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**'UNEARTHING' THE 'ESSENTIAL' PAST: THE MAKING OF A  
PUBLIC 'NATIONAL' MEMORY THROUGH  
THE TRUTH AND RECONCILIATION COMMISSION,  
1994-1998**

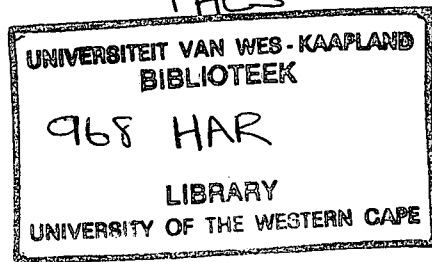
**Brent Harris**

**Dissertation Presented to the Department of History of the University of the  
Western Cape in partial fulfilment of the requirements  
for the Degree of Masters in Arts**

**The University of the Western Cape,**

**November 1998**

THES



to Carin, Vera-Lynn,

John and Julia

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## NOTES ON SOURCES AND TRANSCRIPTION

The practices at the TRC hearings, in the recording and in the transcription of the hearings made it impossible to utilise the transcription conventions developed by Gail Jefferson. Firstly, the hearings were often sites of instant translation where the witnesses' utterances were translated for the audience and for the commissioners, and where the commissioners question to the witness were translated for the witness. Here the translation of language obscured the nuanced pause, the split second hesitation. This obstruction was imposed, furthermore, by the decision to use English as the language of choice for the audio and audio-visual broadcasts and recordings of the hearings. The audio recordings formed the basis for the TRC transcription of the hearings. These transcripts form the main source of material for this dissertation.

These transcripts were supplemented by my own transcriptions of video recordings of the hearings where these were available; transcripts of the hearings broadcast on *TRC Special Report* (broadcast on SABC) and on SABC TV and Radio news; and transcripts of the SABC radio broadcasts of the hearings on Radio 2000. Again, the recording and broadcasts of these hearings utilised the translator's utterances as their audio source.

A historical narrative is ... at once a representation that is an interpretation and an interpretation that passes for an explanation of the whole process mirrored in the narrative.

(Hayden White, 1978)

The first goal of ... a [truth] commission is to investigate the fates, under the preceding regime, of individuals and of the nation as a whole. Its aim is not to prosecute and punish. A truth-telling operation, including full disclosure of all human rights abuses, must ensure that 'the facts' are not forgotten but remain alive in the memory of the collectivity.

(Luc Huyse, 1995)

The objective of the Commission shall be to promote national unity and reconciliation in a spirit of understanding which transcends the conflicts and divisions of the past by ... establishing a complete a picture as possible of the causes, nature and extent of the gross violations of human rights ... including the antecedents, circumstances, factors and context of such violations, as well as the perspectives of the victims and the motives and perspectives of the persons responsible for the commission of the violation, by conducting investigations and holding hearings ...

(Promotion of National Unity and Reconciliation Act, 1995)

## INTRODUCTION

### The Past, the TRC and the Archive as Depository of Memory

At a lecture presented in London on June 5, 1994, Jacques Derrida discussed the complexities of the meaning of the archive. He described the duality in meaning of the word archive—in terms of temporality and spatiality—as a place of “commencement” and as the place “where men and gods *command*” or the “*place* from which *order* is given”.<sup>1</sup>

As the place of commencement, “*there* where things *commence*”,<sup>2</sup> the archive is more ambivalent. It houses, what could best be described as ‘traces’<sup>3</sup> of particular objects of the past in the form of documents. These documents were produced in the past and are subjective constructions with their own histories of negotiations and contestations. As such, the archive represents the end of instability, or the outcome of negotiations and contestations over knowledge. Yet as sources of evidence the archive also represents the moment of ending instability, of creating stasis and the fixing of meaning and knowledge.

The archive has long been the hallmark for, and of, the production of history, particularly in the academy. Students of history have been taught that to do research, they have to go to the archive to ‘read’ the primary sources located there. The process, in historical research, of discovering new areas of research had tended to close the past contained in the archive. For decades most

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<sup>1</sup>Jacques Derrida, *Archive Fever: A Freudian Impression*, The University of Chicago Press, Chicago and London, 1996, p. 1. Emphasis in original.

<sup>2</sup>Derrida, *Archive Fever*, p. 1. Emphasis in original.

<sup>3</sup>The term ‘traces’ is taken from Keith Jenkins, *Re-thinking History*, Routledge, London, 1991 and is preferred to terms such as ‘information’ or ‘evidence’ as these refer to objectivist claims and deny the subjective construction of ‘information’ and ‘evidence’. My usage of the term ‘evidence’ elsewhere in this paper should be read as an echoing of objective claims that the

researchers were not inclined to go back to the documents that preceding researchers had consulted, privileging not only the previous researchers' first discovery of the documents but also their interpretations. This was partially due to the treatment of history as a science and the related assumption that research could, and that it should, be done objectively. In this event, the documents housed in the archive were taken to be neutral, and able to speak the truth. Hence, they were thought of as representing windows on the past. These assumptions have been challenged for some time now and have been dismissed in some quarters.<sup>4</sup> It is more prevalent nowadays for subsequent researchers to go back to the archive to reread the documents that previous researchers had read. Through these practices, the past, as contained in the archive, is typically revisited, reread, reappraised, reinterpreted, revised and rewritten. In this regard, the archive does become the place from which the past commences. However, these commencements are restricted as the past contained in the archive is not complete. The archive can only hold some traces of some aspects of the past. Furthermore, the archive is itself an interpretation that influences future interpretations.

From its establishment, the Truth and Reconciliation Commission (TRC) was seemingly presented in opposition to the Derridian sense of the archive as the place of 'commencement'. Instead, the TRC presented itself, and was presented as "shutting the book on the country's past", of coming to "terms with our dark past *once and for all*" and of closing "a horrendous chapter in the life of our nation".<sup>5</sup> In the discursive statements of various members and components of the

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paper is criticising.

<sup>4</sup>See, for example, Hayden White's 'The Burden of History', in *Tropics of Discourse: Essays in Cultural Criticism*, The Johns Hopkins University Press, Baltimore and London, 1985, pp. 27-50.

<sup>5</sup>Final Clause of the Constitution of the Republic of South Africa Act, No 200 of 1993 quoted by Dullah Omar in *The Truth and Reconciliation Commission*, Justice in Transition, Cape Times, c1996, p. 2; and Desmond Tutu quoted in 'Commission "must heal nation": True

TRC and its public representations in the media, the TRC often referred to its role as that of ‘uncovering’ and ‘unearthing’ the past, with its functions of exhumation, identification and reburial, rather than revisiting and reinterpreting the past. Furthermore, with the TRC’s function of assembling an archive, it could be seen to represent the fixing of knowledge, the ending the instability of the meanings and the contestations over the truth of the past.

The second implication that Derrida identifies in the name of the archive is more closely related to the production of knowledge. In his lecture Derrida alludes to the role of the superior magistrates or the *archons* in ancient Greece. “[T]he *archons*”, Derrida says,

[...] were considered to possess the right to make or to represent the law. On account of their *publicly recognized authority*, it is their home, in that place which is their home [...] that official documents are filed. The archons are first of all the documents’ guardians. They do not only ensure the physic security of what is deposited and of the substrate. They also accord the hermeneutic right and competence. They have the power to interpret the archives. Entrusted to such archons, these documents in effect speak the law: they recall the law and call on or impose the law. [...]<sup>6</sup>

The notion of the *archon* is extremely useful in thinking about the TRC for, like the *archons* of ancient Greece, the TRC was also, simultaneously, the guardian and the interpreter of the archive. However, the TRC was the guardian of the archive not in the sense of protecting what was deposited with them, but in the sense of ensuring the gathering, institutionalization and preservation of evidence of the past. The TRC also claimed the ‘publicly recognized authority’ and the power to ‘interpret’ the archive that it had been entrusted to establish. It claimed this authority on the basis of representing and being representative of the ‘new’ nation. Indeed, as a governmental commission, established by parliamentary decree and enshrined in the state’s legislature, the TRC was vested with official authority.

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reconciliation main aim, says Tutu in first address’, *Weekend Argus*, Sunday, December 16/17, 1995. Emphasis added.

The TRC used this authority to interpret the archive that it had been entrusted to assemble. It permitted the past to speak, and called on the past to be spoken, by inviting the nation to recall and recollect the past at the TRC's public hearings. In this way, the TRC recalled and imposed a history that became an absolute rather than a possible history. Here a tension existed in the work of the TRC: the commission was established through the Promotion of National Unity and Reconciliation Act to 'uncover' "as complete a picture *as possible* of the nature, causes and extent of gross violations of human rights" that occurred during the last three and a half decades of the apartheid era in South Africa.<sup>7</sup> Yet it created the impression that, through its work, the past can be known 'once and for all'. This impression was reinforced by the institutional nature of the TRC, as a parliamentary commission, by the TRC's public hearings at which the past was presented to, and for, the nation, and by the TRC's function of gathering evidence of the past for an archive.<sup>8</sup> In this sense the work of the TRC was self-referential: the TRC archived the evidence it required to support the history that it produced and, by archiving its evidence, it ensured the veracity of that history and created the impression that that history is real because it is based on real evidence.

The process of archiving evidence, of gathering information together for an archive, Derrida suggests, is associated with "the function of unification, of identification, of classification". This

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<sup>6</sup>Derrida, *Archive Fever*, p. 2. Emphasis in original.

<sup>7</sup>Promotion of National Unity and Reconciliation Act, No 35 of 1995, 3(1)(a). Hereafter, Promotion of National Unity and Reconciliation Act, No 35 of 1995, cited as Ponura.

<sup>8</sup>The latter, Archbishop Tutu described "from a research point of view", as the TRC's "greatest legacy". It would, he suggests, be of "great value" to those "researching our history for decades to come". See 'Chairperson's Forward', Truth and Reconciliation Commission of South Africa Report, October 1998, Vol 1, Ch 1, pp. 1-2. Hereafter, Truth and Reconciliation Commission of South Africa Report, cited as TRC Report.

process, he adds, “must be paired with ... the power of *consignation*.”<sup>9</sup> For Derrida, consignation refers to two related processes: one is the “act of *consigning* through *gathering together signs*” and the other is the objective “to coordinate a single corpus, in a system or a synchrony in which all elements articulate the unity of the ideal configuration.”<sup>10</sup> Thus, while the archive does not, and cannot, house a complete past, its consignation creates the illusion of being whole, an illusion that the archive fails to acknowledge.

### **‘Uncovering’ the Ethical Archive**

The TRC was established by governmental decree to fulfil particular, predefined objectives. As such, the government delineated, or at least presented the rudimentary framework by which the TRC would order the archive it was entrusted to consign. Here the TRC was assigned the task of ‘uncovering’ the past in order to provide

[...] a historic bridge between the past of a deeply divided society characterized by strife, conflict, untold suffering and injustice, and a future founded on the recognition of human rights, democracy and peaceful co-existence for all South Africans [...]<sup>11</sup>

Through this phrase, the Promotion of National Unity and Reconciliation Act which empowered the TRC, defined the commission as a vehicle for ‘bridging the divisions’ in South African society which had resulted in a legacy of human rights abuse. It added that the commission would facilitate “the establishment of as complete a picture as possible of the causes, nature and extent of gross violations of human rights” that were committed during the last three and a half decades of the Apartheid era.<sup>12</sup> The TRC was to ‘bridge a deeply divided society’ in order to facilitate nation building through reconciliation. As such, the TRC marshalled the past into an

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<sup>9</sup>Derrida, *Archive Fever*, p. 3. Emphasis added.

<sup>10</sup>Derrida, *Archive Fever*, p. 3. Emphasis in original.

<sup>11</sup>Preface to Ponura. Also see Constitution of the Republic of South Africa Act, No 200 of 1993.



'ideal configuration', or, in the sense that Hayden White ascribes to Hegel, Balzac and Tocqueville, in order "to effect an ethically responsible transition from present to future".<sup>13</sup> TRC commissioner, Pumla Gobodo-Madikizela made this quite explicit at the end of the public hearings of the TRC's Committee on Human Rights Violations (HRVC) at Paarl when, in response to the TRC's critics "who continue to say that we should not be doing this work because we are opening up old wounds", she said that "if you want to move into the future we [*sic*] should reflect on the past", and asked "how do you look into the future without exploring what happened in the past?"<sup>14</sup>

The TRC was, thus, essentially a commission of inquiry that was grounded in the present and was designed to 'promote' a future nation that would be characterized by 'unity'.<sup>15</sup> It was, however, not left to define the discourse that would promote this national unity. Instead it served as a mechanism that authorized and legitimized the government's discourse on nation, nationalism, patriotism and the conflicts of the anti-apartheid struggle.<sup>16</sup> Indeed, through the Promotion of National Unity and Reconciliation Act the government restricted the commission's scope and delimited the nature of the archive it was to consign. The act placed a number of limitations on the TRC: it restricted the TRC to a specific period of oppression and a specific

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<sup>12</sup>Ponura, 3(1).

<sup>13</sup>According to White, Hegel, Balzac and Tocqueville do not suggest that the past should be manipulated. See White, 'The Burden of History', p. 49.

<sup>14</sup>Pumla Gobodo-Madikizela, HRVC Hearing, Paarl, Wednesday, October 16, 1996.

<sup>15</sup>Ponura, 3(1).

<sup>16</sup>In his analysis of South Africa commissions of inquiry into 'the native question', Adam Ashforth arrived at the conclusion those commissions were "not just modes of scientific investigation" but were simultaneously "performances which served to *authorize* a form of social discourse". See Adam Ashforth, *The Politics of Official Discourse in Twentieth Century South Africa*, Clarendon Press, Oxford, 1990. Emphasis added. Also see George E Marcus, 'The Official Story: Response to Julie Taylor', in Michael Ryan and Avery Gordon (eds.), *Body Politics: Disease, Desire and the Family*, Westview Press, Boulder, San Francisco and Oxford, 1994, pp. 207-8.

phase of resistance to that oppression in South Africa; through the phrase ‘gross violations of human rights’, the Promotion of National Unity and Reconciliation Act restricted the TRC’s field of inquiry to particular patterns of oppression and resistance and, as Steven Robins indicated,<sup>17</sup> to particular forms of suffering, victimhood and perpetration.<sup>18</sup> The TRC thus could not investigate the exploitative economic policies, discriminatory provision of education and other services that were part and parcel of apartheid nor the psychological effects and suffering caused by detention without trial where this was not accompanied by acts of torture, poisoning, maiming or death while in detention or in police custody.<sup>19</sup> Thus, while the TRC consigned an ‘ethical archive’ that articulated an ‘ideal configuration’ in which all the elements of the archive were integrated to form a ‘single corpus’, that corpus was constrained and restricted.

### **The Archive and the ‘Violent’ Occlusion of Memory**

The constraint that accompanies the consignment of the archive has a further implication that Derrida alludes to. The archive, for Derrida, is not only the place ‘where things commence’ and

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<sup>17</sup>See Steven Robins, ‘TRC must look at “ordinary” apartheid’, *Cape Times*, Tuesday, August 5, 1997 and Robins, ‘No-name people who kept cogs of apartheid oiled’, *Cape Times*, Wednesday, August 6, 1997.

<sup>18</sup>Ponura defines ‘gross violations of human rights’ as the actual or attempted “killing, abduction, torture or severe ill-treatment of any person ... by any person acting with a political motive”. See Ponura, 1(1)(1)(ix).

<sup>19</sup>The TRC did, however, attempt to incorporate some of these processes into its field of investigation by holding workshops, notably at Oudshoorn, in which some of the psychological aspects of apartheid oppression were addressed, and by holding ‘sector’ hearings to investigate the activities of the media, the business sector and religious bodies, amongst others, during apartheid. However, these sector hearings presented the media and the business sector with a subject position from which to speak, and from which to represent its version of, and its position in, the past. See, for example, ‘Ill-prepared TRC fails to press business for atonement’, *Cape Times*, Monday, November 17, 1997; ‘The truth: business’s moral omissions’, *City Press*, Sunday, November 16, 1997; ‘Now even acceptability is a commodity’, *Weekend Argus*, Sunday, November 15/16, 1997. Also see Sam Shilowa, HRVC Hearing, Johannesburg, Thursday, November 13, 1997 and Jay Naidoo HRVC Hearing, Johannesburg, Thursday, November 13, 1997. While detention without trial and solitary confinement were incorporated into the TRC’s definition of ‘severe ill treatment’, it did not have any impact on the TRC’s public hearings as

the place ‘from which order is given’ but is also the place where memory is deposited so that, as George Marcus states, “[a]s long as the archive is there, the memory exists as stored information” that remains “publicly available.”<sup>20</sup> It is, however, not a repository of “spontaneous memory, as *mnēmē*” or of the actual process of recollection, as *anamnesis*, but of memory in the form of documents, as *hypomnēma*.<sup>21</sup>

As a repository of memory, Derrida suggests, the archive is simultaneously related to the process of forgetting—of forgetting that which “operates in silence” and consequently that which “never leaves its own archive”.<sup>22</sup> The process of silence and forgetting in the consignment of the archive, he continues, is not innocent for the archive reproduces those silences. It frames what is consigned in the archive as a unified whole and represses what is left outside the archive, denying its existence and consigning it to oblivion. This Derrida describes as “the violence of the archive”<sup>23</sup> and is of significance because, as he suggests, the archive is always consigned and ordered ethically, “as anticipation of the future”.<sup>24</sup>

At the TRC’s inaugural meeting, this ‘violence’ emerged when Archbishop Tutu, in his capacity as chairperson of the commission, addressed the commissioners and set the tone for the commission and for all those who were to become involved in the working of the TRC. In a sense, he framed the subsequent discourse of the TRC in line with the restrictive mandate the commission received from the government. In a lengthy statement he claimed that

[...] We [the commissioners] have been assigned a delicate task [...] of [...] helping our

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practically no witness spoke solely about either.

<sup>20</sup>Marcus, ‘The Official Story’, p. 208.

<sup>21</sup>Derrida, *Archive Fever*, p. 11.

<sup>22</sup>Derrida, *Archive Fever*, p. 10.

<sup>23</sup>Derrida, *Archive Fever*, p. 7.

<sup>24</sup>Derrida, *Archive Fever*, pp. 16-8.

land and people to achieve genuine, and real not cheap and spurious, reconciliation. [...] We are meant to be a part of the process of healing of our nation [...] to assist our land, our people to come to terms with our dark past once and for all. [...] We will be engaging in what should be a corporate nationwide process of healing through contrition, confession and forgiveness. [...] That is why the truth is so central to this whole exercise. [...]<sup>25</sup>

### **The TRC and History**

The leitmotif of this thesis is the production of history, and approaches the TRC as a metonym of production, for the TRC not only produced history, it also produced the archive upon which it based its history. In fact the TRC directly produced two archives: it, firstly, produced an archive of evidence, of documents and statements, and secondly, it archived its version of the past in the form of a report. In this thesis, however, my focus is on the production of history rather than on the archiving of history. I am thus interested in the moments when the TRC displayed its history as a spectacle rather than as a report, for my focus is on process rather than product.

Thus, focussing largely on the public nature and process of the TRC, on the creation of a public memory and on the TRC as a site of public history, this thesis inevitably utilizes as sources, firstly, ‘public’ information, i.e. the media reportage on the TRC in the printed news media, on radio, particularly during the Radio 2000 broadcasts of certain TRC hearings, on television, particularly on *The TRC Special Report*, and on the ‘information highway’—the TRC’s internet web site, [www.truth.org.za/](http://www.truth.org.za/). The latter is however not used excessively since, although it has been estimated that South Africa is the seventeenth most connected country on the internet, public access to the internet is still largely limited in a country with a skewed wealth distribution, with an unbalanced level of electrification, and where many schools do not have access to computers, let alone the internet.

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<sup>25</sup>Tutu quoted in ‘Commission “must heal nation”’, *Weekend Argus*, Sunday, December 16/17,

Raphael Samuel suggests that in public history and public memory, it is the unusual, the extraordinary, the famous and the infamous, “the remarkable occurrence and the larger-than-life personality which stirs the interest of listeners, readers and viewers”.<sup>26</sup> By enquiring into how news coverage, or rather, how events and hearings that were deemed newsworthy were made to influence public memory and public history of the TRC, this dissertation is inescapably bound to follow the public into focussing on the unusual, the extraordinary, the famous and the infamous, on the ‘remarkable and the larger-than-life’, at the expense, at times, of the testimonies of and about ordinary people and events.

Secondly, it utilizes primarily those public images of the TRC and the processes it encapsulated that were produced at the hearings, that were made available by the commission, and that were produced around the hearings, particularly around event hearings, at ‘commemorative’ hearings and at commemorative moments in the work of the TRC. These images were mediated and therein lies their significance to this study.

In Chapter One, I provide a broad overview of the theoretical concerns that inform the rest of this dissertation. Here I briefly outline the arguments that unravel through the succeeding chapters.

Chapter Two looks at how the TRC claimed the authority to interpret the archive it assembled and how it set about representing this interpretation. I argue that the re-imagining of South African society as a united and new nation were integral elements of the basis upon which the TRC claimed its authority, although the TRC did not define the nation, but rather authorized the dominant definition of nationhood espoused by the government that established the TRC. Indeed, the TRC is but one component of the government’s

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1995.

<sup>26</sup>Raphael Samuel, *Theatres of Memory - Volume 1: Past and Present in Contemporary Culture*, Verso, London and New York, 1994, p. 16.

nation building project.

I argue further that the TRC used this authority to call on the past to speak by inviting people to recall their experiences of the past. However, at issue here were not the mere recovering and amassing of personal memories, and the collectivisation of those memories, but also the means through which the nation, to whom this nascent collective memory and the public history exhibited within and by the TRC purportedly belonged, was constituted, as well as the institutionalization of that past through its consignment in the archive.

In Chapter Three I argue that part of what the TRC set out to do was to *acknowledge* the truth, or in the word of one of its commissioners, “to validate the already widely known truth”.<sup>27</sup> Here I suggest that this ‘validation’ took place through the formation of a collective memory of the past and through the institutionalization of that truth in the national archive and the deployment of it as evidence for a new history. The formation of a collective memory occurred primarily through the public hearings of the victims of gross human rights violations at the HRVC. This however contradicted the TRC’s requirements for and allusions to relativism,<sup>28</sup> of treating all versions of the past as equal. Because of the TRC’s nation building objective, it necessarily had to form a homogenous collective memory in which only one version of the truth could reside. The TRC thus established one version of the history of the past as the “only version”. I argue that the memories that were collectivized at the TRC were those that were ‘given voice’ at the HRVC hearings rather than at the AC hearings for the latter contradict, to some extent, the process of unifying truth though it did allude to the TRC’s premise that the victims were the essential bearers of

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<sup>27</sup>Mary Burton in Alex Boraine, Janet Levy and Ronel Scheffer (eds.), *Dealing with the Past: Truth and Reconciliation in South Africa*, IDASA, Cape Town, 1994, pp. 122-123.

