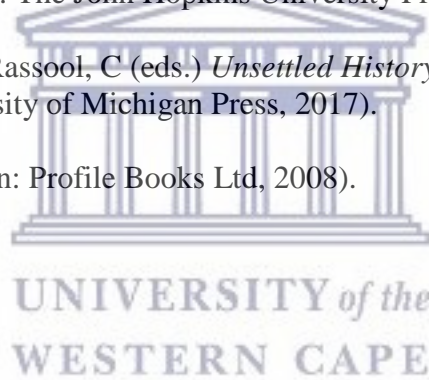
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