<sup>28</sup>Ponura, for example, required that the commission treating all accounts of the past with “equal worth”. See Ponura, 11. Also see Burton in Boraine, Levy and Scheffer (eds.), *Dealing with the Past*, p. 123.

the truth.

In this chapter I build on the argument, outlined in Chapter Two, that the collectivization of individual memories, the formulation of a nation, and the accumulation of a national memory was desired in order to overcome the narrowly defined racial divisions of the past and to reconstruct that past and the future, but indicate that this reconstruction was based on the construction of a positivist, and therefore, constraining history.

In Chapter Four I investigate how the past and its history was made familiar. Here I inquire which subjects were allowed to speak the South African past, and how this speaking occurred. I argue that the evidence of the past and the memories that were being collectivized, were concerned mostly with the black male victims who had been 'excluded' from the official discourse of apartheid. These victims were represented by the TRC as the 'ordinary victims of gross human rights violations' and, as such, as South Africa's subalterns. The category of 'subaltern' is, however, an ambiguous one and as I argue, those who appeared before the HRVC were neither ordinary nor subaltern.

Furthermore, I argue that the making familiar is implicit in the hearings of the HRVC. These hearings were framed in such a manner as to imply an invitation to share in the experiences and pain of the witnesses. I argue that this invitation holds a number of implications for not only the truth but hearing the truth, specifically, hearing the truth about pain and, ultimately, making the past familiar.

This is followed by Chapter Five in which I look at how the past was made strange. More specifically, I inquire how the perpetration of gross human rights violations were made strange. Here I argue that the process of making strange served as a mechanism that delineated the nation's part, from the aberrations of

the past, aberrations, which I suggest, were not made part of the new South African past.



## CHAPTER ONE

### The TRC, Memory and the Past: An Overview

#### History, the TRC and the 'Essential Truth' of Memory

For Tutu, one of the central functions of the TRC was

[...] to unearth the truth about our dark past, to lay the ghost of that past so that they [sic] will not return to haunt us and that we will thereby contribute to the healing of a traumatized and wounded people, for all of us in South Africa are wounded people and in this manner to promote national unity and reconciliation [...]<sup>29</sup>

In this sense, the TRC represented an important moment in the history of South Africa in at least four senses: first, as having been cast as an event of historical import; second, as an official body that assembled, consigned and deployed an archive of the last three and a half decades of the apartheid era in the South African past; third, as a significant but selective (re)producer of knowledge and meaning of the official and public history of that period; and fourth, as a mechanism for the overcoming of the "post-traumatic stress disorder" of the nation.<sup>30</sup>

The TRC constituted a moment and space in which attempts were made to reconstitute

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<sup>29</sup>Tutu, Opening Address, HRVC Hearing, East London, Monday, April 15, 1996.

<sup>30</sup>One of the TRC's rationale for the 'uncovering' of the past, the reopening of wounds, echo's psychoanalytic theory of post traumatic stress disorder. The work of the TRC was described variously as 'coming to terms with the past, of laying the ghost of the past so that it would not return to haunt the nation. See, for example, Tutu quoted in 'Commission "must heal nation"', *Weekend Argus*, Sunday, December 16/17, 1995. Also see Nelson Mandela quoted in Brian Frost, *Struggling to Forgive: Nelson Mandela and South Africa's Search for Reconciliation*, HarperCollins, London, 1998, p.140. It seems that the traumas associated with the conflicts of the past were for the nation what Cathy Caruth described for the individual survivor of trauma, i.e. "an event that ... is experienced too soon, too unexpectedly, to be fully known and is therefore not available to consciousness until it imposes itself again, repeatedly, in the nightmares and repetitive actions of the survivor". Cathy Caruth, *Unclaimed Experiences: Trauma, Narrative and History*, The Johns Hopkins University Press, Baltimore and London, 1996, pp. 3-4.

knowledge about the political conflicts of the last three and a half decades of the apartheid era as “the essential truth”<sup>31</sup>—through the hearing of individual testimonies based on the memories of that period, through the public display of personal pain and trauma, and to fix those ‘essential truths’ in the memory of ‘the people’ of South Africa, creating a coherent national memory. Here a tension existed in the work of the TRC for it was intimately aware of the historiographical limitations of uncovering the past, yet it presented its account of the past as an integrated coherent ‘chapter’ that could be known and could be closed.

Indeed, a fundamental shift occurred at the TRC, in the process of the dissemination of knowledge, from episodic and self-contained events to fundamental characteristics and the teleology of a cohesive corpus of knowledge. The significance and the implications of this shift was doubled up by the simultaneous shift from the individual memories of those separate events to a collective memory of the corpus of knowledge that unified these once separate events. I argue in this dissertation that the TRC hearings were, in essence, moments during which the truth of certain episodes of the past was not merely ‘uncovered’ but were legitimized.

Memories of the past became the source of the truth of the past and the undisputable evidence of the TRC’s history of the past, for these truths articulated a metanarrative that was authorized and legitimized by the TRC. The space to legitimize a ‘new’ history of the South African past was enabled by the transition in South African political and social life from apartheid to the ‘new’ South Africa. However, as Hayden White indicates, the choice of narrative, its emplotment and its mode of explanation bears ideological implications.<sup>32</sup>

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<sup>31</sup>Referred to by Charles Villa-Vicencio, ‘When the Free shall set the Truth’, *Cape Times*, Thursday, October 16, 1997.

<sup>32</sup>White, ‘Interpretation in History’, in *Tropics of Discourse*, pp. 65-75.

Essentially, the problem that the TRC faced, in forming its cohesive body of knowledge, was the teleological production of history—a conflict of treating evidence objectively, of treating testimonies as quantitatively and qualitatively equal regardless of whom the victims and the perpetrators were, of taking all the facts into account, and of arranging those facts and testimonies into a narrative order.<sup>33</sup> The history produced by the TRC was, however, two-fold. While it was required to produce a ‘complete as possible’ official history of a particular period in the history of South Africa, in the form of a report,<sup>34</sup> it also created a public history through the display of particular pieces of ‘evidence’ and testimonies that it had gathered. This dissertation is not concerned with analysing the production of the TRC’s official history as a documentary source. Instead it deals with the TRC as a site for the dissemination of meaning and knowledge and as a site of public history. In this sense the TRC and its hearings could be seen as a discursive and performative representation of a past. It could also be seen as a public process in and through which particular meanings of the past were authorized and entrenched through its traces being consigned to the archive. It thus departed dramatically, in the public eye at least, from the acknowledgement of the impossibility of ‘establishing a complete picture’ of the past. Indeed, the Promotion of National Unity and Reconciliation Act acknowledged this impossibility by stating that the ‘picture’ the TRC was to establish was to be ‘as complete as possible’.<sup>35</sup>

Through the process of displaying memories of pain and trauma, and through the creation of a public memory, the TRC became a site of public history. It displayed the particular testimonies as exhibition pieces that formed part of a public history for the people of the ‘new South Africa’.

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<sup>33</sup>This was part of the TRC’s mandate. See TRC Report, Vol 1, Ch 4, p. 65. Also see Ponura, 11(b).

<sup>34</sup>This report was often referred to as the ‘final’ report.

These testimonies, which were to become part of the TRC's archive, were taken up in, and mediated through, the news media coverage on the TRC. Here the news media assisted the TRC's nation building process by dispersing these traces of the past beyond the locus of their exhibition onto what could be described as the national public sphere and into secondary archives. Indeed, the TRC was dependent on the media for ensuring that it reached the whole nation. In fact, it addressed the public through media and, in this sense, collated the public and the nation. This dependency, however, held two crucial consequences. First, the TRC needed to retain media attention in the work of the commission. Second, the TRC did not have control over that media and was unable to directly influence the news media's mediation between the commission and the 'public'.

The TRC conflation of the disparate South African public with the nation', and for its chairperson, the 'rainbow nation' was necessary to undermine the divisive social relations that apartheid gave rise to, and made it possible for those within the TRC to conceptualize the truth commission and the process of reconciliation as a means of forming a homogenous public memory and a singular national past.

However, in the intellectual history of South Africa, the conflation of the people with the nation preceded the establishment and the debate around the TRC—its seeds had been sown during 'the struggle against apartheid' and its embodiment inscribed in the ANC's Freedom Charter of 1955.

Here, in the preamble, 'the people' of South Africa were made to speak and stated that

We, the people of South Africa, declare for all our country and the world to know:  
That South Africa belongs to all who live in it, black and white, and that no government  
can claim authority unless it is based on the will of the people;  
That our people have been robbed of their birthright to land, liberty and peace by a form

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<sup>35</sup>See Ponura, 3(1).

of government founded on injustice and inequality;  
 That our country will never be prosperous or free until all our people live in  
 brotherhood, enjoying equal rights and opportunities;  
 That only a democratic state, based on the will of the people, can secure to all their  
 birthright without distinction of colour, race, sex or belief;  
 And therefore, we the people of South Africa, black and white, together equals,  
 countrymen and brothers [sic] adopt this FREEDOM CHARTER. [...]<sup>36</sup>

Although the United Democratic Front (UDF), that was to dominate internal opposition politics in the 1980s,<sup>37</sup> conceptualized South African society in non-racial terms, it was only during the 1990's, through what Heribert Adam and Kogila Moodley describes as the 'negotiated revolution'<sup>38</sup> popularly known as the Convention for Democracy in South Africa (Codesa), that the re-imagining of the South African nation entered the central stage of 'national' political life and sustained attempts at nation building through, amongst others, the establishment of the TRC and the formation of a new constitution were conceptualized and initiated.

This drive towards nation building began during a transitional phase in South African history and was embarked upon for various reasons—one being the threat of right-wing violence. In this regard, a number of social commentators and political leaders were at pains to warn 'the nation' of the fragility of what came to be described as the 'miracle' and was represented by the general elections of April 27, 1994 upon which the 'new democracy' was 'established'. Indeed, TRC members were to justify the establishment of the commission and the granting of amnesty through reference to this 'fragility'. These concerns were later reiterated by TRC commissioners, Jاسmin Sooka and Archbishop Tutu, who claimed that had South Africa not reached a negotiated settlement, of which the establishment of a TRC was a result, South Africa "would *still* be in a

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<sup>36</sup>See Raymond Suttner and Jeremy Cronin, *30 Years of the Freedom Charter*, Ravan Press, Johannesburg, 1986, p. 262.

<sup>37</sup>See, for example, Anthony W Marx, *Lessons of Struggle: South African Internal Opposition, 1960-1990*, Oxford University Press, Cape Town, 1992, p. 14.

<sup>38</sup>Heribert Adam and Kogila Moodley, *The Negotiated Revolution: Society and politics in Post-*

civil war”.<sup>39</sup>

In these representations, and in the debates that preceded the establishment of the TRC, the disaggregate people of South Africa were being conflated with the nation for the purposes of reconciliation *and* nation building. In 1994, the former Chilean National Commission for Truth and Reconciliation commissioner, José Zalaquett, argued that

[a] society cannot reconcile itself on the grounds of a divided memory. Since memory is identity, this would result in a divided identity. In South Africa, for example, there may not be a shared opinion as to how deaths in custody took place. It would thus be important to reveal *the* truth [...]<sup>40</sup>

This contention implied that there was only one truth about the past, and that the establishment of that truth was desired for the creation of a single collective memory that would be shared by the entire nation. This collective memory was required, in turn, for the formation of a common national identity and for the formation of the nation. The TRC was, however, one piece of the state’s nation building machinery. It facilitated nation building specifically through addressing and historicizing the recent past. More particularly, it functioned through the creation of a common uncontested understanding of the political conflicts of the recent past by collectivising memories and experiences of gross human rights violations.

In 1995, Alex Boraine, who was to become the deputy-chairperson of the TRC, reiterated and elaborated on this idea of collectivising memory when he stated that

[...] South Africans desperately need to create a common memory that can be acknowledged by those who created and implemented the apartheid system, by those who fought against it and by the many more who were in the middle and claimed not to

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*Apartheid South Africa*, Jonathan Ball Publishers, Johannesburg, 1993.

<sup>39</sup>Jasmin Sooka, *Credo*, SABC 3, Sunday, April 28, 1996 and Desmond Tutu, *The Tuesday Debate*, SABC 3, Tuesday, November 5, 1996.

<sup>40</sup>José Zalaquett in Boraine, Levy and Scheffer (eds.), *Dealing with the Past*, 1994, p. 13. Emphasis added.

know what was happening in their own country. [...]<sup>41</sup>

These sentiments were supplemented by other commentators who appeared to confirm James Fentress and Chris Wickham's assertion that collective memory "identifies a group, giving it a sense of its past and defining its aspirations for the future".<sup>42</sup> Yet it was more than memories that were being collected: material for the archive was collected simultaneously.

These considerations seemed to echo the importance some political activists had attached to memory during the anti-apartheid 'struggle'. At that juncture in South Africa's history, at least two anti-apartheid activists felt that "[t]he apartheid regime ha[d] tried to wipe out all memory of the mass struggles".<sup>43</sup> Hence they reiterated Milan Kundera's call to take up the "struggle of memory against forgetting"<sup>44</sup> and suggested that this should be made an integral part of the struggle against apartheid.<sup>45</sup> With the ending of apartheid, similar concerns for remembrance were reiterated. In this regard, the TRC became a site for the preservation of memory in two senses. Firstly, through the display of memory and secondly through the institutionalization of that memory in the national archive.

For the processes encompassed by the TRC, however, the issue was not merely the assemblage of personal memories of trauma and human rights violations, and the collectivisation and consignment of those memories into an archive, but also the constitution of a public, that, in the

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<sup>41</sup>Boraine, 'Introduction', in Alex Boraine and Janet Levy (eds.), *The Healing of a Nation?*, Justice in Transition, Cape Town, 1995, p. xvi.

<sup>42</sup>James Fentress and Chris Wickham, *Social Memory*, Blackwell Publishers, Oxford and Cambridge, Ma., 1992, pp. 25-26.

<sup>43</sup>Suttner and Cronin, *30 Years of the Freedom Charter*, p. 4. Referring to the struggles of the 1950s.

<sup>44</sup>Milan Kundera, *The Book of Laughter and Forgetting*, Faber and Faber, London, 1992 cited in David William Cohen, *The Combining of History*, The University of Chicago Press, Chicago and London, 1994, pp. xiii-xiv.

discourse of the TRC, was synonymous with the nation, and a nation that would partake in the processes of the TRC and that would share in, and be receptive to that nascent collective memory and the public history that the TRC presented to, and for it.

As alluded to earlier, the conception of collective memory, be it described as national, social or common, intertwines with, and is related to, a sense of collectiveness, nation-ness, socialness. These notions of nation and nationalism are, however, illusive. Nation, nation-ness and nationalism describe an identity in a constant state of ebb and flow, in a constant flux. At certain moments, these identities reach a crescendo at which point it appears that one may describe a collective entity as a nation, or a sentiment as national. At times, these moments have particular characteristics. They occur, for example, during moments of contest between competing collectives: on the sports field; over scarce resources; and over the perceived violations of basic human rights. In the case of the latter, it may be further characterized by a collective sense of suppression, hardship and injustice, but on the whole, they are fictive constructions.

### **Communities of Solidarity**

The TRC, in its attempt at building a sense of nation-ness, sought to utilize a previously existing sense of social solidarity. It attempted to tap into a past in which communities of solidarity had been forged during moments of struggle against the oppression, hardship and injustice of apartheid. It did this by adopting the ideal of unity in the struggle against apartheid that was advocated in the 1980s by the UDF, and by exposing the personal pain and trauma of those who adhered to this solidarity. It attempted to distil the stories of this pain and trauma by pushing its boundaries outwards, reducing, as Claudia Braude has argued, the suffering of those who fought

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<sup>45</sup>Suttner and Cronin, *30 Years of the Freedom Charter*, p. 5.



against apartheid by equating their suffering with those of the victims of the struggle against apartheid.<sup>46</sup> In so doing, it attempted to surpass the divide between oppressed and oppressor, between victim, bystander and perpetrator, and between black and white, to the extent that it described all South Africans as being ‘in need of healing’. Through this representation of the nation, the TRC defined the genealogical ancestry of the ‘new’ nation as the nation’s Other, making the divided nation, that was engaged in ‘the conflicts of the past’ and which committed gross human rights violations during that conflict, different from the ‘new nation’ and all that the ‘new’ nation was not and should not be. In this way the TRC simultaneously made the past familiar, by rendering it known, and made it strange.

The TRC elevated the experiences of oppression, pain, suffering and resistance to the level of national significance that could then become the backbone of a ‘new’ South African identity. This appears to be exactly what Kader Asmal, who later became the Minister of Water Affairs, implied when he stated, in 1992, that

[...] We live in a wounded, divided and deeply scarred society. We have had a history of wars of annexation and extermination, slavery and racial discrimination. Nevertheless the South African experience had also produced a vision of human relations that is *the antithesis of the apartheid heritage*.<sup>47</sup>

In this regard, André Odendaal, prominent in the discourse on nation building and nation-ness, then Director of the Mayibuye Centre for History and Culture in South Africa, which sought to archive and monumentalize ‘the history of the struggle against apartheid’, and who was to become a future member of the TRC’s ‘History Advisory Group’ and the Director of the Robben Island Museum, made this point explicit when he argued that

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<sup>46</sup>Claudia Braude, ‘SA’s hearings are not Nuremberg, but expediency must not fudge the truth’, *The Sunday Independent*, May 26, 1996.

<sup>47</sup>Kader Asmal, ‘Victims, Survivors and Citizens: Human Rights, Reparations and Reconciliation’, Inaugural Lecture, UWC, May 25, 1992, p. 5. Emphasis added.

The task [facing the commission] is crucial to the whole process of reconstruction in South Africa. It is really about healing a traumatized nation and restoring to it its memory. Only when people are acknowledged to have been part of history, only when what they did and where they come from is seen to matter, will they be given dignity as citizens in the new South Africa. We need to confront the past if we wish to build secure foundations for the future.<sup>48</sup>

Antjie Krog elaborated further on this, and indicated that ‘space and voice’ was sought for the emergence of a collective memory of the South African past that all South Africans could relate to and ‘acknowledge’.<sup>49</sup> But the creation of a collective memory was also seen as a vehicle for the creation of a new unified South African nation.<sup>50</sup> “Where common memory is lacking”, it was argued, there could be “no real community and where community is to be formed common memory must be created”. It was added that the “measure of a [nation’s] unity is the extent of [its] common memory”.<sup>51</sup>

Here the notion of memory and experiences of trauma were not problematized and those engaging in the discourse adopted a concept of personal memory that purported that memory was

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<sup>48</sup> André Odendaal in Boraine and Levy (eds.), *The Healing of a Nation?*, p. 14.

<sup>49</sup> Antjie Krog in Boraine and Levy (eds.), *The Healing of a Nation?*, p. 118.

<sup>50</sup> Kader Asmal, Louise Asmal and Ronald Suresh Roberts refutes this, however, and states that: “This talk of shared memory must not be misunderstood or mystified. It is not the creation of a post-apartheid *volk* or a stifling homogenous nationhood; nor a new fatherland. Nor is it merely the nationwide equivalent of every individual’s mental ability to retain facts and arguments at the front of her [sic] consciousness. Such analogies between individual and collective memory are unhelpful. Rather, shared memory, in the intended sense, is a process of historical accountability.” See Kader Asmal, Louise Asmal and Ronald Suresh Roberts, *Reconciliation Through Truth: A Reckoning of Apartheid’s Criminal Governance*, David Philip in association with Mayibuye Books, Cape Town and Johannesburg, 1996, pp. 9-10. The notion of accountability, as utilized by Asmal, *et al* here, is related to the project of nation building as it requires the past, particularly the apartheid past, being made accountable to a future, mainly African, united nation.

<sup>51</sup> H. Richard Niebuhr quoted by Boraine, ‘Introduction’, in Alex Boraine and Janet Levy (eds.), *Healing the Nation?*, Justice in Transition, Cape Town, pp. xvi-xvii.

“merely a passive receptacle or storage system, [as] an image bank of the past”<sup>52</sup> that could easily be accessed for the revelation of the past, and to form a national collective memory.

### **‘Real Memories’ and ‘Concrete Experiences’**

This view of memory betrayed the mechanisms through which the past was to be revealed by the TRC. By representing memory as real and stable, it was inferred that the history uncovered through the recollection of memory was itself real. History, as a possible account of the past among numerous possibilities, is, however, never real and tends to be less real when they are presented as real. Histories, Hayden White argues, are teleological and ideological narrative constructions in which certain aspects of the past, referred to as ‘evidence’ of the past, are arranged in a particular integrated order to tell a specific story of the past in a particular way.<sup>53</sup> Memory and the TRC’s ‘uncovering of the past through the recollection of memory are both historical reconstructions of the past rather than expressions of ‘reality’. Memory, and particularly the memory of traumatic events, is a complex phenomenon that does not reflect reality and is not a window to the past. The TRC’s treatment of memory as real belied an attempt to represent a version of the past that the TRC was to establish as real, creating an illusion of reality. In the TRC, the illusion of reality was effected through the representation of the proofs of the past as real, and through the institutionalization of those proofs in an archive.

One of the mechanisms of converting memories to proof was through the representation of memory as unproblematic and stable. Another was through representing the TRC as a “space” for

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<sup>52</sup>Samuel, *Theatres of Memory*, p. x. Samuel however argues that this perception is “far from” accurate.

<sup>53</sup>See White, ‘Interpretation in History’, pp. 51-80.

“giving voice to the voiceless”.<sup>54</sup> The process of ‘giving voice to the voiceless’ and making their personal memories ‘widely available’ at hearings was one of the means through which the unification of ‘the nation’ was sought, and required that the personal memories exhibited by the TRC were cast as being relevant to the nation. In this sense, the nation’s past, or rather the version of the past that was presented as the nation’s past, had to be made real in order to overcome the divided beliefs of what occurred during a contentious period of South African history and why it had occurred. Explicit acknowledgement of the historiographical limitations of knowing the past and the intimate relation between history and ideology would have clearly undermined the TRC’s nation building objectives.

By focussing on gross violations of human rights, the TRC reduced the extent of the past that it sought knowledge of, without really overcoming the limitations of historical knowledge. The commission’s scope and, hence, the past it investigated was restricted but this restriction had not overcome the necessity, through which history functions, to interpret selected ‘data’ from a ‘dispersed field’ in order to form a ‘complete’ coherent corpus of knowledge.

### **Space for ‘Hearing’ the ‘Voiceless’**

The HRVC represented a public space in which the memories of a category of people that the interlocutors around the TRC described as ‘voiceless’,<sup>55</sup> and possibly as subaltern, were made

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<sup>54</sup>See Simpson quoted in, ‘Providing a voice for the voiceless of South Africa’, *Weekend Argus*, Sunday, December 16/17, 1995. Also see Odendaal, ‘The Weight of History: Dealing with the Past in South Africa’, Conference paper presented at *Justice in Transition: Truth and Reconciliation in South Africa*, Cape Town, 29-30 July 1995, p. 5; and Krog in Boraine and Levy (eds.), *The Healing of a Nation?*, p. 118.

<sup>55</sup>By, for example, the deputy director of the Centre for the Study of Violence and Reconciliation, Graeme Simpson. See Simpson quoted in ‘Providing a voice for the voiceless of South Africa,’ *Weekend Argus*, Sunday, December 16/17, 1995. Also see Odendaal, ‘The Weight of History: Dealing with the Past in South Africa,’ Conference paper presented at *Justice in*

available for national consumption, as they were being gathered and consigned into an archive.<sup>56</sup> In the discourse of the TRC, the witnesses who testified before the HRVC's victim hearings were the 'ordinary victims' of gross human rights violations. In reality, however, these witnesses were not voiceless or subalterns but were, instead, often local icons in the conflicts of the past. It appears that the 'ordinary' victims of gross human rights violations were doomed to remain 'voiceless' possibly because their experiences were *too* ordinary to have the potential to foster nation building. Moreover, the TRC represented a shift in subject position in official discourse, from the Afrikaner to the African, and made the African's account of the past applicable to the Afrikaner, and purported that the experience of all South Africans was that of oppression. This was the inevitable consequence of the relationship that the TRC and its protagonists assumed existed between social memory and social identity and the ethical choices that the TRC made in judging the past. If, as was assumed, memory is the basis for identity and because the memories that the TRC made available for collectivizing were the memories of pain and trauma, then the common South African identity formed through the TRC was one of victimhood.

This becomes more explicit when considering which aspects of the past were uncritically embraced as part of the nation's past, and which aspects were represented as aberrations by the TRC. Clearly, the accounts of victims, particularly at the HRVC hearings, but also at the AC hearings, were met with sympathy and empathy while those of the perpetrators often enticed disbelief. Typical examples of these contradictory approaches to testimony were the HRVC

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*Transition: Truth and Reconciliation in South Africa*, Cape Town, 29-30 July 1995, p. 5; Krog in Boraine and Levy (eds.), *The Healing of a Nation?*, p. 118; and Krog, *Country of My Skull*, Random House, Johannesburg, 1998, p. 115.

<sup>56</sup>This made the past consigned to the archive real for these testimonies had taken place. However, the past consigned to the archive was not the past of TRC i.e. 1996-1999 but the TRC's past i.e. the evidence for the TRC's history of the past that spanned the commission's mandate period.

hearings into the necklace killing of Maki Skhosana and the amnesty application of General Johan van der Merwe, Brigadier Jack Cronjé, Colonel Roelof Venter, Captain Wouter Mentz, Captain Jacques Hechter and Warrant Officer Paul van Vuuren. What was represented as aberrations were not the perpetrators, however, but their deeds. The TRC thus formed part of an ideological and social shift away from the racial compartmentalization that characterized apartheid towards a new national, non-racial unity, through the use of public history and the collectivisation of personal memories of trauma. In this event, it attempted to conflate divided racial identities with nationalism and to subjugate those identities to nationalism.

Clearly, the establishment of this (fictive) history, as with all histories, was derived at via interpretation. Unlike other histories, however, the TRC also created the evidentiary basis of that history outside of the narrative through which that history was told, for it archived the evidence that it had gathered and used in producing history. Here Derrida's notion of consignation is crucial for the TRC consigned 'signs' that had been gathered from a 'field of dispersion' and brought together to 'articulate' a coherent 'corpus of knowledge'.

The TRC, however, required the legitimate authority to interpret the archive that it was entrusted to consign for the nation. The TRC thus cast itself as being representative of the nation and as being a "microcosm" of 'the nation'<sup>57</sup> while also being of national significance, implying that its public history pieces, the memories it selected for exhibition were of national relevance. Hence, in his address at the inaugural meeting of the TRC, on the Day of Reconciliation in 1995,

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<sup>57</sup>The TRC does this, for example, through claiming to be representative of the whole of South Africa. See Tutu quoted in 'Commission "must heal nation"', *Weekend Argus*, Sunday, December 16/17, 1995 and Boraine quoted in 'TRC to discuss internal tensions', *Sowetan*, Wednesday, January 22, 1997. Also see 'Publisher's Preface', in Krog, *Country of My Skull*, p. vii.

Archbishop Tutu indicated that the TRC would “be engaging in something that is ultimately deeply spiritual” in which all South Africans would be involved.<sup>58</sup>

Thus, when Boraine acknowledged, to a victim or survivor who appeared before the HRVC, that “you have a very shocking story to share with us and I know [it] will not be easy, and we share in your pain and in your memory”,<sup>59</sup> or when Tutu replied to a witness: “We all feel your pain”, they referred, not merely to the commissioners and the audience that had attended the hearing, but to the entire nation, and when Tutu shed a tear during or at the end of a day of ‘harrowing’ testimony, he shed it, not alone, but, as H Russel Botman and Robin M Petersen suggest, “on behalf of the nation”.<sup>60</sup> The ‘nation’, however, is never a singular, homogenous entity. It always comprises a diversity of individuals with individual, though socially mediated, experiences and ideas. It always contains a miscellany of cultures that confer a miscellany of meanings on things, actions and thoughts; and a diversity of interest groups and perspectives. The ‘nation’ was a diversity of societies, communities, and interest groups that did not equally hold the TRC and its activities in high esteem. Indeed, various sections of ‘the nation’ had alienated themselves from, or had been alienated by, the TRC. The commission’s attempts to portray itself as representing and acting for ‘the nation’ were thus not as clear as the TRC appeared to represent it.

### **The Making Familiar and the Making Strange**

The reportage on the TRC through the mass media was another means through which the

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<sup>58</sup>Tutu quoted in ‘Commission “must heal nation”’, *Weekend Argus*, Sunday, December 16/17, 1995. Emphasis added.

<sup>59</sup>Boraine to Thuli Gabela, HRVC Hearing, Durban, Friday, May 10, 1996.

<sup>60</sup>H Russel Botman and Robin M Petersen, ‘Introduction’, in H Russel Botman and Robin M Petersen (Eds.), *To Remember and to Heal: Theological and Psychological Reflections on Truth and Reconciliation*, Human and Rousseau, Cape Town, Pretoria and Johannesburg, 1996, p. 9.

hearings were transformed into public currencies, reproducing the TRC's exhibition pieces, and making the past familiar and knowable to more people. The ways in which the press reported on the hearings and the ways in which the hearings were represented on television, particularly on the weekly episodes of *The TRC Special Report* which "attract[ed] one million (mainly black) viewers, and score[d] the highest audience rating for a current affairs programme",<sup>61</sup> formed part of the process of making the nascent collective memory and history part of the public domain. These various media reports were of importance as they compressed the hearings into short newspaper reports, half hour television programmes, or two minute radio news reports, selecting particular moments of the hearings which they reproduced or summarising the central features of the testimony that was reported on.<sup>62</sup> These moments are usually arranged in narrative form with the result that particular arguments and counter-arguments are made available for public consumption. Indeed, in introducing the evening's programme, Max du Preez often framed the individuals, at times creating heroic narratives by describing the victims of gross human rights violations as "innocent, brave, committed".<sup>63</sup> Similar synopses were destined to form a part of the TRC Report but it was decided that "a brief summary" of the victims' experiences would be published at a later date, as an addendum to the report.<sup>64</sup>

Two of the TRC's three committees, the HRVC and the AC held public hearings at which the past was displayed. Furthermore, the HRVC held three types of public hearings: victim hearings, event hearings and special hearings. However, the victim hearings of the HRVC and the amnesty

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<sup>61</sup>See Claudia Braude, "Media should get the truth out", *Mail & Guardian*, February 7 to 13, 1997. Also see Phillip Kakaza, 'Soapies the opiate of the new SA', *Cape Metro, Sunday Times*, June 29, 1997.

<sup>62</sup>See, for example, Krog, *Country of My Skull*, pp. 31-32.

<sup>63</sup>Max du Preez describing the victims of the Trojan Horse incident in Athlone, 1985. See Max du Preez, *The TRC Special Report*, SABC 1, Sunday, June 1, 1997.

<sup>64</sup>See TRC Report, Vol. 5, Ch. 2, p. 26.



hearings of the AC were in many regards different. At the victim hearings of the HRVC, emphasis was placed on the victims who were treated with an extensive amount of empathy and sympathy designed to restore their dignity. In this committee the victims could be instantly elevated to the status of 'national heroes'. This occurred at the East Rand hearing into the necklace killing of Dimakatso 'Maki' Skhosana at Duduza where the perpetration of Skhosana's death was so emotionally and movingly represented by her sister as having been extremely "ghastly" that, at the end of the hearing, TRC committee member, Tom Manthata, concluded that "Maki [Skhosana] and her family has emerged after all these disclosures as heroes".<sup>65</sup>

In contrast, the AC and the event hearings of the HRVC, with their *quasi* legal procedures and practices often created a damning impression of the perpetrator. Here the testimonies of the perpetrators were probed to their limits in an attempt to expose fissures, inconsistencies and underlying motives contained in the perpetrators' testimony and to ensure that the amnesty applicants had made a "full disclosure of all the relevant facts" pertaining to the event/s for which they sought amnesty.<sup>66</sup> Here no truths were assumed and none were 'unashamedly' proclaimed. Instead, competing truths were made available to the public as the victims and survivors of the deeds, for which the perpetrators were seeking amnesty, were permitted to challenge the perpetrators' version of events. Indeed, one of the Investigative Unit's tasks was to locate the victims and survivors of such deeds, had they not themselves approached the TRC, to notify them of the amnesty hearing, and attempt to get them to place their version of the 'truth' before the commission and the nation.<sup>67</sup> The desire to present both sides of the event was not so much a function of the process of reaching the essential, factual and legal truth of the matter, but of

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<sup>65</sup>Tom Manthata, HRVC Hearing, Duduza, Tuesday, February 4, 1997.

<sup>66</sup>See Ponura, 20(1)(c). Also see TRC Report, Vol 1, Ch 6, p. 153.

<sup>67</sup>See Ponura, 19(4). Also see TRC Report, Vol 1, Ch 11, pp. 330-335 and TRC Report,

gathering information. At times, these practices result in the perpetrators becoming aggressive, as was the case at the AC hearing into the Heidelberg Tavern Attack of December, 30 1993,<sup>68</sup> or in their accusing the commission of being biased, as occurred when the Pan African Congress (PAC) secretary-general, Mike Muendane, and the former director of operations for the PAC's armed wing, the Azanian People's Liberation Army (Apla), Brigadier Letlapa Mphahlele, appeared before the commission.<sup>69</sup> When this occurred, the reconciliatory mandate of the TRC was clearly transgressed.

It thus appears that the TRC adopted differential modes of gathering evidence: when a victim approached the TRC, at either a public hearing or before a statement taker, the mode of gathering evidence was dependant on the experience of victimhood and was tempered by empathy and sympathy. In these instances, the witness was a witness to the truth, and a reservoir of truth. However, when an amnesty applicant appeared before the commission, their testimonies were received in an adversarial space precisely because of the legalistic mode of evidence gathering at the AC and the HRVC's event hearings. At the AC in particular, the commission was required to ensure that the amnesty applicant made a 'full disclosure' of all the information related to the event that he or she was requesting amnesty for and that his or her actions in the event were perpetrated with a 'political objective' and that those actions were 'proportional' to those objectives.<sup>70</sup> Here, the testimony of the victim was used to check that the amnesty applicant did not withhold any information.

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Vol 1, Ch 10, p. 275.

<sup>68</sup>See, for example, 'Face to face and a world apart: Bitter clash as Tavern victim meets attackers', *Cape Argus*, Tuesday, October 28, 1997.

<sup>69</sup>See 'Ntsebeza cools down angry pair disillusioned by whites', *Cape Times*, Wednesday, October 8, 1997 and 'WVK het politieke agenda, sê Apla', *Die Burger*, Woensdag Oktober 8, 1997. Muendane and Mphahlele did not appear before the AC in this instance but their presence were in relation to violations for which Apla members were applying for amnesty.

A similar dichotomy was present in the HRVC's victim hearings and the event hearings over which it presided. In effect the event hearings were two hearings in one: it was a hearing in which sympathy and empathy was expressed for the witness when that witness was a victim, and became a quasi legal hearing with probing cross-questions when the witnesses were alleged perpetrators. This was most explicitly indicated during the event hearing into the activities of the Mandela United Football Club, held in Johannesburg from November 24 to December 7, 1997 when a decorum of sympathy and understanding was offered to the victims while the perpetrators, and Winnie Madikizela-Mandela in particular, came under severe cross-questioning in which the TRC's leader of evidence attempted to prove her guilt.

It however also alludes to a process of making strange, a process that occurred predominantly at the AC but also within the public domain, through television documentaries such as *Prime Evil* and through the *TRC Special Report*. This process was largely a process of disowning certain events, rather than agents, of the past and seems to indicate where the boundaries between the nation's past and the past of apartheid were drawn. Although the perpetrator was not embraced as the victims were, it was the atrocities "rather than the doer"<sup>71</sup> that came to be defined as aberrations of the past.

Despite this dichotomy, the HRVC and the AC were two sides of the same coin. They were both hearings designed to make the truth, or rather a truth, about the past familiar.<sup>72</sup> They were both

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<sup>70</sup>Tutu, 'It is the deed that is evil, not the doer', *Cape Times*, Thursday, April 17, 1997.

<sup>71</sup>See Ponura, 20(1). Also see TRC Report, Vol 1, Ch 6, p. 144, and TRC Interim Report, June 1996.

<sup>72</sup>Ironically, the issue of being non-biased is a slippery one for the commission as it is not a non-partisan commission. It is staffed, for one, by commissioners who mainly supportive of the

meant to facilitate reconciliation through non-biased, non partisan findings based on their hearings, although the HRVC attempted to facilitate reconciliation through the elevation of the experiences and the significance of the victims while the AC contributed to reconciliation by neutralising the threat of the right wing elements, particularly former state operatives, to the 'new democracy' through the provision of amnesty.

For most South Africans, the regular witnessing of testimony occurred via the news media, since, as Tim Dant indicates, the news media is a medium for the dissemination of "knowledge that is potentially available to everyone in the society".<sup>73</sup> But the visuality of television representations imparted its own set of meanings, and the act of narrating newspaper reports represented a reading and an interpretation of, not only the testimonies, but also of the TRC as a whole and the processes that occurred in and around it. Furthermore, these narrations were themselves already inscribed with meaning. Here the objects that had the potential of becoming a part of public history and 'public' memory and their narration had already been externally mediated and inscribed with meaning.

### **Sharing Experience and Sharing Pain**

By watching the broadcasts on television, listening to the proceedings on radio, reading the summarized reports in the newspapers, and attending the hearings, a sharing in the pain that was being testified to was implied. The audience became grieving witnesses to the act of testifying and, as Dori Laub indicates, came to share the pain and trauma of the event, becoming

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liberation movements, and two, by researchers who were also either supportive of the liberation movement, or were themselves victims of apartheid abuses.

<sup>73</sup>Tim Dant, *Knowledge, Ideology and Discourse: A Sociological Perspective*, Routledge, London and New York, 1991, p.2.

themselves secondary witnesses.<sup>74</sup>

But this witnessing of testimonies occurred in a public space of negotiation that transpired at the TRC hearings itself and among the public outside of the TRC. The kinds of questions that the commissioners posed to the witness, the responses that those questions elicited, their representations in the news media, and the intense public debates that occurred around some of the hearings and representations were all framing tools. The questions posed to the witnesses at the HRVC's victim hearing were, for example, by the TRC's own admission, "non-adversarial"<sup>75</sup> and served to frame these hearings as sympathetic, inviting the audience and the public to share in the display of sympathy and, in so doing, acknowledge the truth of the testimony being provided.

By posing certain questions and refraining from others, the commissioners silenced certain parts of the witnesses' memory and, in so doing, restrict public memory and public history, setting, as Michel-Rolph Trouillot suggests, "the cycle of silences" in place<sup>76</sup>. For the historian, this 'cycle of silences' occurs at "the moment of fact creation".<sup>77</sup>

For the commission, but more specifically, for historians, stories received [testimonies] are real only at the level of evidence of filling a gap within a totality of what has commonly been referred to as *THE* South African past ... [The witness'] voice is subject to the rules which govern the receipt of testimony in much the same way as a document

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<sup>74</sup>Dori Laub, 'Bearing Witness or the Vicissitudes of Listening', in Shoshona Felman and Dori Laub, *Testimony: Crises of Witnessing in Literature, Psychoanalysis and History*, Routledge, London and New York, 1992, pp. 57-59.

<sup>75</sup>TRC Report, Vol 1, Ch 6, p. 144. Also see TRC Interim Report, June 1996.

<sup>76</sup>Michel-Rolph Trouillot, *Silencing the Past: Power and the Production of History* Beacon Press, Boston, 1995, p. 26.

<sup>77</sup>According to Trouillot, this is the first of four moments of silence creation. Significantly, as the proceedings are to housed in a publicly accessible archive at the end of its term, the 'cycle of silences' is to be reproduced by the TRC at a second moment, i.e. at "the moment of fact assembly [in] the making of archives" which is Trouillot's second moment of silence production. See Trouillot, *Silencing the Past*, p. 26.

is mined by a historian for evidence. [...] <sup>78</sup>

These silences may sometimes be taken up outside of the TRC, in various sections of the heterogeneous public, but often they represent lacunae in the memory of the secondary witness, and the public, and consequently, public memory and public history is, as always, like the archive, incomplete. The process of silencing, within the TRC, was most notable in the reactions by both the commissioners and the 'public' to the testimonies of Teddy Williams at Umtata on June 18, 1996 and Luthando Dyasop at Soweto on July 25, 1996 during which the witnesses were told to stick to their own experiences.<sup>79</sup> Public memory and debate are also influenced by the differential treatment meted out to the victims or survivors who appeared at the HRVC hearings, on the one hand, and the perpetrators who appear at the AC hearings, on the other hand, as well as, and more critically, the perpetrators *and* their victims who testified at the same AC hearings.

At the AC, the possible privileging of the testimony of the victim over that of the perpetrator raises a number of questions about the various testimonies and the individual memories upon which they are based, with regards to their utility and value as evidence in both the official (TRC) and the public spheres, and in the construction of public memory and public history and the consignment of the archive.

First, does the perpetrator's testimony, as the active participant in the event, the consequent revulsion that it evoked in the commissioners, the audience and among some sectors of the

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<sup>78</sup>As argued in Premesh Lalu and Brent Harris, 'Journeys from the Horizons of History: Text, Trials and Tales in the Construction of Narratives of Pain', *Current Writing*, 8(2), October 1996, p. 34.

<sup>79</sup>See Ntsiki Sandi, HRVC Hearing, Umtata, Tuesday, June 18, 1996 and Jasmin Sooka, HRVC Hearing, Soweto, Thursday, July 25, 1996.

public, and the AC's attempts to obtain a full disclosure and the essential truth, impart a greater degree of validity and historical accuracy than the testimony of the passive victim? Or did the tensions within the AC result in the rejection of the perpetrator's testimony? And at what point did the testimony of the perpetrator transgress the horizons of the thinkable and the acceptable? What become of the validity of their testimonies when the events to which the testimonies referred were defined as belonging to the realm of the unthinkable?

Second, what does this dichotomy reveal about the subconscious of the TRC as a (social) body? Does it indicate that the memory and testimony of the perpetrator had a greater potential for the revelation of the truth of the event rather than the memory and testimony of the victim, and that the perpetrator's memory, unlike the victim's, could be probed critically and pushed to its and the perpetrator's limits? Was this based on an assumption that the perpetrator, as active participant, and as being in control of the event, had a greater knowledge of the event? Did this then indicate that the HRVC's insistence that the processes represented by the TRC be victim driven was an attempt to correct this imbalance? Or was the last point a myth when one considers that survivors such as the Biko and Ribeiro families had resisted the TRC process in favour of finding civil redress in a Court of Law? Indeed, Chris Ribeiro had remained vociferously sceptical about the usefulness of the TRC. On November 20, 1997, on an SABC television talk show Ribeiro contended that

[...] it is obvious that the TRC and the government are in cahoots, that there is a conspiracy between the TRC and the government [...] to appease the white man.<sup>80</sup>

Third is the question of how the primary witness came to interpret the event and fix it in his or her individual memory. Here again the concerns of how memory came to be stored in a form that

would facilitate its conscious (rather than unconscious) retrieval and recollection hinges on concerns about mediation. Through cultural perspectives and filters, particular moments of the event gain particular meanings and are remembered as such, but these are often not alluded to in the presentation of the testimony, and the recollection of memory. Individual memory also has a social life and undergoes social distortion. Through multiple recollection and recounting the event to loved ones and to concerned individuals, the meanings of particular moments of the event gain greater importance and undergo redefinition by negotiation through the inevitable clarifying process of a catechism. In this sense, individual memory is indeed, as Michael Schudson argues, social.<sup>81</sup>

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<sup>80</sup>Chris Ribeiro, *Two Way*, SABC 1, Monday, November 20, 1997.

<sup>81</sup>Michael Schudson, 'Dynamics of Distortion in Collective Memory', in Daniel L Schacter (ed.), *Memory Distortions: How Minds, Brains, and Societies Reconstruct the Past*, Harvard University Press, Cambridge, Massachusetts and London, 1995, pp. 346-347.



## CHAPTER TWO

### Interpreting the Archive in the Making of the Nation

In the early 1990s, a debate occurred amongst politicians and negotiators at the Convention for Democracy in South Africa (Codesa) around the moral issues of 'blanket' indemnity and accountability for past violations of human rights that had occurred during the struggle against apartheid.<sup>82</sup> In this debate the idea of holding a Latin American-style truth commission, such as the Chilean National Commission on Truth and Reconciliation through which knowledge and acknowledgement of the atrocities of the past were made known before amnesty was granted to the perpetrators of those atrocities,<sup>83</sup> was first mooted. This idea emerged at the intersection of two contesting ideologies. The one, which was voiced by militant ANC supporters, called for Nuremberg-style trials of the apartheid state's security forces while the other, originating from the supporters and defenders of the apartheid state, called for the extension of the 'blanket' indemnities provided by the Indemnity Act, the Indemnity Amendment Act and the Further Indemnity Act.<sup>84</sup>

Essentially, these Acts enabled the State President to grant temporary immunity, for periods of twelve months, or permanent indemnity to those whose political activities might have rendered them liable to prosecution. This immunity and indemnity were granted under the jurisdiction of

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<sup>82</sup>For more on this see Lourens du Plessis in Alex Boraine, Janet Levy and Ronel Scheffer (eds.), *Dealing with the Past: Truth and Reconciliation in South Africa*, IDASA, Cape Town, 1994, pp. 108-116.

<sup>83</sup>See, for example, Luc Huyse, 'Justice after Transition: On the Choices Successor Elites make in Dealing with the Past', *Law and Social Inquiry*, 20(1), Winter 1995, pp. 53-54 and Patricio Aylwin, 'Speech to the Conference on Truth and Reconciliation in South Africa', p. 2. An edited version of this speech appears in Boraine and Levy (eds.), *The Healing of a Nation?*

<sup>84</sup>See, for example, Allister Sparks, 'Can we all live with shameful past?', *Cape Times*, Thursday, June 11, 1992 and *New Era* (Spring 1991) pp. 18-22.

the Indemnity Act and the Indemnity Amendment Act,<sup>85</sup> and at the digression of the State President; and, through the Further Indemnity Act, in consultation with the National Council on Indemnity.<sup>86</sup> The Indemnity Act made provision for the granting of temporary immunity to representatives of the exiled liberation movements and enabled them to enter South Africa to engage in reaching a negotiated settlement while the Further Indemnity Act allowed for the release of 'political prisoners' in accordance with the agreements reached at Codesa. Both, however, were also utilized for the granting of indemnity to state operatives.<sup>87</sup>

Ironically, a number of ANC officials were similarly affected by their actions and their directives issued during the armed struggle. The violations of human rights committed at the ANC's detention camp at Quattro, Angola, and the military activities of *Umkhonto WeSizwe* rendered a number of ANC members, such as Chris Hani and Joe Modise, liable to prosecution when they returned to South Africa in the early 1990s.

Two years later this debate was pushed to conclusion by a second debate that was voiced at two conferences hosted by the Institute for a Democratic Alternative in South Africa (IDASA) and focussed on the establishment and nature of the truth commission. The 'Justice in Transition: Dealing with the Past' conference, held at Somerset West from February 25-27, 1994, and 'The South African Conference on Truth and Reconciliation', held at Cape Town from July 29-31, 1994, marked the point at which the debate around the truth commission moved outside of the official domain and into the sphere of civil society. At this point a number of non-governmental

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<sup>85</sup>The Indemnity Act, No. 35 of 1990, 1(1) and 2(1).

<sup>86</sup>The Further Indemnity Act, No. 151 of 1992, 3(1). A National Council on Indemnity was established by this Act. See the Further Indemnity Act, No. 151 of 1992, Chapter II.

<sup>87</sup>This indemnity was not overturned by Ponura although the Indemnity Act, Indemnity Amendment Act and the Further Indemnity Act were repealed through Ponura. See Ponura, 48(1)

organizations from the legal, religious and political sectors were ‘invited’ to join in the debate. It was also the point at which civil society’s support was enlisted to authorize and legitimize the outcome of the earlier debate particularly as both conferences were opened by the Minister of Justice, Dullah Omar, and those “invited to speak” were asked to “link” their input “to the need for truth [and] and the need for reconciliation” so as to be “more helpful” to the Minister.<sup>88</sup> The debate was no longer about whether or not a truth commission should be held in South Africa but centred around concerns for the form that the South African Truth Commission should take.

The second debate came to be ‘driven’ by human rights activists in the legal, theological and political fields. For these protagonists of a truth commission, the notions of addressing and acknowledging past violations of human rights were pivotal to the establishment of a truth commission. Thus, in July 1994, at “The South African Conference on Truth and Reconciliation”, Febe Potgieter, then the deputy-general of the ANC Youth League, suggested that

The [truth] commission can help us understand what is meant by human rights culture. It will shed light on disappearances and on state activities that go against the new Constitution. In the process of identifying where boundaries have been over stepped, we will be redefining our common understanding of human rights culture.<sup>89</sup>

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and (2).

<sup>88</sup>Facsimile, Boraine to Odendaal, July 14, 1994. Also, Correspondence, Boraine to Odendaal, May 24, 1994. State officials were quite prominent at other conferences that dealt with the TRC and the past. At the Centre for the Study of Violence and Reconciliation’s ‘Making ends Meet: Reconciliation and Reconstruction’ conference (World Trade Centre, August 18, 1994), Jessie Duarte, the then MEC for Safety and Security in the PWV region, delivered the keynote address while Justice Minister, Dullah Omar also opened the Community Law Centre (UWC) and Friedrich Ebert Stiftung conference ‘The Role of Law in Transition: Dealing with the Past Through Law in South Africa and Germany’ (Cape Town, June 30 - July 1, 1995). Three Members of Parliament: Johnny de Lange, who was responsible for drafting Ponura; Derek Hanekom; and Willie Hofmeyer were discussants at ‘The Role of Law in Transition’ conference.

<sup>89</sup>Febe Potgieter in Boraine and Levy (eds.), *The Healing of a Nation?*, p. 23.

With the passing of the Promotion of National Unity and Reconciliation Act in 1995 concerns for nation building took priority over notions of addressing human rights violations, reasserting the dignity of the victims of human rights abuses and establishing their fates as emphasis came to be placed on the outcome of the transition that marked South African social and political life. The emphasis on the outcome of this transition affected a shift of concern for the future rather than the past and, in particular, concerns about the stability of South Africa's 'new democracy'. When the TRC was in operation, the future was based on a legitimized version of the past that was made applicable to the whole nation. The nation was, however, not perceived as a whole but as divided. One of the TRC's objectives was thus the fostering of national unity.

In this chapter I explore the TRC's discursive relation to the nation and the fulfilment of its nation building mandate. I argue that nation building, which existed prior to the establishment of the TRC, became the central feature of the commission in the light of the perceived threat of 'civil war' that was believed to emanate from the Afrikaner right-wing. I argue, further, that the nation was not built but was reconstructed. It did not emerge out of nothing, instead it was based on a perceived community of solidarity, but it also emerged out of the rejection of the new nation's ancestral links to its predecessor and to its predecessor's past.

Although the TRC did not define the nation, it, as an active agent in the reconstruction of the nation, chose to focus on a 'community of solidarity', espoused by the UDF, as the model and basis of the new nation. The TRC thus, I argue, did not merely uncover the past and consign the past to the archive, but interpreted the archive, producing a history, that it was entrusted to consign. However, the power of the TRC to interpret the archive rested on its legitimacy, a legitimacy that the TRC actively sought to establish and maintain, in the perception of the

‘nation’ to interpret and judge the past. Here I argue that the TRC judged the past ethically rather than judicially, and chose to frame certain aspects of the past as *the* past of the new nation and as the model for the new nation. Thus, despite the hearings at which witnesses spoke about the violence of the UDF and its conflict with Azapo, the UDF became the ‘community of solidarity’ that, in a sense, the TRC sought to recover.

### **Re-imagining the Nation**

For Kader Asmal, Louise Asmal and Ronald Roberts, the ‘new South Africa’ was an objective reality that existed in physical, rather than abstract mental, spaces in the mid-1990s. They suggested that the ‘new South Africa’ was there; all that was required was a mechanism that would ensure that the ‘new South Africa’ did not forget or mis-remember its past. For them too, the ‘new South Africa’ had one essential past.<sup>90</sup> For the TRC, however, the ‘new South Africa’ existed between physical and abstract reality. The ‘new South Africa’ existed as certain elements of it were tangible enough for the TRC to address and represent the ‘new South African nation’. In this respect, post-apartheid South Africa was equated with the ‘new South Africa’. The full expression of a ‘new South African’ nationhood, however, remained an abstraction, but one that could be fulfilled through reconciliation and the re-imagining of the South Africa nation. Hence, in his opening address at the HRVC’s hearings at Worcester on June 24, 1996, Alex Boraine ‘reminded’ those present that ‘the commission’ was

[...] dedicated to the search for truth in the hope of the contribution towards the reconciliation which we all long for and are working towards but have *yet* to realize fully in our country. [...]<sup>91</sup>

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<sup>90</sup>See Asmal, Asmal and Roberts, *Reconciliation Through Truth*, pp. 12-13.

<sup>91</sup>Boraine, Opening Address, HRVC Hearings, Worcester, Monday, June 24, 1996. Emphasis added.

From its inaugural meeting in December 1995, the commission set about facilitating nation building and the re-imagining of the nation as 'new'. The TRC, however, did not initiate this process. Instead it represented one space, and a very public one, wherein the nation came to be re-imagined, and constituted by having been addressed by the TRC for, through addressing the nation, the TRC's audiences were interpellated as the nation. To an extent, the TRC represented a continuation of a process that was rooted in the Codesa negotiations of the early 1990's, but one that took on an entirely different form.

Before Codesa, nation was not a central concern in the official discourses of the state, or in those of the liberation movements. Prior to peace negotiations, South African society was imagined as a composition of separate nations. At this stage in the discourse on nation, nation was not thought of in terms of sovereignty and self-determination. From its inception in 1912, the South African Native National Congress, which was established "to unite the Africans as a *nation*"<sup>92</sup> and which became the ANC in 1923, attempted to work within the framework and the discourses of the colonial state.<sup>93</sup> It did not call for a separate ethnically African state nor for the settlers to leave the country, instead it sought inclusion within the existing colonial state. Thus the Freedom Charter of 1955, which was initiated and adopted by the ANC, proclaimed "[t]hat South Africa belongs to all who live in it", characterising them as "black and white".<sup>94</sup>

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<sup>92</sup>*Sechaba*, 3(7), July 1969, p. 11.

<sup>93</sup>See *Sechaba*, 3(7), July 1969, pp. 11-12. For an account of the early history of the ANC see Peter Walsh, *The Rise of African Nationalism in South Africa: The African National Congress, 1912-1952*, University of California Press, Berkeley and Los Angeles, 1971 and Thomas G Karis and Gwendolen M Carter, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1964*, Hoover Institute Press, Stanford, 1972.

<sup>94</sup>'Freedom Charter', in Suttner and Cronin, *30 Years of the Freedom Charter*, p. 262. Here the dichotomy between black and white permeate through the political discourse of governance. In a special parliamentary debate on reconciliation and national unity on Friday, May 29, 1998, for example, Thabo Mbeki, the Deputy President of South Africa, and the President of the ANC and the President elect of South Africa, delivered a speech in parliament in

This echoed the colonial state's distinction between white and "native" which became more firmly entrenched in South African society with the formation of the apartheid state. The apartheid state, however, also differentiated non-whites into blacks, coloureds and Indians. The ANC perceived South African society in similar terms, albeit with the term African replacing blacks and the term European replacing whites. Although the ANC was to become much more indifferent to race in the late 1980s, and while it developed close working relations with organizations that represented other racial communities, such as the South African Indian Congress, the Coloured People's Organization and the Congress of Democrats, before its banning in 1960, and in exile thereafter, it was only at the ANC's Morogoro Consultative Conference in 1969 that membership to the ANC was open to all racial groups<sup>95</sup> and only in 1985, at the Kabwe Consultative Conference that people from all races could hold positions on the ANC's National Executive Committee.<sup>96</sup> Hence, while the apartheid state conceptualized and implemented a policy of separate development for separate *volke*, the ANC, the apartheid state's main extra-parliamentary opposition movement, described South African society similarly, as a mosaic of a number of separate national groups in the late 1960s. In this sense both the apartheid state and the ANC thought of nation as analogous to race, at least in the late 1960s. Thus, in the ANC's policy document adopted at the ANC's Consultative Conference at Morogoro in 1969 it is stated that

The African [...] is not the only oppressed *national group* in South Africa. The two

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which he described South Africa as consisting of two great races, a rich white race and a larger poor black race. See Mbeki cited in 'Mbeki slams SA's party-poopers: Deputy president says opposition parties are not committed to nation building', *Weekend Argus*, Saturday, May 30/31, 1998. Also see 'Rainbow nation – two worlds in one', *City Press*, Sunday, May 31, 1998; 'SA a country of two nations – Mbeki', *City Press*, Sunday, May 31, 1998; and 'Mbeki: We must end race divide: Equal "only in theory"', *Cape Argus*, Friday, May 29, 1998.

<sup>95</sup>See Mayibuye Centre (MC), ANC Papers, Lusaka, 47.1, NPC Document, Part 1, p. 10; MC, ANC Papers, Lusaka, 47.3, D3/II(b).

<sup>96</sup>See MC, ANC Papers, Lusaka, 47.3, D3/III, 3(2)(a). Also see MC, ANC Papers, Lusaka, 47.3, D3/II(b).

million strong Coloured community and the three-quarter million Indians suffer varying forms of *national* discrimination and oppression. [...]<sup>97</sup>

The Codesa negotiations at Kempton Park in the early 1990s thus represented a shift in the then apartheid state's official discourse on the South African nation. The negotiated settlement forged at Codesa required a rethink of South African social relations and the relation of racial and ethnic groups to the nation. A major consequence of the negotiated settlement was the requirement for all the inhabitants of South Africa to 'peacefully co-exist' in a common geo-political territory. Hence the racial animosity, the 'deep divides' that characterized South African society during the apartheid era, had to be counteracted in favour of the construction of a 'new' non-racial and united nation.

Here ideas of nationhood became more pragmatic and came to be thought of in relation to sovereignty and self-determination. But the nation also came to be thought of as 'new', implying that the nation has no link to a predecessor. The TRC, which emerged through negotiations at Codesa but was established through parliamentary procedures, was thus established in almost psychoanalytic language: to come to terms with the past, to 'shut the book on the past', to move beyond it and to ensure that the past did not hold the future to "ransom".<sup>98</sup> In this sense, the TRC

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<sup>97</sup>ANC Policy Document quoted by William Pomeroy, 'What is the National Question in International Perspective?', in Maria van Diepen (ed.), *The National Question in South Africa*, Zed Books, London and New Jersey, 1988, p.14. Emphasis added. Also see Comrade Mzala, 'Revolutionary Theory on the National Question in South Africa', in Van Diepen (ed.), *The National Question*, p. 51; Essop Pahad, 'South African Indians as a National Minority in the National Question', in Van Diepen (ed.), *The National Question*, pp. 86-95 and Joe Slovo, 'The Working Class and Nation building', in Van Diepen (ed.), *The National Question*, pp. 142-151. Pallo Jordan, however, argued that the struggle against apartheid is a struggle for democracy and majority rule and because of this, "nation building is central to the entire project of the national liberation movement". See Pallo Jordan, 'The South African National Liberation Movement and the Making of a New Nation', in Van Diepen (ed.), *The National Question*, pp. 110-124.

<sup>98</sup>See, for example, Tutu quoted in 'Commission "must heal nation"', *Weekend Argus*,



was in opposition to Derrida's notion of the archive as the "place of commencement" as the TRC set about shutting rather than opening the past. But the past that was being 'shut' was the nation's past and alludes to two of the TRC's functions.

First, the South African nation was being made new through the TRC's establishment of 'a complete picture' of 'the' past while the TRC simultaneously performed the nation's rupture with the past, yet the nation was being firmly grounded in the knowledge of the past. The TRC simultaneously made the past familiar by making it known and knowable and made it strange by delimiting part of the past as the present's essential difference or Other. The TRC made the past familiar by inviting the nation to share in the experiences of pain and trauma but at the same time made the past, or rather certain perceptions of the past strange. Certain events that occurred during the past and the nation that populated the past became what the present and the future are not and should not be. Indeed, the sign of the new nation's evolvment from the divided nation that characterized apartheid, was precisely the measure of its difference and its dissolution from these events and the perpetration of the event rather than the agents responsible for them.

This was one of the contradictions of the TRC, for while the TRC opened the book of the past by uncovering, revealing and exposing the past, it simultaneously shut the past. It opened the past through its endeavours to collect information about the past and to consign that information to an archive, but simultaneously shut the past by claiming the right and the authority of the archon to interpret that archive *for* the nation. Through this interpretation, the TRC reduced the diverse past to a coherent one. Furthermore, through the archiving of the evidence upon which it based its

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Sunday, December 16/17, 1995 and Dr Jakes Gerwel, Secretary for Cabinet, quoted in 'Tutu appointed SA Truth supremo', *The Star*, Thursday, November 30, 1995; Gerwel quoted in 'Tutu heads the truth body', *The Citizen*, Thursday, November 30, 1995; and Gerwel quoted in 'The

interpretation, the TRC restricted the emergence of other pasts, of other interpretations of the past.

But the consequences of the political settlement brokered at Codesa and the reconstruction of South African society that was to be embarked upon after the negotiated settlement was reached, were not without its contradictions. The reconstruction of South African society after the 1994 general elections entailed attempts at redressing the past economic and social imbalances that had been created by apartheid. Measures devised to address these imbalances included land restitution and affirmative action. These processes, however, engendered the formulation and sustenance of ethnic and racial identities. Inevitably, land claims were instituted by blacks against whites and often entailed the fostering of community identities such as the District Six community in Cape Town and the Makuleke community in the north-eastern corner of the Kruger National Park. Furthermore, the implementation of affirmative action, at a point when job creation could not keep pace with population growth, resulting in increased unemployment, together with the perception that the 'new' government was corrupt and was mismanaging the country, led to the belief that certain racial groups were being privileged over others.

The TRC however differed from Codesa in numerous ways. The latter occurred largely away from, and without the direct input of the public. It was a process that took place largely between political elites who rallied their supporters in 'rolling mass action' to place pressure on their rivals at the negotiating table and who were in turn pressurized by their imagined constituencies to arrive at particular settlements, particularly with regard to the issue of political prisoners.<sup>99</sup> The

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truth or two year's jail', *Sowetan*, Monday, December 4, 1995.

<sup>99</sup>This occurred most noticeably at the ANC's Consultative Conference in December 1990. See Steve Clark (ed.), *Nelson Mandela Speaks: Forging a Democratic Nonracial South*

processes that characterized the TRC occurred to a large extent within the public sphere. Here the 'public' was invited to participate in the 'uncovering' of the past and to witness the telling of the nation's past at the TRC's public hearings of the TRC. Thus, while the nation was being rethought by politicians at Codesa, at the TRC hearings the public was invited to participate in the rethinking of the nation and their location in that nation. Despite these differences however, the TRC represented an extension of the official process of re-imagining the nation that had been initiated at Codesa.

While the public was invited by the TRC to participate in the process of re-imagining the nation, the public were not invited to influence or shape the course of that imagination. The nation had already been imagined as one, as united, as comprising all races, although these races were reduced to "black and white".<sup>100</sup> The public was invited to contribute to the formation of the new nation by locating their position in that nation. The TRC thus served to authorize the notion of South Africa as a new nation by institutionalizing it in the national archive and by making it part of the public sphere and part of public discourse.

In this regard, the TRC functioned in three ways. First, it presented state issues for discussion in what Jürgen Habermas described as "the public sphere". For Habermas, the public sphere is not the aggregate of the citizens of the nation state but included all those who *might* join in a discussion of issues raised by the state. The participants in this discussion included agents of the

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*Africa*, Pathfinder, New York, Montreal and Sydney, 1993, pp. 73-78.

<sup>100</sup>This 'nation' is expressed most noticeably by Mbeki cited in 'Mbeki slams SA's party-poopers', *Weekend Argus*, Saturday, May 30/31, 1998; 'Rainbow nation – two worlds in one', *City Press*, Sunday, May 31, 1998; 'SA a country of two nations – Mbeki', *City Press*, Sunday, May 31, 1998; and 'Mbeki: We must end race divide', *Cape Argus*, Friday, May 29, 1998.

state and 'private citizens'.<sup>101</sup> The public sphere is thus a space of potential interactive discourse where neither the nature of the discussion nor its occurrence is of importance, but where the potential for a number of disparate people to participate in the discussion, which implies knowledge of, and exposure to, issues raised by the state, is.

The people engaged in the public sphere could potentially include government representatives and employees, and ordinary citizens. The public sphere thus holds the possibility of arranging various interest groups and persons in a matrix of 'equality' where those in favour of a government proposal could be equal to those against it, in terms of participating in the discourse on the basis of equal authority. Despite this possibility, the public sphere is inherently a space of inequality because it discusses 'issues raised by the state' and because it includes state officials and employees as discussants. This inequality is most prevalent when the state creates the public space in which the discursive interaction of the public sphere is to take place, and when the state appoints people to participate in that space on its behalf. In such cases, the state appointees are vested with authoritative voices that tend to drown out the voices of ordinary citizens and other state employees.

In such an event, the public sphere functions as an instrument of ideological legitimation, or what Louis Althusser described as the "ideological State apparatus" with the TRC being an example of the latter. The TRC was a public space created by the state and orchestrated by state appointees who were vested with authoritative voices for the legitimization of state rule through ideological rather than repressive means, although the possibility and the threat of the use of force was

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<sup>101</sup>Jürgen Habermas cited by Craig Calhoun, 'Introduction: Habermas and the Public Sphere', Craig Calhoun (ed.), *Habermas and the Public Sphere*, The MIT Press, Cambridge, MA and London, 1992, p. 8.

always present.<sup>102</sup> The TRC functioned thirdly, not only to legitimize state rule through ideological means, but institutionally as well, by archiving the ideological means of legitimization so that it would remain in place, and continue to exercise influence on the state and society, while also ‘naturalizing’ those ideological objectives and masking the “material investment, in acts and effects, that reproduce domination in time and space”.<sup>103</sup>

While the TRC gathered its information about the recent past and ordered and consigned it to an archive, it simultaneously displayed parts of this archive in public. The public was invited by the TRC to ‘bear witness’ to the past by attending the TRC’s public hearings, at which parts of the TRC’s archive were put on display and aspects of South Africa’s history, as told by the TRC was displayed. These hearings were also the space in which the TRC addressed the nation, but while the TRC represented itself as addressing and representing ‘the nation’, it was simultaneously engaged in the process of reconstructing and re-imagining that nation.

### **Addressing and Speaking for the Nation**

The TRC’s reference to ‘public’ hearings was illustrative of the commission addressing the nation as, for the TRC, the public that attended its hearings was a synecdoche of the nation. Thus, during his opening address at the HRVC’s event hearing into the Trojan Horse incident,

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<sup>102</sup>See Louis Althusser, ‘Ideology and Ideological State Apparatuses (Notes towards an Investigation)’, in *Lenin and Philosophy and Other Essays*, Translated by Ben Brewster, Monthly Review Press, New York, 1971, pp. 141-150. Althusser, while distinguishing between the ideological State apparatuses (ISA) and the repressive State apparatuses (RSA), suggests that the two are closely related through their predisposition to the ruling class and through both’s dual reliance on ideology and repression. One of the major distinctions between the two is that while the RSA “functions massively and predominantly by repression” and “secondarily by ideology”, the ISA operates largely by ideology and less significantly by repression. See Althusser, ‘Ideology and Ideological State Apparatuses’, pp 145,149.

<sup>103</sup>Nietzsche cited in Allen Feldman, *Formations of Violence: The Narrative of Body and Political Terror in Northern Ireland*, University of Chicago Press, Chicago and London, 1991, p.

Archbishop Tutu proclaimed that: “the nation acknowledges that awful experience and, in a way, the nation is saying sorry”.<sup>104</sup> Similarly, at the HRVC’s first round of hearings in Cape Town, on Monday, April 22, 1996, Boraine, acknowledged to Nomakula Evelyn Zweni that

[...] you have come a very-very long way and we’d like you to tell your story to all of us now, and not only to those in this room, but of course to many, many others who are listening on the radio, or perhaps will watch the television or read about it in the newspapers. You have a story that we all need to hear [...]<sup>105</sup>

Again, at the HRVC ‘special hearing’ that dealt with the fates of Tobekile ‘Topsy’ Madaka and Siphwe Mthimkulu, Boraine stated in his opening address that the hearing

[...] is very special for all the people from New Brighton, from Port Elizabeth and so many others who will be listening on the radio and watching and reading about you and your son and the suffering and pain that you’ve endured [...]<sup>106</sup>

while Tutu thanked “the electronic and print media for helping to tell [...] the stories” of the victims of gross human rights violations.<sup>107</sup>

Evidently, the concept of ‘public’ as espoused by the TRC encompassed different audiences—the audience present at its hearings, a radio audience, a television audience and a print media audience. Essentially the members of this extended audience were related, not in a language-field, as Benedict Anderson suggests, but in a morally defined field of interest and “formed, in their secular, particular, visible invisibility, the embryo of the nationally imagined community”<sup>108</sup> for the TRC at least. In this sense, the TRC seemed to use ‘the public’ and ‘the nation’ as synonyms. However, the TRC’s discursive references to ‘the nation’ allowed it to bypass distinctions between categories of victim and perpetrator, and created the impression that they

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<sup>104</sup>Tutu, *The TRC Special Report*, SABC 1, Sunday, May 25, 1997. Tutu was speaking at the opening of the HRVC’s event hearing concerning the Trojan Horse incident.

<sup>105</sup>Boraine, HRVC Hearing, Cape Town, Monday, April 22, 1996.

<sup>106</sup>Boraine, HRVC Hearing, Port Elizabeth, Wednesday, June 26, 1996.

<sup>107</sup>Tutu, Closing Address, HRVC Hearing, East London, Thursday, April 18, 1996.

were all part of the nation. Hence, the nation as a whole, rather than the victims only, was in need of healing; and the nation, rather than the perpetrators, was required to take responsibility for the past, and to confess and seek forgiveness.

When the witnesses appeared at the victim hearings of the HRVC and before they were able to recount their memories of their experiences, they were often first invited to 'tell us a little about themselves'. Certainly, this may have been an attempt to put the witness at ease and to initiate the restoration of the victim's dignity, but it was also an invitation for the witness to locate themselves, and their worth, in the nation, particularly as the TRC had invited these witness to become part of the TRC's account of South Africa's history.

### **Making Nation and Making the National Past**

While these members of the public were able to locate themselves in the nation, the public that attended the hearings were merely spectators that witnessed the past as it unfolded at the hearings. They were not permitted to influence the making of the nation within the TRC, to the detriment of the notion of nationhood espoused by the state. They were precluded from influencing proceedings, through the Promotion of National Unity and Reconciliation Act, which defined who could speak about the past, who could shape meaning and the relative authority invested in the various subject positions created through the TRC. No subject positions were created for voicing opposition or alternatives to the state's nation building project.

No subject position was also given to the public. Instead, the public where rendered as spectators that contributed to the making of meaning in which the state, through the TRC, was embroiled.

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<sup>108</sup> Anderson, *Imagined Communities*, pp.41-43.

The public that attended the TRC hearings did not judge the testimony laid before it as evidence but performed its acknowledgement of the testimony as evidence by reacting to it. At the hearings the audience often acknowledged the testimonies it heard emotionally. At the HRVC hearings this reaction was often sympathetic and served to confirm evidence while at the AC hearings the audience's reactions were either hostility shown toward members of the previous state's security forces, or disbelief. These reactions were captured on film by the ever-present media cameras and microphones and were relayed daily to a wider television, radio and newspaper audience that, for the TRC, were part of its audience and part of the public.

Through its practice of displaying the evidence of official history, i.e. history produced or sanctioned by the state or its institutions, in public, the TRC became a discursive space in which official history and the public history, i.e. the history displayed publicly, of the recent past were being cast in correspondence.<sup>109</sup> For, while the TRC gathered in stories of the past and consigned them to an archive of documents, statements, testimonies and memories of the recent past, it simultaneously displayed parts of this archive publicly, forming material for a second archive, while providing issues for public discussion.

From its inception, the TRC articulated South African society in national terms. The TRC referred to South Africans as a singular collective—as 'us' and as 'we'—and referred to South Africa as 'our land'. Simultaneously, the nation was multifaceted and divided as in the 'rainbow nation' espoused by the TRC's chairperson, Archbishop Desmond Tutu. The notion of a

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<sup>109</sup>This is not to suggest that there is necessarily a divide between official and public history. Indeed, museums, heritage sites, monuments, statues and carnivals, etc., as sites for the public display of history and hence public history, are often established, maintained and directed under the auspices of the state. There thus tends to be confluence of official and public histories. The TRC was a process in which this confluence is most notable.



'Rainbow Nation' seems to have been influenced by the international discourse on 'multiculturalism' and by the American civil rights activist, Jessie Jackson's, 'Rainbow Coalition'. Ironically, the notion of the 'rainbow nation', while emphasising unity, implies separateness and disunity, and appears to vindicate the 'separate cultures, separate nations' concept advocated by the apartheid state. It, however, also served to qualify the TRC's discourse of reconciliation and allowed the commission the use of the metaphor of a fragmented nation that existed under apartheid and that was now to be reunited in post-apartheid South Africa by the TRC.

Indeed, as the term 'nation building' suggests, the nation is built from and upon something. The Minister of Justice, Dullah Omar, suggested, the nation was to be built from the splintered and divided communities of South Africa that were to be cemented together by the truth and the memory of the past

[...] it is true that there is a philosophical discussion as to what constitutes the truth, certain things are self-evident. The death of Imam Abdullah Haron is one example of the type of case that *should* be looked at by the [Truth and Reconciliation] Commission. *The Muslim community in South Africa is united* in the view that the story of his death must be told. Haron is said to have died in police custody. Is there any doubt about the truth of that fact? A finding has been made to the effect that he died of unnatural causes. Is there any doubt about the truth of that fact? Evidence was given that he slipped on a bar of soap. We do not know whether or not that is true. He had many wounds, that we know is true, but exactly how he died we do not know. [...] It is possible that when the Commission investigates particular events [...] it will be able to make findings on certain facts while other aspects remain allegations.<sup>110</sup>

Here the Minister of Justice appeared to make a distinction between 'cases that should be looked at by the Commission' and cases that should not. Implicit in this was the idea that the 'facts' and 'truths' enclosed in certain cases contained a greater potential for drawing certain communities,

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<sup>110</sup>Dullah Omar in Boraine and Levy (eds.), *The Healing of a Nation?*, p. 133. Emphasis

perceived as 'united', into the process of nation building.<sup>111</sup> But it was also an indication of how the state sought to shape public discourse and how closely related the TRC was with the state.

The requirements of nation building for, and in, post-apartheid South Africa were crucial. According to David Welsh, both Nelson Mandela of the ANC and the then state president FW de Klerk realized in the early 1990s that if negotiations failed, civil war would ensue.<sup>112</sup> At the end of the ANC's Consultative Conference in December 1990, Mandela indicated as much when referred the ANC conference delegates to the strife caused by the civil wars and the refusal of conflicting parties in South Africa's neighbouring states to negotiate.<sup>113</sup> Indeed, according Doreen Atkinson, after the break down of negotiations in mid-1992, Roelf Meyer and Cyril Ramaphosa, who became "critically important conduits" for the NP and the ANC respectively,<sup>114</sup> "learned ... of the cost of [the] stalemate [in negotiations] – economic decline and continued violence. They concluded that if they did not move forward quickly to agree on rule after apartheid, there might be little over which to rule."<sup>115</sup>

Soon after the first democratic general elections of 1994, Christopher Cramer foresaw the need for "a complete re-imagining of the nation, of what it means to be South African".<sup>116</sup> Warning

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<sup>111</sup>The Muslim community is, however, not united around the need reconciliation grounded in a Christian ethos. See 'Cape activists resist truth hearings', *Mail & Guardian*, April 26 to May 2, 1996. Also see *Cape Times*, April 25, 1996.

<sup>112</sup>See David Welsh, 'Negotiating a Democratic Constitution', in JE Spence (ed.), *Change in South Africa*, The Royal Institute of International Affairs, London, 1994, pp.22-49.

<sup>113</sup>See Nelson Mandela, Closing Speech, ANC Consultative Conference, December 16, 1990 cited in Steve Clark (ed.), *Nelson Mandela Speaks*, p. 73.

<sup>114</sup>Welsh, 'Negotiating a Democratic Constitution', p. 24.

<sup>115</sup>Doreen Atkinson, 'Brokering a Miracle? The Multiparty Negotiating Forum', Steven Friedman and Doreen Atkinson (eds.), *The Small Miracle: South Africa's Negotiated Settlement*, Ravan Press, Johannesburg, 1994, p. 13.

<sup>116</sup>Christopher Cramer, 'Rebuilding South Africa', *Current History*, 93(383), May 1994,

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[...] The social advance that this will represent for most people has to be balanced against the trauma it will involve for some minority groups, especially the more incorrigible Afrikaner nationalists and the Zulu nationalists of Inkatha. [...]<sup>117</sup>

Here again it was implied that certain groups of people were akin to nations, and indeed, Cramer identified certain nations that needed to be appeased if they were to be drawn into 'the new nation'. Here Cramer employed two connotations of nation. He used it, on the one hand, to identify distinct 'national groups' that had their own brands of ethnic nationalism. On the other hand, he used it to refer to the sovereignty of the 'new nation', to whom the national groups were supposed to belong.

In the build up to the establishment of the TRC, numerous references were also made to the vulnerability of the 'new democracy' that was ostensibly established through the General Elections of April 27, 1994. In a conference paper presented in June of 1995, Medard R Rwelamira argued that the 1994 elections

[...] exposed the tragic and precarious nature of national consensus. It had highlighted the deep fragmentation that existed in South African society [...]<sup>118</sup>

Despite the popular democracy, he argued, "the transition itself still remain[ed] hostage to the vicissitudes of the old order".<sup>119</sup>

Similar concerns and beliefs were to emanate from within the ranks of the TRC. On *The Tuesday Debate*, a television actuality programme, the TRC Chairperson, Archbishop Desmond Tutu,

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p. 209.

<sup>117</sup>Cramer, 'Rebuilding South Africa', p. 209.

<sup>118</sup>Medard R Rwelamira, 'Punishing past Human Rights Violations: Considerations in the South African Context', Conference Paper, *The Role of Law in Transition: Dealing with the Past through Law in South Africa and Germany*, Cape Town, 30 June - 1 July 1995, p. 1.

<sup>119</sup>Rwelamira, 'Punishing past Human Rights Violations', p. 1.

contended that South Africa would still have been engaged in a “bloody civil war” if it were not for the possibilities for reconciliation and forgiveness that the TRC represented.<sup>120</sup> Six months previously, on *Credo*, a religious Sunday television talk show, TRC Commissioner, Dr Jasmin Sooka, created a similar impression, proclaiming that South Africa’s past could only be known by virtue of negotiations. Hence, the trading of ‘qualified’ amnesty for a full disclosure of the truth became a necessity as, without it, South Africa ‘would still be in a civil war’. From Sooka’s further representations it appeared that the ‘more incorrigible’ Afrikaner nationalism needed to be neutralized before a ‘new South African nationalism’ could be imagined, and that both were realisable through the processes of the TRC.<sup>121</sup>

One of the ways in which the ‘incorrigible Afrikaner nationalism’ could be drawn into ‘the nation’ was, as Sooka indicated, through the process of granting amnesty against prosecution for gross human rights violations committed by its members in the defence of apartheid and racial segregation. The TRC was thus to appease those who committed atrocities in the name of apartheid and racial segregation by granting them amnesty from prosecution and simultaneously appeased the victims of those atrocities by making the granting of amnesty for politically motivated actions conditional to ‘full disclosure’. Indeed, through the granting of conditional amnesty, the atrocities of the perpetrators were decriminalized. Their actions were legitimized as amnesty was granted in respect of political actions rather than criminal ones. In essence, the TRC

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<sup>120</sup>Tutu, *The Tuesday Debate*, SABC 3, Tuesday, November 5, 1996. Also see Tutu in ‘Commission “must heal nation”’, *Weekend Argus*, Sunday, December 16/17, 1995. The same thesis was prospered by TRC Deputy-Chairperson, Alex Boraine at a Human Rights Commission of South Africa organized debate in Cape Town on Wednesday, June 19, 1996. See ‘Amnesty, the price South Africa has to pay for peace – Boraine’, *The Argus*, Thursday, June 20, 1996. Also see ‘Mxenge: the price of reconciliation’, *Weekend Argus*, Sunday, March 16/17, 1996.

<sup>121</sup>Jasmin Sooka in *Credo*, SABC 3, Sunday, April 28, 1996. Also see Charles Villa-Vicencio, ‘A Different Kind of Justice: The South African Truth and Reconciliation Commission’, Conference Paper, *Methodist Council Conference: Global Social Ethics*, Rio de

sought to ‘liberate’ the defenders of apartheid from the material threat of prosecution and, in so doing, enabling all South Africans to be liberated from the injustices of apartheid while simultaneously negating the material threat that these agents posed to ‘the new democracy’. In this way the Afrikaner became part of the new South Africa.

Sooka was, however, silent on the need to appease ‘the Zulu nationalists of Inkatha’. Perhaps her silence represented the defeat of the TRC and the government’s attempts to draw the Inkatha Freedom Party (IFP) into the TRC process. Indeed, while the TRC actively used amnesty applications to destabilize the Afrikaner identity as defenders of ‘*volk, vaderland en kerk*’,<sup>122</sup> no similar public attempts were made at destabilising ethnic and regional Zulu identities. It appears that when the perpetrators did not conform to the stereotype of the conflict of the past, i.e. as between white and black, it was sufficient, in the narrative that the TRC gave rise to, to deal with Inkatha as an appendage of the security forces.<sup>123</sup>

This conception arose prior to the establishment of the TRC, in response to human rights violations such as the Boipatong Massacre and the apartheid government’s explanation of such incidents as ‘black on black violence’. In the wake of such attacks, the liberation movements purported that a ‘third force’ attempting to derail negotiations was behind the attacks. According to David Beresford,

[...] the term became a useful one to describe a loose alliance between killers identifying with those bitterly opposed to a political settlement between the ANC and the [apartheid] government; essentially the white right and conservative homeland leaders of whom KwaZulu’s Chief Mangosuthu Buthezi [who was also the leader of Inkatha]

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Janeiro, May 1996, pp. 2, 6.

<sup>122</sup>At, for example, AC Hearing, Pretoria, February 24 to March 7, 1997.

<sup>123</sup>Indeed, it suggested this in its report where it mentioned its findings on the IFP under “the role of allies of the state”. See TRC Report, Vol 5, Ch 6, pp. 227, 229-234.

is the outstanding figure.<sup>124</sup>

This 'alliance' was supported by elements in the apartheid state's security apparatus who supplied Inkatha with arms, training and transport. Indeed, at the Trust Feeds Massacre trial of Captain Brian Mitchell and Captain Jacobus van der Merwe, both of the South African police, testimonial evidence of this alliance was provided by Jerome Gabela, the local Inkatha leader.<sup>125</sup>

### **The (Im)morality of the Past**

The granting of amnesty was, however, one of the means through which the divisions of the past were dismantled. Another means employed by the TRC to draw the fragments of the nation together, and to re-unite and *reconcile* them, was through the accumulation of individual memories into a body of collective memory. In this event the TRC aspired to expand a sense of community, a sense of collectiveness, that was purportedly founded on the oppression, hardship and injustices of apartheid and make it applicable to 'the new nation'. In so doing, it emphasized individual memories and experiences of the struggle against apartheid and cast them as being of national significance and applicable to all South Africans.

This was an ethical decision, for while the TRC 'uncovered' a multiplicity of positions as well as a multiplicity of political conflicts of the recent past, it tended to reduce these to two positions:

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<sup>124</sup>David Beresford, 'Township Violence and the 'Third Force'', in Joseph Harker (ed.), *The Legacy of Apartheid*, Guardian Newspaper Limited, London, 1994, p. 75.

<sup>125</sup>See Jo-Anne Collinge, 'Launched on a Bloodtide: Negotiating the New South Africa', in Glen Moss and Ingrid Obery (eds.), *From 'Red Friday' to Codesa*, Ravan Press, Braamfontein, 1992, p. 20. Also see Jacques Pauw, *Into the Heart of Darkness: Confessions of Apartheid's Assassins*, Jonathan Ball Publishers, Johannesburg, 1997, pp. 122-132, 136. The TRC was, however, to find "little evidence of a centrally directed, coherent or formally constituted 'Third Force'". It did however find that "a network of security and ex-security force operatives, acting in conjunction with right-wing elements and/or sectors of the IFP, were involved in actions that could be construed as fomenting violence". See TRC Report, Vol 1, Ch 7, pp. 709-710.

one that resisted apartheid and another that defended apartheid. The TRC presented the position against apartheid as legitimate and just and elevated the moral significance of that position while vilifying the other as unjust and illegitimate.

Archbishop Tutu's reaction to former State President FW de Klerk's testimony at the National Party's second party submission to the TRC, and the subsequent media coverage it received, was illustrative of this and was in line with the United Nations' declaration that apartheid was a crime against humanity and the Kairos Document. Indeed, the TRC was to endorse this declaration,<sup>126</sup> and was to find that the apartheid state, "through its security and law enforcing agencies" was "the primary perpetrator of gross human rights in South Africa, *and* from 1974, in Southern Africa".<sup>127</sup> The commission added that particularly under the rule of PW Botha, some of the apartheid state's violations were of a "criminal nature".<sup>128</sup> TRC commissioners also described the previous government as "exquisitely cruel"<sup>129</sup> and "callous" and implied that the struggle against apartheid was a 'just war'. Indeed, the TRC was to "endorse the position in international law ... that both the ANC and PAC were ... conducting legitimate struggles" against apartheid. It also acknowledged the "comparative restraint with which the ANC conducted its armed struggle".<sup>130</sup> Furthermore, when those involved in the anti-apartheid struggle during the 1980s were cited as perpetrators, TRC members often referred to them as having "vitiating all the noble efforts of the liberation struggle"<sup>131</sup> or their victims as having been "caught in the crossfire".<sup>132</sup>

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<sup>126</sup>The TRC was to endorse this declaration. See TRC Report, Vol 1, Ch 4, p. 94.

<sup>127</sup>TRC Report, Vol 5, Ch 6, pp. 212, 213, 222.

<sup>128</sup>TRC Report, Vol 5, Ch 6, pp. 212, 213, 218-222.

<sup>129</sup>Tutu cited, 'Tutu: Ex-govt exquisitely cruel', *The Citizen*, Wednesday, April 24, 1996.

<sup>130</sup>TRC Report, Vol 5, Ch 6, pp. 239.

<sup>131</sup>See, for example, Manthata, HRVC Hearing, Duduza, Tuesday, February 4, 1997.

<sup>132</sup>Tutu cited, 'Need for strong opposition shown - Boraine', *The Star*, Friday, April 26, 1996. Also see Tutu, HRVC Hearing: NP Second Party Submission, Cape Town, Thursday, May 15, 1997.

To some extent, this process had been undermined, not by the TRC, but by the ANC which, just before the release of the TRC Report, accused the TRC of “criminalizing the struggle” and sought a court interdict to prevent the TRC from implicating the ANC as perpetrators in its report.<sup>133</sup> Like Nieuwoudt in 1996, the ANC implied their own complicity as violators of gross human rights. This implication was highlighted by the publicity the ANC generated in its battle with the TRC. It was, however, an implication created by the ANC for, as I have indicated, the TRC Report made an explicit distinction between violations caused by the ANC and those caused by the state in which it found that the state was primarily guilty of committing atrocities.

An implication of the moral position that the TRC took on the conflicts of the past, that because of the cruelty and evilness of apartheid, the atrocities that occurred in the struggle against the evil of apartheid became justifiable, made it possible for some to argue that because the ANC’s armed struggle was a ‘just war’, and that it was not necessary for those involved in the ‘legitimate activities of the armed struggle’ to apply for amnesty.<sup>134</sup> This undoubtedly shaped the ‘public’ archive of the TRC, the media coverage the commission received, and the public debates that they initiated.

Thus, through its hearings, the TRC cast the political conflict of the last 35 years of apartheid,

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<sup>133</sup>See, for example, ‘ANC says findings “criminalize” the struggle’, *Cape Argus*, Wednesday, October 28, 1998; ‘ANC’s 11th-hour bid to silence TRC’, *Cape Times*, Thursday, October 29, 1998; ‘Why I kicked out ANC’s bid to gag TRC, by High Court Judge’, *Cape Argus*, Wednesday, November 1, 1998 and ‘Political nightmare looms for ANC’, *Cape Argus*, October 28, 1998.

<sup>134</sup>See Editorial, *Cape Argus*, Tuesday, November 5, 1996 and ‘ANC, TRC clear up misunderstandings’, Monday, November 11, 1996. Also see ‘Acts of war, crimes against humanity blur reconciliation’, *Weekend Argus*, Sunday, November 16/17, 1996. Another implication which is not explored here is that apartheid then becomes the historical source of all



and the individuals and events involved in it, as the icons of the new South Africa's public past. Here too a contradiction between the TRC's theoretical approach to victims of gross human rights violations and its practices arose. The Promotion of National Unity and Reconciliation Act required that the TRC display non-partisanship and that it present the experiences of the victims of the liberation movement's struggle against apartheid as being equal to those of the victims of apartheid. In practice, however, the TRC elevated one side of this political conflict to a national iconographic status.

Indeed, Archbishop Tutu's reaction to former State President, FW de Klerk's testimony at the National Party's second party submission to the TRC, and the subsequent media coverage it received, was symptomatic of an ethical reconstruction that sought to elevate one side of the 'conflict of the past' at the expense of the other.<sup>135</sup> This process of vilifying apartheid, although warned against, was evident early in the debate around the establishment of the TRC. In the foreword to *Dealing With the Past: Truth and Reconciliation in South Africa*, a book in which the papers delivered at the 'Justice in Transition: Dealing with the Past' conference were published, Kader Asmal, for example, described "the criminal policy of apartheid" as "an evil system".<sup>136</sup> Indeed, in the wake of the international condemnation of the 'ethnic cleansing' that accompanied the Bosnian conflict, the policies of apartheid were said to have included ethnic

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evil in South Africa, trivializing the colonial moment in South Africa's history.

<sup>135</sup>See Tutu, HRVC Hearing: NP Second Party Submission, Cape Town, Thursday, May 15, 1997. Also see 'How FW drove Tutu to tears', *Cape Times*, Friday, May 16, 1997; 'FW a failure at TRC hearing', *Cape Times*, Friday, May 16, 1997; 'We told FW about abuses by his forces, says Tutu', *Cape Argus*, Friday, May 16, 1997; 'Nats declare war on TRC', *Cape Argus*, Friday, May 16, 1997; 'Dozy FW should wake up now', *City Press*, Sunday, May 18, 1997; 'Silence can be eloquent', *City Press*, Sunday, May 18, 1997; Editorial: 'FW should have been open from the beginning', *Sunday Times*, Sunday, May 18, 1997; 'And something other than the truth', *Sunday Times*, Sunday, May 18, 1997 and Editorial: 'NP must accept accountability for the full horror of apartheid', *The Sunday Independent*, Sunday, May 18, 1997.

<sup>136</sup>Kader Asmal, 'Forward', Boraine, Levy and Scheffer (eds.), *Dealing With the Past*, p.

cleansing.<sup>137</sup>

For the TRC, the South African nation existed in varying forms at different moments. Essentially the TRC identified three forms of the nation at three different moments in the history of modern South Africa. The first form existed in an ill defined era prior to the implementation of apartheid policies. In the conception of the TRC, South Africans lived in multiracial harmony. The ‘harmonious, creative and vibrant’ communities of District Six and Sophiatown undoubtedly figured as a synecdoche of this era.

The second form of the nation emerged when the ‘harmonious’ nation was destroyed by what the TRC described as the negative policies and forces of the apartheid state. That the forces and policies of the apartheid government were considered to be negative by the TRC becomes evident when considering how the TRC represented the conflicts that occurred during and, some would argue, because of apartheid. In essence, the TRC ‘uncovered’ a multiplicity of positions as well as a multiplicity of political conflicts of the past. The TRC, however, tended to reduce these to two positions: one that resisted apartheid and another that defended apartheid. The TRC proceeded to present the position against apartheid as legitimate and just and elevated the moral significance that position while vilifying the other as unjust and illegitimate. Here the conflict was fundamentally reduced to one in which black was victimized by white. Thus, when those involved in the anti-apartheid struggle were cited as perpetrators of gross human rights

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vii. Also see Asmal, Asmal and Roberts, *Reconciliation Through Truth*, 1996.

<sup>137</sup>Asmal, ‘Forward’, Boraine, Levy and Sheffer (eds.), *Dealing With the Past*, p. vii. by this I am not suggesting that apartheid was not callous, cruel and evil – it undoubtedly was. However, by focussing on and exaggerating the evil of apartheid, the TRC implied, at the moment of displaying this at its hearings, that the atrocities committed in the fight against apartheid were not significant. It also ignored the atrocities of colonial conquest and colonial subjugation.

violations, commissioners referred to the incident, and those involved in them as having “vitiating all the noble efforts of the liberation struggle”.<sup>138</sup>

### **Communities of Solidarity**

The negative policies and forces of the apartheid era thus led to the fragmentation of the nation that the TRC was now required to reunite so that the nation could once again reflect the harmony that supposedly existed before the implementation of apartheid policies. In attempting to reunite the fragmented nation, the TRC chose to emphasize a third form of the nation that Richard Rorty would call a South African “community of solidarity”.<sup>139</sup> This ‘community of solidarity’ was supposedly fostered and established during the conflict of the apartheid era. During the 1980s, multiracial organisations such as the UDF, the Congress of South African Trade Unions and, later the Mass Democratic Movement dominated internal resistance politics. The TRC appears to have adopted the concept of nation contained in the discourse of these anti-apartheid movements, particularly that of the UDF. At that stage the UDF had

[...] envisioned a ‘national liberation struggle’ which included all the nation’s peoples, white and black, opposed to continued minority domination. The only criterion for inclusion in its [...] concept of nation was opposition to apartheid and ‘voluntary adherence’ to the broad principles of non-racial democracy. [...]<sup>140</sup>

For the TRC, this sense of solidarity had developed among the oppressed communities in South Africa and was indicated at the HRVC hearings at Ashton, on Tuesday, June 25, 1996, when the TRC claimed that “in 1990 the coloured community of Oukamp and the black residents of Zolani

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<sup>138</sup>See, for example, Manthata, HRVC Hearing, Duduza, Tuesday, February 4, 1997.

<sup>139</sup>See Richard Rorty, *Contingency, Irony and Solidarity*, Cambridge University Press, Cambridge, 1989, pp.189-98.

<sup>140</sup>Marx, *Lessons of Struggle*, p. 15.

united to fight racism in Ashton”.<sup>141</sup> This was not a fictitious claim as a number of activists engaged in the struggle in the 1980s had rejected the identities of ‘coloured’ and ‘black’, prefixing them instead to ‘so-called coloureds’ and ‘so-called-blacks’. Indeed, this solidarity in the resistance against apartheid was proclaimed in struggle slogans, such as ‘*Ons is almal in die struggle, die Mammies en die Pappies, die Oumas en die Oupas, die honde en die katte*’.<sup>142</sup> Although this slogan did not make explicit mention of racial identities, it did indicate a unity that defied differences of gender and generation.

However, the non-racial national ideal of the UDF did not become a reality. The South African society of the 1980s remained fraught with contradiction. Firstly, not all South Africans, and significantly not all oppressed South Africans, had taken up the struggle against apartheid. In fact certain members of ‘the oppressed’ served on, and supported, the apartheid state’s security structures. They were, thus, not seen by the UDF and its supporters as part of the oppressed but came to be seen as traitors, sell-outs, police informants and collaborators.<sup>143</sup> The community councillors of the Black Local Authorities; black police officers; *kitskonstabels*; Inkatha supporters and police informants, thus, remained outside of the UDF’s ‘nation’ as they did not subscribe to the tenets of the UDF’s ‘national liberation struggle’. Secondly, other internal political movements, such as Inkatha and Azapo, competed with the UDF’s ideological tenants and fostered exclusively ethnic and racial identities respectively. And thirdly, the internal

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<sup>141</sup>‘Many hurt in “senseless shooting spree by police”’, *The Argus*, Wednesday, June 26, 1996. This conclusion was attributed to the TRC’s research department. Also see Pumla Gobodo-Madikizela, HRVC Hearing, Ashton, Tuesday, 25 June 1996.

<sup>142</sup>Afrikaans for: We are all in the struggle, the mothers and the fathers, the grandmothers and the grandfathers, the dogs and the cats.

<sup>143</sup>See, for example, ‘Family of Councillor tells of ‘merciless’ township killing’, *The Argus*, Wednesday, June 26, 1996; Malinge Zweni, HRVC Hearing, Ashton, Tuesday, June 25, 1996; TRC Report, Vol 2, Ch 4, pp. 384-392; TRC Report, Vol 3, Ch 2, p. 108 and Ch 5, pp. 475-479.

liberation movements were also involved in internecine conflict. These internecine conflicts did come to the attention of the TRC as they were referred to at a number of hearings.<sup>144</sup> Despite these contradictions, the TRC spoke of a past during which a community of solidarity existed and sought to make this past applicable to the ‘new nation’.

It appears that the TRC attempted to return South Africa to an imagined 1980s and to an alleged sense of solidarity that was believed to have existed then, by exhibiting the personal memories of the victims of apartheid, casting these victims as innocent and without agency. The TRC further attempted to expand the boundaries of inclusion into this community of solidarity, elevating these memories to the level of supra-national significance, so that all South Africans, regardless of race, could become part of it. Here the TRC appeared to vindicate Kader Asmal, Louise Asmal and Ronald Suresh Roberts’ assertion that

For the new South Africa to abandon accurate remembrance in these early years of its birth would be the most cruel self-slaughter. The Truth and Reconciliation Commission will prevent that. [...]<sup>145</sup>

### **Representing the Nation**

The TRC, however, did not merely remember the past—it interpreted the past. It, however, required the legitimacy of the *archon* to interpret the past for the nation and the archive that it was entrusted to consign. To achieve this, the TRC represented itself as being representative of the nation. At the commission’s inaugural meeting in Cape Town on December 16, 1995, the TRC’s Chairperson, Archbishop Desmond Tutu, emphasized the TRC as being representative of

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<sup>144</sup>See, for example, Marx, *Lessons of Struggle*, pp. 170-176; Rejoice Mlungisi Kungwayo and Vuyo Mfutwana, HRVC Hearing, Port Elizabeth, Wednesday, June 26, 1996. Also see TRC Report, Vol 3, Ch 2, pp. 96-106, 108-112; TRC Report, Vol 3, Ch 5, p. 475 and TRC Report, Vol 3, Ch 6, pp. 669-670.

<sup>145</sup>Asmal, Asmal and Roberts, *Reconciliation Through Truth*, p.12.

the nation, and having authority on that basis, by stating that

[b]y and large, and remarkably so, the *composition* of this commission has found general and favourable acceptance. It means we have credibility and we must do all we can to enhance that *credibility*. We hope through some of the appointments to the Committee on Human Rights Violations and the Committee on Reparations and Rehabilitation to make the commission *even more* representative and inclusive.<sup>146</sup>

Indeed, when the TRC's commissioners were appointed in November 1995, two people were added to a list of names that were short listed through a selection panel. The two were added "in order to enhance, in the opinion of the president and cabinet, the resonance of the Commission across the various divides of South African society".<sup>147</sup>

Just over a year later, the commission's deputy-chairperson, Alex Boraine was to reiterate the idea that the TRC represented the 'various divides' of the nation. Following a dispute within the commission itself, which resulted in some "black TRC officials" alleging that they were being "marginalized" and that the commission was practising racial discrimination,<sup>148</sup> Boraine explained, in a press statement, that the TRC "is a microcosm of South Africa, which is itself experiencing enormous tensions as it recovers from a period of desperate conflict" and, hence, "it would be surprising if there were no tensions in the TRC".<sup>149</sup> Here the nation was conceptualized as the 'rainbow nation'; as a constellation of different regional, racial, religious, ethnic and political constituencies. Once again the nation was represented by the TRC as one, but one that was divided.

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<sup>146</sup>Tutu quoted in 'Commission "must heal nation"', *Weekend Argus*, Sunday, December 16/17, 1995. Emphasis added.

<sup>147</sup>Gerwel quoted in 'Mandela names Tutu to head Truth Commission', *Cape Times*, Thursday, November 30, 1995. Similarly, the TRC's Reparations and Rehabilitation Committee (R&RC) was expanded in February 1996 in order to ensure that the Eastern Cape Province had a representative on the R&RC. See Alex Boraine quoted in 'Eastern Cape wins Truth forum voice', *The Argus*, Tuesday, February 6, 1996.

<sup>148</sup>'TRC to discuss internal tensions,' *Sowetan*, Wednesday, January 22, 1997.

<sup>149</sup>Boraine quoted in 'TRC to discuss internal tensions', *Sowetan*, Wednesday, January 22,

Simultaneously the TRC claimed to be representative of the nation as a whole rather than representatives of its divides. The most significant inference of this was contained in an article by Wilhelm Verwoerd, a member of the TRC's Research Department. In this article Verwoerd responded to academics' "critical questions" posed at a conference in June 1996 that challenged "the nature, scope and legitimacy of the TRC".<sup>150</sup> In this response, he suggesting that the academics had no representative legitimacy from which to criticize the TRC particularly as "the nature of the TRC" was "uniquely democratic".<sup>151</sup> Verwoerd suggested that, since the TRC had been established constitutionally through the enactment of the Promotion of National Unity and Reconciliation Bill at parliament by the members of parliament—the nation's unanimously elected public servants and representatives—and since its commissioners were appointed by the State President, the TRC was *de jure* representative of the nation by proxy.<sup>152</sup>

The TRC thus functioned like Derrida's *archons*, by interpreting the archive on the basis of having the legitimacy to interpret the archive. However, the TRC also consigned the archive at the same time that it interpreted it. Furthermore, it displayed its interpretation of the past at the TRC's public hearing. At these hearings, it addressed and constituted the nation.

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<sup>150</sup>Wilhelm Verwoerd, 'Continuing the Discussion: Reflections from within the Truth and Reconciliation Commission', *Current Writing*, 8(2), October 1996, p. 66. Verwoerd responded here to a range of critical questions posed by participants and papers at 'The Future of the Past: the Production of History in a Changing South Africa' held at the University of the Western Cape, July 10-12, 1996.

<sup>151</sup>Verwoerd, "Continuing the Discussion", p. 68.

<sup>152</sup>This impression was reiterated by Archbishop Tutu at the end of the hearing into the disappearance of Siphwe Mtimkhulu and Topsy Madaka. At this hearing Tutu affirmed that the commission was established by the nation through parliament and was ordered by "our president" to fulfil certain tasks. See Tutu, HRVC Hearing, Port Elizabeth, Wednesday June 26, 1996.

## CHAPTER THREE

### The Truth of Collective Memory

The role of memory in the reconstruction of South African society and South Africa's past was discussed early in the discourse on the TRC. At the 1994 IDASA conference, 'Justice in Transition: Dealing with the Past', José Zalaquett alluded to a complex relationship between individual memory, truth, collective memory,<sup>153</sup> social identity and the past. The former Chilean commissioner implied that, although divided, individual memories needed to be analysed for the revelation of 'the truth'. The establishment of this truth, which could then be used in the creation

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<sup>153</sup>My usage of the terms 'individual,' 'personal,' 'collective,' and 'social' memory in this thesis requires a degree of clarification. First, beginning with the individual/person memory combination, Michael Schudson argues that 'individual' memory is anomalous as all memory is in some way or other social: first, he argues, they exist in social institutions, libraries, archives, etc.; second, they are marked by public holidays, public monuments, etc; third, individual memory may "characterize" a group; and four, "even where memories are located idiosyncratically in individual minds, they remain social and cultural in that they operate through the supra-individual cultural construction of language," they may be recalled in response to cultural artefacts and social cues, employed for social purposes, and even enacted even where memories are located idiosyncratically in individual minds, they remain social and cultural in that they operate through the supra-individual cultural construction of language; they may be recalled "in response to cultural artefacts and social cues" and, furthermore, "there are socially structured patterns of recall". See Michael Schudson, 'Dynamics of Distortion in Collective Memory,' Daniel L Schacter (ed.), *Memory Distortions: How Minds, Brains, and Societies Reconstruct the Past*, Cambridge, Massachusetts and London: Harvard University Press, 1995, pp. 346-347. Thus, in this sense speaking of individual memory would be inaccurate. For this reason, I adopt Paul Connerton's term 'personal memory,' which he uses to "refer to those acts of remembering that takes as their objects one's life history", though this may be no less unstable. See Paul Connerton, *How Societies Remember*, Cambridge and New York: Cambridge University Press, 1989, p. 22. In this paper I use the term 'personal memory' to indicate instances where memories of the victim's life history are treated as not being widely shared. I, however, use the term individual memory to indicate moments during which an individual recalls a collective or public memory that they had retained in their minds. Second, in order to indicate the difference between memories that are social in terms of Michael Schudson's definition, and the process of collectivising personal memory by the TRC, I use the term collective memory in this thesis. I also use the term 'public memory' to designate a collective memory that finds its expression outside of officialdom.



of a collective memory, was believed to be crucial for the formation of a collective identity<sup>154</sup> or, later for the TRC, a new national identity. The identities and memories of the old South Africa were thus designated as contentious, fragmented and divisive and as the South African transition proceeded from the old to the new, the contradicting and conflicting memories and identities of the past, had to be smoothed over. Alluding to Paul Connerton's contention that

[a]ll beginnings contain an element of recollection. This is particularly so when a social group makes a concerted effort to begin a wholly new start. [...] but the absolutely new is inconceivable. It is not just that it is very difficult to begin with a wholly new start, that too many old loyalties and habits inhibit the substitution of a novel enterprise for an old and established one. [...]<sup>155</sup>

The old South Africa was thus of importance to the emergence of 'the new South Africa' both as a model of what the new South Africa was not and as a source of evidence, in the form of the truth of the past contained in memories, as well as a source of individual memories that could be 'gathered in' and displayed to form a collective memory. This Charles Villa-Vicencio, the TRC's Director of Research, referred to as "the essential truth".<sup>156</sup> However, 'essential' is, as Keith Jenkins indicates, a certainist concept "which fix things and close them down".<sup>157</sup> Evidently, what was being fixed, defined, and closed down here was the new nation, its memory and its past. But the establishment of 'essential truths' accentuated a tension within the TRC and between various TRC members around issues of truth, confession, guilt and knowledge, and the practical constraints and consequences of the Commission.

In this chapter I trace some of the means through which the TRC established the truth of the past.

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<sup>154</sup>Jóse Zalaquett in Boraine, Levy and Scheffer (eds.), *Dealing with the Past*, p. 13. Emphasis added.

<sup>155</sup>Connerton, *How Societies Remember*, p.6.

<sup>156</sup>Villa-Vicencio, 'When the Free shall set the Truth', *Cape Times*, Thursday, October 16, 1997.

Here I argue that the main source of evidence that the TRC presented in its public history was memories of the past. I argue that although the TRC was aware that truth existed in contestation, it established truth of these memories as corresponding to reality, and denied the contestation of truth, through ‘corroboration’ and through the circular movement of memory. As this formulation stands, memory is vague but in the arguments that follow, I disaggregate memory to individual memory, collective memory, *mnēmē* and *hypomnēma* and trace the circular movement around from individual memory to *hypomnēma* and to individual memory again. I argue that the stability of this cyclic system denies the instability of memory while simultaneously ensuring the truth asserted by the system.

### **The Disjuncture between Theory and Practice**

Addressing a gathering at the University of Cape Town (UCT) in October 1997, TRC Commissioner, Mary Burton, for example, expressed the notion that “there can never be one truth [...] but many truths”.<sup>158</sup> In TRC practice, however, truth became singular: at the hearings the HRVC, witnesses recounted their memories in a space that denied the contestation of truth as no space was allocated for alleged perpetrators to counter the allegations levelled against them. In such uncontested spaces the testimonies being provided and often accompanied by performative assertions by the orator became the ‘essential truth’ of that event.

The TRC was, however, required by legislation to be a neutral arbiter for the uncovering, rather than the judging, of the past. It was to have approached apartheid and the struggle for liberation

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<sup>157</sup>Jenkins, *Re-thinking History*, p. 28.

<sup>158</sup>Mary Burton cited by Herman Gilliomee, “‘Officially sanctioned’ is perverse”, *Cape Times*, Thursday, October 9, 1997. Also see Krog, in Boraine and Levy (eds.), *Healing the Nation?*, p. 117.

as quantitatively and qualitatively equal.<sup>159</sup> Yet, as I have indicated in Chapter Two, the TRC disregarded its requirements for relativism and instead elevated one side involved in the conflicts of the past over the other, allowing people on the privileged side to become the essential bearers of the truth.

### **‘Validating’ the Truth**

The place of truth and its relation to reconciliation and the past was central to the TRC. Prior to the establishment of the TRC, it was already argued that

Unless a society exposes itself to *the* truth it can harbour no possibility of reconciliation, re-unification and trust. For a peace settlement to be solid and durable, it *must* be based on truth.<sup>160</sup>

But perhaps the most daunting reference to the truth and the Truth Commission was suggested, surprisingly, by Mary Burton, then of Black Sash. In 1994 she suggested that

[...] We need to have a commission of truth [...] It must gather in stories to reach that truth which is, in a way, already widely known and accepted. But we need to make it legitimate through that process. We need to tell and record and validate that truth. We need to acknowledge the wrongs, not only in terms of justice and hurt, but also the terrible loss.<sup>161</sup>

Two years later the TRC began to ‘validate’ the ‘already known truth’ through the movement of sources from the oral to the written, and through the ‘gathering in’ and institutionalization of this movement in the production of a commission report and the consignment of a national archive.

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<sup>159</sup>See TRC Report, Vol 1, Ch 4, pp. 64-66; Tutu, ‘Commission “must heal nation”’, *Weekend Argus*, Sunday, December 16/17, 1995.

<sup>160</sup>Roberto Canas in Boraine, Levy and Scheffer (eds.), *Dealing with the Past*, p. 54. Emphasis added. Also see Zalaquett in Boraine, Levy and Scheffer (eds.), *Dealing with the Past*, p. 13; Boraine in Boraine, Levy and Scheffer (eds.), *Dealing with the Past*, p. 153; Patricio Aylwin in Boraine and Levy (eds.), *Healing the Nation?*, p. 42

<sup>161</sup>Mary Burton in Boraine and Levy (eds.), *Healing the Nation?*, pp. 122-123. This earlier statement seems to have been contradicted by her speech at UCT three years later. See Mary Burton cited by Herman Gilliomoe, “‘Officially sanctioned’ is perverse”, *Cape Times*, Thursday,

This movement occurred primarily at two moments in the TRC. Firstly, at the moment of statement taking and, secondly, at the moment of transcribing testimonies. These two moments were governed by two different sets of practices. The moment of statement taking was just that, the instantaneous taking down or recording of witnesses' statements onto paper.<sup>162</sup> The moment of transcribing testimonies was completely different. It was not an instantaneous moment and it did not merely entail the taking down of the witnesses' statements but the recording of an interaction between the witness and the commission, in an audiovisual format that was later transcribed onto paper by a private company, acting on behalf of the TRC, and the print media. That both the audiovisual, or in the least the audio recording, and their transcripts are to be deposited in the archive is a testament of the TRC's self-referentiality. Here the audio recordings are the measure of the accuracy of its transcriptions of the print media and the commission. But the presenting of testimonies were also the public moment of what Mary Burton referred to as the 'telling' and 'acknowledging' of the truth. Thus, the audio recordings and the transcripts housed in the archive were also the measure of the accuracy, and the truth of the public history presented by the TRC.

### **The AC and the Contestation of Truth**

Variable strategies were, however, employed by the TRC to 'reach' the truth. The strategy employed at the AC hearings centred around contestation because the AC was not overtly concerned with the truth. At the AC truth was measured through the assertion that the amnesty applicant made a "full disclosure". This was facilitated in three ways. First, once the amnesty

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October 9, 1997. This was, however, symptomatic of the contradictions of the TRC itself.

<sup>162</sup>This was, however, not a neutral process. It relied heavily on the selectivity of memory, which I will discuss in the next few pages, and was influenced by the statement taker's attitude to the deponent. The TRC Report indicates that statement takers were instructed to be sympathetic to the deponents. See TRC Report, Vol 1, Ch 6, pp. 138, 140.

applicant had related his or her account of the event, the affected victim or victims were invited to contest the truths claims contained in the applicant's testimony, by being provided with space to do so before the AC. Second, two sets of legal counsel, one serving the amnesty applicant/s and the other the affected victim/s, contested the testimonies that were provided through the practice of cross-questioning. These cross-questions were at times supplemented by those from the AC members. Third, evidence led in civil trials and inquests, where such trials and/or inquests had occurred were used to contest the amnesty applicant's testimony, particularly where it deviated from the trial or inquest record. A typical example was Phineas Ndlovu's AC hearing at Johannesburg on Wednesday, April 9, 1997.

Ndlovu applied for amnesty for the killing of four members of the Masupa family of Daveyton, on the East Rand, when he and five "comrades" from the Daveyton Youth Congress burnt the Masupa's house down on July 2, 1987, allegedly after the local "people's court" found that one of its members was a police informer. Ndlovu, however, was the sole applicant in the matter as four of his accomplices had been released as political prisoners by virtue of agreements reached at Codesa and the subsequent Further Indemnity Act, while the fifth was on parole. Ndlovu, however, remained in prison due to what Brian Currin, the lawyer for the applicant, described as an 'administrative error' that resulted in the omission of Ndlovu's name on the 1992 indemnity list.<sup>163</sup> However, his accomplices were not called on to testify, instead the victims were.

Ndlovu, speaking fluent English despite having sacrificed his education to take up the struggle "at the tender age of fifteen,"<sup>164</sup> explained that the course of action he and his five accomplices embarked upon was the result of a normal, rational decision that was rooted in the (almost

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<sup>163</sup>Brian Currin, AC Hearing, Johannesburg, Wednesday April 9, 1997.

timeless) cultural traditions of the time:

We decided that it was time that we taught Hendrik [Masupa] a public lesson that, first, he cannot live with us and work for the other side [...] and, as it was the culture then, we decided to go and burn down [the place] where he laid his head, meaning his home.<sup>165</sup>

It was, thus, a “natural” solution that the comrades embarked upon in relation to the deviant problem that Hendrik Masupa posed. Particularly so in the light of Hendrik Masupa’s relation with the South African Police and the consequent invincibility and fearlessness of the comrades that Masupa allegedly boasted about.

The comrades had, however, not intended to kill anyone—that was not ‘the culture of the time’ nor was it a cultural norm of the armed struggle:

No, I have never intended to kill anyone. Our intention was to burn down the house. But however, things didn’t go as we anticipated. And as a result of our actions, people died, but never there was any agreement between us to kill anyone on that said day. It was never our intention to kill. We went there with the sole purpose of burning down the house, but as a result of that people died.<sup>166</sup>

Indeed, Ndlovu, in recounting his version of the event had earlier explained that, in the process of teaching Hendrik Masupa this ‘public lesson’:

[...] we reached [Masupa’s] place. We knocked and we were asked who are you, and we responded “comrades”. The door was opened and we then informed them of our intentions. Angry as we were, whilst I was informing them of our intentions, petrol was poured to the floor and I asked my comrade to wait so that we could evacuate people inside. But in that confusion a stick of match was lit. I extinguished it and I tried to plead with the people to go out, but seemingly their attitude had been that having known us, as we are from the very same area, they thought either we are bluffing or as they usually referred to us, because we were many of us who had been comrades, for that matter, had been referred to as “committee-tsotsis” because either at home we wouldn’t have, we didn’t have enough money to be dressed neatly like our counterparts, or they

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<sup>164</sup>Currin, AC Hearing, Johannesburg, Wednesday April 9, 1997.

<sup>165</sup>Phineas Ndlovu, *TRC Special Report*, SABC 1, Sunday April 13, 1997. Interestingly, members of the security police also make reference to the ‘culture’ of the comrades. See Jacques Hechter, AC Hearing, Pretoria, February 24, 1997.

<sup>166</sup>Ndlovu, AC Hearing, Johannesburg, *TRC Special Report*, SABC 1, Sunday April 13, 1997.

were so fortunate to have a café and a shebeen on top, so they could afford. So we were demeaned in words and we felt that this could not go on any longer. As I was talking, my comrades were angry, I was angry myself but what we wanted to do was to burn down the house, so as to indicate that anyone who should not even dare think of selling us out to the security [police]. The second stick was lit. I managed as well to extinguish that stick, and I tried to talk to the people. The stove was on, as I remember very well, it was hot. It was red in fact, on top, and I even thought that the way this had created a smell of petrol in the house, it was going to explode. So I pleaded with people to hurry up and get out. But it couldn't happen. Finally, I couldn't catch the other stick. It came in front of me and it touched the fuel. We were all inside the house and the house was in flames. The door was closed and the door lock had broken. It was not in proper shape, that one could just pull it once and open. So we fought with the door as the house was in fire. I was in flames. Apparently when the fuel was poured, [when] the comrade was pouring petrol on the floor, he had initially poured petrol in my legs. I was wearing a cotton sock so it absorbed a lot of petrol. I was in flames as well. Ultimately I managed to put my finger in and pressed it against the door, the door lock, because it had two holes, but it had broken in-between, so I managed to push it in and open whilst I was in flame. The door was opened. We all moved out. That is the last time I left the scene.<sup>167</sup>

This was, however, where part of the contention lied. Hendrik, Godfrey and Elina Masupa, in opposition to Ndlovu's application for amnesty, testified that the applicant's account was "such a fabrication of the whole event, so much so that he dampened [their] spirit".<sup>168</sup> Hendrik Masupa testified that he was never an informer nor had he ever befriended a policeman. Rather, he claimed, "the first altercation he and Ndlovu had was when Ndlovu and his 'gang' attacked customers at his grandfather's shop" where he was employed.<sup>169</sup> He argued that, it was not his ego that came between him and the comrades, rather it was Ndlovu's sense of self-importance and his ego that got the better of him. This was an important allegation in the context of Ndlovu's application for amnesty as it effectively refuted that Ndlovu's actions were politically motivated.<sup>170</sup>

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<sup>167</sup>Ndlovu, AC Hearing, Johannesburg, Wednesday, April 9, 1997.

<sup>168</sup>Elina Masupa, AC Hearing, Johannesburg, Thursday April 10, 1997.

<sup>169</sup>'Arson victims cannot forgive', *Business Day*, Thursday, April 11, 1997.

<sup>170</sup>See Promotion of National Unity and Reconciliation Act, No. 34 of 1995, Section 20 (2).

Meanwhile, Elina Masupa, Hendrik Masupa's mother and the owner of the house testified that, contrary to Ndlovu's testimony, the comrades had prevented the inhabitants' escape from the flames that consumed their home. She testified that the comrades had entered the house as she sat down to drink a cup of tea. After pouring fuel on the floor and igniting it, the comrades ran out of the house, pulling the door close behind them and keeping it shut so as to preventing the occupants' from escaping through the doorway.<sup>171</sup>

Elina Masupa's escape was then prevented for a second time. After she managed to escape and rescue Mantha, one of her children who later died of injuries sustained in the blaze, she heard her other children screaming in the bedroom, she dashed back into the inferno to go to the others' rescue. In the bedroom she attempted to flee through the window but a comrade prevented this when "he pushed the window [shut] and said: 'You dogs, *voetsek*, get back in the house and burn to death.'<sup>172</sup>

Regardless of what the truth of the matter may be, there can be little doubt that what permeates through the original perpetration of the event and the AC hearing is the question of power. The perpetration of the event in July 1987 was triggered by the struggle between two forms of power that competed to either eliminate or at least reduce the other, and by victory increase itself. It was a case of competing powers that occurred between Ndlovu and Hendrik Masupa.

Whether Masupa was a police informant who boasted of being in such a powerful position by virtue of his relation to the police that he had no reason to fear the comrades or whether he

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<sup>171</sup>Elina Masupa, AC Hearing, Johannesburg, Thursday April 10, 1997.

<sup>172</sup>Masupa, AC Hearing, Johannesburg, Thursday 10 April 1997. The Masupa's testimony did not form part of the *TRC Special Report* programme that focussed on Ndlovu's amnesty



attempted to exert the power inherent within the confines of his employment at, and his familial relation to the owner of the shop in which Ndlovu and the comrades attempted to create chaos, he had attempted to exert one or other form of power over Ndlovu. However, Ndlovu who three years earlier, at the age of fifteen, had already been elected the chairperson of the local 'people's court' used his location within the network of power that fused through the comrades' structures to assert his power over Masupa.

Ten years later, the roles had changed. In 1988, Ndlovu had been convicted by Mr Justice de Klerk on four counts of murder, four counts of attempted murder and one count of arson and had received the death sentence. This had effectively isolated Ndlovu from the network of power that had sustained his activism within the struggle against apartheid. Now, in April 1997, his previous source of power had been almost completely eroded and, in the context of the AC hearing, it was the remaining members of the Masupa family that attempted to exert their power over him.

First, they used the power conferred upon them by the TRC's 'culture' of being sensitive to the needs of victims and survivors, by the private and public outrage expressed, by those who followed the hearing and the TRC, at the trauma and pain suffered upon the victims, and, ironically, by the actions of Ndlovu and his five accomplices in 1987 to influence the outcome of Ndlovu's amnesty application.

Second, aware of the limitations of this power conferred upon them within the network of power espoused by the TRC process, and the limitations of the TRC itself, the Masupas further ridiculed the diminutive scope of Ndlovu's power through the seemingly irrational condition they

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application.

demanded before acceding to Ndlovu's passionate plea for forgiveness:

I will never forgive Mr Ndlovu. If it were possible for him to raise my dead sisters I would forgive him but I'm not in a position to forgive him now. [...]<sup>173</sup>

Third, the Masupas attempted to deny Ndlovu the honour of having played an active role in the struggle against apartheid. Godfrey Masupa, Hendrik Masupa's brother testified that Ndlovu and his five accomplices were not 'true' comrades and that the Daveyton community had not approve of their actions.

Their comradeship was of robbing people, taking cars from owners and holding up delivery trucks in the township.<sup>174</sup>

Later, Ndlovu was to tell a different story, a story of desertion and misconceptions. In an interview for *TRC Special Report*, he explained that

[...] there has been this conception that has been created in our people's minds that the war we were fighting had rules, that the war was pure – it was a war that was meant that in the end there would be no loss of life – it would be an easy war. And that concept has destroyed to a large extent the pride and heritage that people like ourselves took up arms against the regime.

I was a kid then but I could understand what was happening. I lived there. I felt it and when it happened, I was there. So, you know, I cannot raise my head high and tell you I was a comrade during this and that era. You know, today people who are benefactors of our actions are the people who are on top there and they are looking down on us as criminals, hoodlums, whatever term they want to use [...] It suits them and it suits their positions.<sup>175</sup>

He claimed the lived experience, for he was there 'when it happened'. He lived there, he lived under apartheid and experienced its oppression every day. The exiled ANC leadership did not but they have claimed the glory – they have reaped the fruits of his struggle. Now they are 'up there'

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<sup>173</sup>Godfrey Masupa, AC Hearing, Johannesburg, Thursday 10 April 1997. Elina Masupa conveyed a similar sentiments when she demanded Ndlovu "wake up the four people that died" before she could forgive him. See Elina Masupa, AC Hearing, Johannesburg, Thursday 10 April 1997.

<sup>174</sup>Masupa, AC Hearing, Johannesburg, Thursday 10 April 1997. This was later corroborated in the testimony of Hendrik Masupa.

in parliament while he is down here in prison. His status as a comrade had first been demoted to the realm of 'the lost generation' in the early 1990's and, now, to a mere criminal.

### **The Ambiguity and Certainty of the HRVC**

A similar, albeit different, process occurred at the HRVC's event hearings, such as the Trojan Horse hearing (Cape Town, May 20-22, 1997) and the Mandela United Football Club (MUFC) hearing (Johannesburg, November 24 - December 4, 1997),<sup>176</sup> although it's the *modus operandi* was slightly different. At these HRVC hearings both victims and alleged perpetrators were called upon to present their version of the event. They, however, presented their testimonies at separate moments in the hearing—the perpetrators presented their accounts of the event either during the first half of the hearing and the victims their testimonies during the latter half of the hearing, as was the case at the Trojan Horse hearing, or *vice versa*, as was the case at the MUFC hearing. This separation of the two categories of testimony permitted the HRVC to separate their treatment of victims and the perpetrators, allowing the HRVC to implement different *modus operandi* at the same hearing. Hence, the perpetrators were permitted to have their legal counsels present when they delivered their testimonies as, at that point, the hearing was characterized by adversary with the commission having its leader of evidence present to critically probe the perpetrators' testimonies. On the other hand, the committee was able to deal with the victim more sympathetically.

The HRVC's victim hearings did not follow a similar pattern. Instead, at these victim hearings

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<sup>175</sup>TRC *Special Report*, SABC 1, Sunday April 13, 1997.

<sup>176</sup>The MUFC hearing consisted of three parts: the Section 29 hearing, held in camera, on Friday, September 26 and Monday, October 13, 1997; the public hearing of November 24 to December 4, 1997; and a follow up public hearing, at which the relation between the MUFC and the Soweto Security Branch was probed, held at Johannesburg on January 28-29, 1998.

alleged perpetrators, although they were informed beforehand that the testimony to be heard implicated them as perpetrators of gross human rights violations, were not invited to oppose the truth-claims contained in the testimony of the victims or survivors who appeared before the HRVC to be classified as victims. Moreover, the TRC's Research Department and its Investigative Unit verified the witnesses' testimonies away from the public eye. The HRVC also did not make any public declarations of which witness were confirmed as victims.<sup>177</sup> Thus, the witnesses who appear publicly at these hearings were, for all intents and purpose, victims of gross human rights abuses. Indeed, when alleged perpetrators challenged this *modus operandi*, they created a suspicion, as Archbishop Tutu suggested, that they were responsible for violations that occurred in the event,<sup>178</sup> and confirmed that the testimonies alleging that they were (gross) violators of human rights were truthful.

A hearing at which the instant confirmation of the 'essential' truth occurred was the hearing into the death, by necklace killing, of Dimakatso 'Maki' Skhosana. The testimony of Skhosana's death was powerfully inscribed with meaning long before it was heard. The event itself was broadcast on national, and indeed on international television, and hence was 'already widely known'. It was also shrouded by 'multiple forms of constraint' and contestations, with the video footage of her killing being used by the apartheid state for propagandistic purposes. Yet, in a public forum that denied the contestation of truth, an 'essential truth' was presented, heard, sanctioned and imposed. The hearing took place on Tuesday, February 4, 1997, when the HRVC heard Evelina Puleng Moloko, Maki Skhosana's sister, recounted her recollection of her sister's death.

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<sup>177</sup>An incomplete list of confirmed victims was published in the TRC Report. See TRC Report, Vol 5, Ch 2, pp. 26-107. A complete list is to be published as part of an addendum to the report.

For Moloko, Skhosana's death was a process rather than an event. It did not occur at a particular moment but evolved over a period of time. It began, said Moloko, when three youths were killed in a failed hand grenade attack on a local policeman's house "next to [their] ... house".<sup>179</sup> The hand grenades were, however, booby trapped and exploded as soon as the safety pin was removed in what became known as 'Operation Zero Zero'.<sup>180</sup> "After [that] incident [...] there were rumours around the location and it seemed it was common knowledge that Maki [Skhosana] had a hand in the killing of those youths".<sup>181</sup> Moloko, however, asserted that the 'common knowledge' was incorrect and that she and Maki Skhosana "knew the truth", adding that "whatever [the comrades] said [Skhosana] had done, she had not done, she was innocent". She, furthermore, added that Skhosana "was a comrade, she was politically active" and even attended the funeral of the three youths.<sup>182</sup>

Duduza was plunged in turmoil the following week and four youths were killed in the unrest that ensued. The four youths were buried on Saturday, July 20, 1985 and again Maki Skhosana attended the funeral and followed the procession to the grave site. Evelina Moloko had decided not to attend the funeral. She was later told that her sister had been killed at the graveyard.

After recounting the tension around Maki Skhosana's funeral, she concluded her testimony by

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<sup>178</sup>'Message from the Chairperson', TRC Interim Report, June 1996.

<sup>179</sup>See TRC Report, Vol 2, Ch 3, pp. 259-261; TRC Report, Vol 3, Ch 6, pp. 667-668; Jack Cronjé and Philip Lukhele, AC Hearing, Pretoria, February 24 - March 7, 1997.

<sup>180</sup>The three youths that died 'next to Skhosana's house' were one part of a larger group that had launched a synchronized attack on different targets, of whom eight were killed and seven injured. For more information on 'Operation Zero Zero', see TRC Report, Vol 2, Ch 3, pp. 258-261; TRC Report, Vol 3, Ch 6, pp. 629-631.

<sup>181</sup>Evelina Moloko, HRVC Hearing, Duduza, Tuesday, February 4, 1997.

<sup>182</sup>Moloko, HRVC Hearing, Duduza, Tuesday, February 4, 1997.

asserting that

We knew that Maki was an innocent victim and today it has come to the surface. [Joe] Mamasela has also spoken that he was involved in giving the youths hand grenades. Now it has surfaced that Maki also took part and she was also politically active. I also spoke to some of the survivors of the hand grenade and they told me that they never, ever had Maki in their meetings and Maki did not know of their plans on that particular day. There was absolutely nothing that she knew and they were also surprised as to why Maki was killed.<sup>183</sup>

Evelina Moloko “relived” the memories of her sister’s death with emotion and an extensive reference to other sources of information about her sister’s death that she was able to reverse the power struggle inscribed on the sexuality of Maki Skhosana that underscored her killing. In the end Moloko became the all powerful truth-sayer, inspiring Tom Manthata, who was HRVC Chairperson at that hearing,<sup>184</sup> to condemn the necklacing “as a national shame”,<sup>185</sup> and to conclude that the necklace killing of

Maki [Skhosana] vitiated all the noble efforts of the liberation struggles. [...] Maki and the family have emerged, after all these disclosures, as heroes. I would say this hearing and this hall have witnessed, who have witnessed this testimony are witnesses of how noble Maki was and I will, without shame, request this house to stand and observe a moment of silence.<sup>186</sup>

In his report on the hearing the following Sunday, Max du Preez was to follow suit when introducing the section of the *TRC Special Report* dealing with Evelina Moloko’s testimony by stating that

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<sup>183</sup>Moloko, HRVC Hearing, Duduza, Tuesday, February 4, 1997.

<sup>184</sup>Tom Manthata was in fact a Reparation and Rehabilitation Committee (R&RC) member. See TRC Report, Vol 3, Ch 10, p. 286 and ‘Still no truth on first necklacing’, *Sunday Times*, Sunday, January 19, 1997. *Business Day*, however, describes him as a “Human Rights Commissioner”. See ‘Cape policeman to appear a second time before truth body’, *Business Day*, Wednesday, February 5, 1997.

<sup>185</sup>Manthata cited in ‘Cape policeman to appear a second time’, *Business Day*, Wednesday, February 5, 1997.

<sup>186</sup>Manthata, HRVC Hearing, Duduza, Tuesday 4 February 1997. Also see ‘Cape policeman to appear a second time before truth body’, *Business Day*, Wednesday, February 5, 1997.

Maki Skhosana was *wrongfully* identified as a police informer in July 1985. Her gruesome death at the hands of a frenzied mob had a profound effect on the national psyche as it was the first necklacing seen on national television. [...]<sup>187</sup>

This, however, was not merely a reaction to the hearing. Even before Moloko began to recount her version of the event, the story that she was about to tell and its reception by the audience was framed sympathetically. HRVC member Russell Ally did this when he welcomed Moloko and introduced her testimony as “particularly painful and also very gruesome”.<sup>188</sup>

At the HRVC’s victim hearing in Duduza the testimony provided by Evelina Moloko became *the* ‘essential truth’ as no contestation of the truth was permitted. Instead Moloko was allowed to speak not only for her deceased sister but also with her sister’s voice. She was permitted to cite other sources of ‘common knowledge’, particularly the various untested public statements made by Joe Mamasela, an *askari* that was directly involved in Operation Zero Zero. She was also permitted to speak for the survivors of Operation Zero Zero and claim that Maki Skhosana had never attended any of their meetings and thus could not have known of their plans. She thus could not have been involved in the death of the youths.<sup>189</sup>

The status of a national hero that had been bestowed upon Skhosana and her family by Manthata became a public bestowal as the audience, having borne witness to Moloko’s testimony, contributed to the process of elevating the social significance of the life and death of Maki Skhosana. In a forum where sympathy was enticed for the victim, the audience could do on other than to perform the acceptance of Moloko’s truth. On being called on “to stand and observe a

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<sup>187</sup>Max du Preez, *TRC Special Report*, SABC 1, Sunday 9 February 1997. Emphasis added.

<sup>188</sup>Russell Ally, HRVC Hearing, Duduza, Tuesday, February 4, 1997.

<sup>189</sup>The TRC Report indicates that the survivors of Operation Zero Zero “still seem divided as to

moment of silence” in Skhosana’s honour, they were coerced into participating in the process of making Skhosana a national hero and indicated that Maki Skhosana was indeed a victim of the conflicts of the past.

Maki Skhosana was, however, no ordinary victim. She belonged to a category of victims that the TRC had already identified, after its first round of public hearings, as a group of people who required a greater degree of exposure before the ‘nation’ and needed to be seen as victims themselves rather than as ‘secondary witnesses’—as people appearing within the TRC’s public space to testify about the victimization of other family members.<sup>190</sup> The TRC’s haste in declaring Evelina Moloko’s testimony as ‘the truth’, honouring the memory of Maki Skhosana with ‘a moment of silence’ and elevating Maki Skhosana and her family to the status of national heroes thus appears to have been an attempt on the part of the TRC to convey upon the testimony-of-a-female-victim a greater significance within the national public sphere.

Perhaps this reaction is a natural tendency, as Diana Taylor suggests, for human beings to identify and sympathize with the victim rather than with the perpetrator. Identifying with the latter, Taylor purports, would be to identify with, and concede to the existence of an inner dark subconscious side of the human psyche.<sup>191</sup> Certainly, in the case of a macabre brutalization, as in the killing of Maki Skhosana, identifying with the perpetrator is near impossible for the public, particularly when the perpetrator’s account of the event is silenced at the hearing, and the witness’ account is delivered unchallenged. Indeed, in lure of the representation of the apartheid

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whether Skhosana had in fact betrayed them”. See TRC Report, Vol 3, Ch 6, p. 668.

<sup>190</sup>See TRC Interim Report, June 1996 and Joyce Seroke, on *TRC Special Report*, SABC 1, Sunday 8 September 1997. Joyce Seroke was a HRVC member attached to the TRC’s Johannesburg office. See TRC Report, Vol 1, Ch. 10, p. 278.

<sup>191</sup>Diana Taylor, *Disappearing Acts: Spectacles of Gender and Nationalism in*



state in the discourse of the TRC, particularly for the previously oppressed people of South Africa, it is nigh high impossible for the audience to identify with the perpetrator's version of events, and with the multiple perpetuation of apartheid. So impossible that a few perpetrators, like Security Policeman, Captain Jacques Hechter, attempted to present themselves as victims as well, suffering from post-traumatic-stress<sup>192</sup> and even commercial companies, most of who benefited from the various racial socio-economic policies of the apartheid state, claimed to have resisted apartheid.<sup>193</sup>

The commission's identification with Maki Skhosana is particularly relevant as the committee member who urged the audience into honouring Maki Skhosana and her sister, Tom Manthata, serves on the TRC's Reparation and Rehabilitation Committee (R&RC). One of the R&RC's tasks, as indicated in the TRC Report, was to provide psycho-social support for the witnesses before, during, and after the hearings.<sup>194</sup> For R&RC members, after eight months of HRVC hearings and supporting of witnesses, empathy for the victims had become much more crucial than any concerns for the evidentiary value of their testimonies. The veracity of the testimony, the truth claims contained in it and its impact on public memory were, thus, of no concern to Tom Manthata.

Potentially, the HRVC's event hearings were a space for the contestation of truths, yet at the

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*Argentina's "Dirty War"*, Duke University Press, Durham and London, 1997, p. 130.

<sup>192</sup>See 'Post-traumatic stress disorder - SA's malaise', *Weekend Argus*, Sunday, February 1/2, 1997; 'killer cop struck with "amnesia"', *Cape Times*, Wednesday, March 12, 1997 and 'Trauma, disorder in Vlakplaas men', *Cape Times*, Friday, March 14, 1997.

<sup>193</sup>See Sam Shilowa cited in "'Lying through their teeth'", *Cape Times*, Friday, November 14, 1997. Also see Editorial, *City Press*, Sunday, November 16, 1997; 'Now even acceptability is a commodity', *Weekend Argus*, Sunday, November 15/16, 1997; Jon Qwelane, 'Big business grew fat on apartheid - denial beggars belief', *Weekend Argus*, Saturday, November 15/16 1997.

<sup>194</sup>TRC Report, Vol. 1, Ch. 10, pp. 289-291.

event hearing into the activities of the Mandela United Football Club (MUFC), the most public of TRC committee hearings, which were televised live throughout South Africa and across the world, contested truths were brushed aside and ‘essential truths’ were imposed. Indeed, not even the testimony of Albertina Sisulu, “one of the most revered names in the liberation struggle”,<sup>195</sup> went unchallenged when it deviated from the ‘evidence’ she provided for the British Broadcasting Corporation (BBC) documentary programme: *Inside Story*.<sup>196</sup> In the BBC programme she is shown acknowledging her handwriting followed by an image of a medical record card which was dated December 30, 1988. This bit of ‘evidence’ disproved Winnie Madikizela-Mandela’s alibi in which she claimed to have been at Brantford, in the Orange Free State, and not in Soweto at the time of Stompi Sepei’s murder. At the MUFC hearing, however, she claimed that it was not her handwriting the medical record card. This contradiction was dismissed by Dumisa Ntsebeza who, acknowledging Albertina Sisulu’s “struggle credentials”, stated that, taking the BBC documentary and the testimony that she presented “under oath” at the hearing into account, his “initial impression” was that Sisulu was trying her “very best to say as little as possible” so as not to “implicate” Madikizela-Mandela.<sup>197</sup> When Sisulu was recalled to ‘clear up’ the confusion at the end of the hearing, she indicated that she had erred while giving the interview for the documentary and that her ‘revised’ position was correct.

### **The Instability of Memory**

Sisulu’s memory was crucial in discrediting Madikizela-Mandela’s alibi for the medical record

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<sup>195</sup>Albertina questioned about “shielding your comrade”, *Cape Argus*, Tuesday, December 2, 1997.

<sup>196</sup>*Inside Story*, written and narrated by Fred Bridgland, directed and produced by Michael Claxton, BBC broadcast in South Africa in *TRC Special Report*, SABC 1, Tuesday, September 9, 1997.

<sup>197</sup>Dumisa Ntsebeza, HRVC Event Hearing, Johannesburg, Monday December 1, 1997. Also see ‘Albertina questioned about “shielding your comrade”’, *Cape Argus*, Tuesday

card did not mention Madikizela-Mandela's name. It was Sisulu's memory that Madikizela-Mandela had visited Dr Asvat's surgery with a patient while Sisulu was the receptionist that was of importance. Memory is, however, as Raphael Samuel has illustrated, unstable. It is "inherently revisionist" and is "never more chameleon like when it appears to stay the same".<sup>198</sup> This is particularly the case with personal memories that underlie the individual's sense of self and the individual's social identity. This form of memory, which Endel Tulving defines as 'episodic' memory,<sup>199</sup> exists in a dialectic relation with social identity. It shapes social identity and is constantly shaped by social identity.<sup>200</sup> It is unstable largely because of this constantly fluctuating dialectical relationship. This instability can, however, be overcome through its textualization in written form.<sup>201</sup> Furthermore, its validity can only be assessed intertextually, through reference to other testimonies and to written documents. However, when this intertextual referentiality is lacking, memory is often treated with scepticism. Thus, when Bokvela Phulula recollected an experience in 1963 when he was allegedly tortured by police in Cape Town after being arrested for being in the urban area without a pass, his testimony drew some scepticism. At the end of his hearing, the HRVC chairperson was to raise this scepticism when he said that the commission

[...] hope[s] that you have taken your oath seriously, when you were giving your statement here. We hope that what you are telling us today is the truth. Like we have said before, we are going to investigate. We have said even the same thing to the others before you. But we are going to try and we are going to try by all means, but it is going

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December 2, 1997.

<sup>198</sup>Samuel, *Theatres of Memory*, p. x. Also see Raphael Samuel and Paul Thompson, 'Introduction', Raphael Samuel and Paul Thompson, *The Myths We Live By*, Routledge, London and New York, 1990, p. 7; Fentress and Wickham, *Social Memory*, p. 15.

<sup>199</sup>Endel Tulving divides memories into two 'memory systems' – a 'semantic memory system,' which is responsible for knowledge of things and events that are not part of the individual's field of experiences, and an 'episodic memory system' which underlies the individual's sense of self and their identity by organising memories of personal experiences. Endel Tulving cited in *ibid.*, p. 20.

<sup>200</sup>See, for example, Jacques le Goff, *History and Memory* (trans. by Steven Rendall and Elizabeth Claman), Columbia University Press, New York, 1992, pp. 3-4; and Fentress and Wickham, *Social Memory*, p. 7.

<sup>201</sup>Fentress and Wickham, *Social Memory*, p. 9.

to be very difficult when everybody who can bear evidence of what you are telling us, is now all dead.<sup>202</sup>

This alludes to the TRC acknowledging that individual memory is not an accurate reflection of reality and therefore cannot be used as a basis for truth. Yet, it displayed individual memory as truth upon which a collective memory could be based.

### Collecting Individual Memories

At a conference focussing on the possible establishment of a South African TRC, Boraine reiterated the idea that individual memory could form the basis of a collective memory, which in turn could forge social cohesion. He thus reiterated Zalaquett's theoretical link between identity, social memory and the truth, and seemed to allude to a future lack of relativism in the TRC's approach to 'the' truth. Clearly the need to shape 'a common memory that could be acknowledged' by all South Africans necessitated an ethical choice of which perspective on the past was to become the basis of collective memory.

Boraine's sentiments were supplemented by Antjie Krog's affirmation that personal "memories should be made widely available [for all South Africans] so that the memory of a country can be acknowledged" by the entire nation.<sup>203</sup> For Krog, both '*the* memory' and *the* nation were imagined numerically as singular, and belonging to '*a* country'. Statements like these implied the collapsing of the contradicting and conflicting identities that separated victims and survivors from bystanders and perpetrators, and that was to lead to the notion that

[...] every South African has to some extent or other been traumatized. We are a wounded people because of the conflicts of the past, no matter on which side we stood. We all stand in need of healing [...]<sup>204</sup>

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<sup>202</sup>Tutu, HRVC Hearing, Umtata, Wednesday, June 19, 1996.

<sup>203</sup>Krog in Boraine and Levy (eds.), *The Healing of a Nation?*, p. 118.

<sup>204</sup>Tutu quoted in 'Commission "must heal nation"', *Weekend Argus*, Sunday, December

By 1994 thus, some of the interlocutors engaged in the discursive formation of the TRC appeared to confirm James Fentress and Chris Wickham's assertion that collective memory "identifies a group, giving it a sense of its past and defining its aspirations for the future".<sup>205</sup>

The victim's memories of their experiences of pain and trauma that were recounted at the TRC's HRVC hearings, and the 'essential' truths that they gave rise to, were made available to the public in order for them to be assimilated by the nation and for them to form a nascent collective, national memory. The shift from personal memory to a collective memory is a complex set of processes that required a number of conditions. In this regard Fentress and Wickham indicate, the collectivization of personal memories are dependent upon the individual's ability to transmit his or her memory in a form that could easily be consumed by a collective group. This, they argue, requires that the "memory [...] first be articulated".<sup>206</sup> As Maurice Halbwachs suggests, the articulation of memory occurs through "frameworks" that individuals employ in order "to retain and retrieve their recollections".<sup>207</sup>

One of these frameworks is narrativization through language as a communicative medium.<sup>208</sup> However, language limits possible interpretations of the testimonies based on recollections through the interplay of referents and signifiers, and mediates the experience being remembered.

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16/17, 1995.

<sup>205</sup>Fentress and Wickham, *Social Memory*, pp. 25-26.

<sup>206</sup>Fentress and Wickham, *Social Memory*, pp.47-48.

<sup>207</sup>Maurice Halbwachs, *On Collective Memory*, Ed. and Trans. by Lewis A Coser, Chicago and London: The University of Chicago Press, 1992, p. 43. Also see Connerton, *How Societies Remember*, p. 27.

<sup>208</sup>See Fentress and Wickham, *Social Memory*, pp. 28, 73-74. Fentress and Wickham indicate that this is achieved through ritualization as well, but that a "premium" is still placed on language through the need for articulation. Also see *ibid*, p. 47.

It “constitutes and articulates experience” and memory, “rather than reflecting or expressing it”<sup>209</sup> in narratives that Desmond Tutu referred to as “stories”.<sup>210</sup> However, narrativization does “more than represent particular events” being remembered.<sup>211</sup> They connect the individual’s understanding and memory of the event with other personal experiences, with the individual’s perceptions of the situation in which the event occurred, and with other similar events that the individual may have been exposed to and may have internalized. The event thus became a nexus in a network of social experiences and meanings. Narrativized memories are also generalizations much in the same way that written narratives are, and reduce the spatial dimension of the experience to a linear temporal sequence. Unlike written narratives, however, narrativized memories are not stable, as the social network of meaning in which they are located is in a continuous state of flux. They are thus constantly open to mediation, alteration and distortion. Hence, as John Gillis indicates,

[...] memories [...] are not fixed things but representations or constructions of reality, subjective rather than objective phenomena. [...] we are constantly revising our memories to suit our current identities. Memories help us make sense of the world we live in; and ‘memory work’ is, like any other kind of physical or mental labour, embedded in complex class, gender and power relations that determine what is remembered (or forgotten), by whom, and for what end.<sup>212</sup>

Despite this instability, the articulation of memory in the narrative form remains crucial to the creation of a collective memory: only once these memories become part of the individual’s

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<sup>209</sup>Ferdinand de Saussure cited in David Harlan, ‘Intellectual History and the Return of Literature’, *American Historical Review*, 94(3), June 1989, p. 581.

<sup>210</sup>See, for example, Tutu, Opening Address, HRVC Hearing, East London, SABC 2, Monday, 15 April 1996.

<sup>211</sup>Fentress and Wickham, *Social Memory*, p. 51. Also see *ibid*, pp. 32,88 and Mary Warnock, *Memory*, London and Boston: Faber and Faber, 1987, pp. 30-31.

<sup>212</sup>John R Gillis, ‘Memory and Identity: The History of a Relationship’, Gillis (ed.) *Commemorations: the Politics of National Identity*, Princeton University Press, Princeton, NJ, 1994, p.3. Also see John Bodnar, ‘Public Memory in an American City: Commemoration in Cleveland’, *ibid*, p. 76; Schudson, ‘Dynamics of Distortion in Collective Memory’, p. 351 and

personal understanding and interpretation of the world, however inaccurate and unstable they may be, can they be shared with others.<sup>213</sup> The units of collective memory are, thus, personal memories that have been made available for collectivization in social spaces and through articulation in narrative stories. In the TRC this is achieved through the exhibition and recalling of personal memories at the hearings of the HRVC and the AC.

However, as Fentress and Wickham indicate, collective memory is also not a natural, innocent phenomenon. It is

[...] an expression of collective experience: social memory identifies a group, giving it a sense of its past and defining its aspirations for the future. In doing so social memory often makes factual claims about past events. Sometimes we are able to check these factual claims against documentary sources; sometimes we cannot. [...] Social memory is [thus] a source of knowledge. [...]<sup>214</sup>

Indeed, as Iwona Irwin-Zarecka indicates,

[...] collective memory [...] is [...] not [...] a collection of individual memories or some magically constructed reservoir of ideas, but rather [...] a socially articulated and maintained 'reality of the past' [...]<sup>215</sup>

Michael Schudson, however, argues that no memory can be described as individual memory. In sociological terms, he explains that

[...] Memory [...] is social, first of all, because it is located in institutions rather than in individual minds in the form of rules, laws, standardized procedures, and records, a whole set of cultural practices through which people recognize a debt to the past or through which they express moral continuity with the past. These cultural forms store and transmit information that individuals make use of without themselves 'memorizing' it. The individual's capacity to make use of the past piggybacks on the social and cultural practices of memory. [...]

Second, memory is sometimes located in collectively created monuments and markers: books, holidays, statues, souvenirs [...] these are *dedicated* memory forms,

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Fentress and Wickham, *Social Memory*, pp.15,32.

<sup>213</sup>Fentress and Wickham, *Social Memory*, pp. 47-48,201.

<sup>214</sup>Fentress and Wickham, *Social Memory*, pp. 25-26. Also see Iwona Irwin-Zarecka, *Frames of Remembrance: The Dynamics of Collective Memory*, Transaction Publishers, New Brunswick and London, 1994, p. 67.

<sup>215</sup>Irwin-Zarecka, *Frames of Remembrance*, p. 54.

cultural artefacts explicitly and self-consciously designed to preserve memories and ordinarily intended to have general pedagogical influence. [...]

Third, where memory can be located in individual minds, it may characterize groups of individuals – generations or occupational groups. In these cases memory is an individual property but so widely shared as to be accurately termed social or collective.

Fourth, even where memories are located idiosyncratically in individual minds, they remain social and cultural in that they operate through the supra-individual cultural construction of language; they generally come into play in response to social stimulation, rehearsal, or social cues—the acts of remembering is itself interactive, prompted by cultural artefacts and social cues, employed for social purposes, and even enacted by cooperative activity; and there are socially structured patterns of recall. [...]<sup>216</sup>

### **The Reality of *Hypomnēma***

The first condition Schudson lists in describing all memory as social, i.e. that memory is stored in ‘cultural forms’, is crucial to the thinking behind the TRC as it was to produce two such cultural forms, one, in the shape of a report and, the other, in the form of an archive.<sup>217</sup> Both the report and the archive were crucial in the cyclic shift from *mnēmē* and *anamnesis* to *hypomnēma* and from individual to collective memory. In order for *mnēmē* to take on the material form of *hypomnēma* and for it to be gathered by the TRC, it needed to be articulated. Once articulated it could be expressed, it could be gathered for sharing, becoming collective memory, and documents for the archive. But once it has material form and is accessible in the archive, it becomes a fixed source of evidence for the sustenance of collective memory.<sup>218</sup>

However, the archive does not only serve as a repository of documented memories but also as the repository of the supporting evidence that the TRC utilized in the construction of its version of the past. Indeed, the TRC Report is littered not only with references to its public hearings and the

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<sup>216</sup>Schudson, ‘Dynamics of Distortion in Collective Memory’, pp. 346-347. Emphasis in original.

<sup>217</sup>In a sense, the TRC Report is also an archive for like the archive, it is a source of evidence of the past, in the form of memory, that exists in the form of *hypomnēma*.

<sup>218</sup>Indeed, Archbishop Tutu indicated as much when he described the consignment of the archive as “the greatest legacy of the Commission” for the research of South Africa’s past. See ‘Chairman’s



submissions made unto it but also to the indexical codes of those hearings and submissions. In this regard, what Roland Barthes refers to as the “referential illusion”<sup>219</sup> is manifest in the archive, or more precisely, in the consignment of the archive for the consignment of the archive denied its practice and obliterated traces of consigner. Through this obliteration, the past consigned to the archive merely becomes uncovered rather than interpreted. The past in the archive thus “tells itself” independent of the TRC. This ‘reality effect’ is reinforced by the TRC’s claims of objectivity and impartiality.<sup>220</sup>

The denial of authorship, and indeed the TRC Report is characterized by its lack of acknowledgement of authorship, simultaneously denies the process and production of the archive and implies that the reality of the memories consigned to the archive. These memories thus take on, what Barthes described as, the “reality effect”.<sup>221</sup> By denying the production of the archive, and the related production of history, the effect is created that the narrative of the archive, and the interpretation of the past, are reflections of the past. The archive and history thus become real, as does the truth claims that are purported through the consignment of the archive and production of history.

Thus, through this circular movement from the truth of memory; to the truth of collective

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Forward’, TRC Report, Vol 1, Ch 1, pp. 1-2.

<sup>219</sup>Roland Barthes, ‘The Discourse of History’, in *The Rustle of Language*, Basil Blackwell, Oxford, 1986, p. 132.

<sup>220</sup>See Barthes, ‘The Discourse of History’, p. 131. The TRC’s objectivity is stressed in the TRC Report and is bolstered by its allusions to impartiality. See TRC Report, Vol 1, Ch 4, pp. 64-66. Also see Ponura, 11; Tutu, ‘Commission “must heal nation”’, *Weekend Argus*, Sunday, December 16/17, 1995; ‘Boraine pledges equal treatment of victims’, *Cape Times*, Wednesday, February 7, 1996; Burton in Boraine and Levy (eds.), *Dealing with the Past*, p. 123. This allusion is, however, as I have argued in Chapter Two, an illusion.

<sup>221</sup>Barthes, ‘The Discourse of History’, p. 139. Also see White, ‘Interpretation in History’, p. 65.

memory; to the consignment of the archive and the production of history; and back around from the 'reality effect' of the archive and history; to the reality of individual memory created the impression that when one element in the system was stable and factual, the rest of the system was also stable and factual. This movement denies, at every turn, the instability of memory while it simultaneously reinforces the impression that each element in this cyclic system has its own 'essential' truth. In so doing, it denied the instability of individual memory and the incompleteness and subjective nature of the *hypomnēma*.

## CHAPTER FOUR

### **Subject Position, Shared Experience and the Evidence of Narrative**

The public was invited, not only to participate in the official process of imagining the nation, but also to share in the memory of the past that was presented to it at the TRC's HRVC hearings. At these hearings, witnesses bore testimony to the past from the subjective positions of witnesses that had suffered gross human rights violations. Here the truth of the victim's experiences became the truth of the collective memory that was forged at the TRC.

In this chapter I argue that this conception and use of evidence created both a referential illusion and an illusion of reality. These illusions were created to disprove existing perceptions of what actually happened during the last three and a half decades of apartheid rule. I argue further, that this refutation occurred through a ritual transfer of power from the Afrikaner to the African, a transfer that was necessitated by the ethical choice of narrative that became the new history of South Africa. This transfer of power was displayed through the shift of subject position from Afrikaner to African and occurred at the TRC's HRVC hearings. This shift was accompanied by the rhetoric of "giving voice to the voiceless". In the following pages, I argue that a schism existed in the TRC theory and practice of 'giving voice'. While the TRC purported to make silence impossible by conferring upon all South Africans the opportunity of assuming subject positions within the new history, it selected those subjects that could hold the national interest, those subjects with a story deemed worthy of hearing. These selected subjects were brought to speak for themselves and, metonymically, for the rest of South Africa. Furthermore, while these subjects were free to speak, what they were allowed to speak about was shaped by the unequal interaction between the witness and the commissioners, who "led" the witness through 'their

stories” and subjugated their stories to the national narrative that the TRC empowered. In so doing, the TRC, by design, fell foul of what Dipesh Chakrabarty described as “the deep collusion between ‘history’ and the modernizing narrative(s) of citizenship, bourgeois public and private, and the nation state”.<sup>222</sup> Finally, as I have argued in Chapter Three, “lived” experience, as an indisputable source of evidence is fatally flawed because of its reliance on memory.

### **Experience and the Transfer of Subject Position**

In his book, *The Politics of Official Discourse*, Adam Ashforth, argues that governmental “commissions into the ‘native’ question” were ritual spaces within which the transfer of the power of people to assume subject positions in official discourse was performed.<sup>223</sup> In the transition from apartheid to democracy and national unity in South Africa, this ritual was performed by the TRC, at its HRVC victim hearings. Through this process, subject position was transferred from the Afrikaner to the African. It ultimately performed the shift of political power from white to black through its legitimacy and power to identify speaking subjects, allowing those subjects to be heard by the nation and differentiating them, setting them apart, from the rest of the nation as those subjects that had knowledge of the past.

They were the victims of gross human rights violations and as witnesses, their memories and experiences of pain and trauma became the evidentiary basis, and the primary sources, of the TRC’s narrative of the past. Here the notion of witnessing was bound up with the sense of seeing.<sup>224</sup> Through the recollection of experiences witnessed first hand, vision became the

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<sup>222</sup>See Dipesh Chakrabarty, ‘Postcoloniality and the Artifice of History: Who Speaks for “Indian” Pasts?’, *Representations*, 37, Winter 1992, p. 19.

<sup>223</sup>See Ashforth, *The Politics of Official Discourse*.

<sup>224</sup>This, Donna Haraway suggests, is itself problematic as the eye does not merely see reality for what it is but sees what it has been taught to see, for what we see does not cohere to a

indisputable source of knowledge, but a source of knowledge that is dependent on its very pastness, on the event having already taken place in order to have been experienced and, hence, on the memory of the experience.<sup>225</sup> At the TRC vision came to be, as Joan Scott has argued elsewhere, a privileged form of knowledge at whose service writing is placed to communicate that experience to a wider audience.<sup>226</sup> Hence, “seeing is the origin of knowing”, not writing nor narrative. The latter thus become natural, reproductive and non-mediated recordings of vision, and functions merely as a vehicle for the “transmission ... of knowledge gained through experience”.<sup>227</sup> Experience as the ‘sign’ and the narrative, which refer to these signs thus become one. In other words, if the experience reflects reality, the narrative based on “real” experience itself becomes real.

This is all the more so when, as was the case at the TRC, the memories that were narrated dealt with physical and emotional trauma. It appears that the process of recollecting these memories hinged upon a notion that the orator had experienced something extraordinary, something that human beings should not ordinarily have experienced. A consequence of this traumatising experience is the ability of the victim to retain his or her memory of the traumatising event. As Michael Schudson purports:

One powerful counter to the usual diminishing intensity of memory with the passage of time lies in trauma and various manifestations of post-traumatic stress disorder. ‘The traumatized person’, writes Cathy Caruth, ‘... carries an impossible history with them

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fixed signified but slips from one individual to another and from one society to another. Hence different people see, or rather, perceive reality differently. See Donna Haraway, ‘Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective’, *Feminist Studies* 14, Fall 1988, p. 583.

<sup>225</sup>Michael Pickering, *History, Experience and Cultural Studies*, MacMillan Press, London, 1997, p.106.

<sup>226</sup>See Joan W Scott, ‘The Evidence of Experience’, in James Chandler, Arnold I Davidson and Harry Harootunian (eds.), *Questions of Evidence: Proof Practice and Persuasion Across the Disciplines*, University of Chicago Press, Chicago, 1994, pp.365-366.

<sup>227</sup>Scott, ‘The Evidence of Experience’, p. 366.

that they cannot entirely possess'. With trauma [...] there may be intrusive recollections of the traumatic event later in life, or recurrent dreams of it, or the sudden acting by the person as if the event were recurring, or more generalized responses to new phenomena with the frightful image of the past experience blotting out normal perceptions of the new. Traumatic bodily experiences may have a more special capacity to renew itself in memory without emotional or psychological distancing.<sup>228</sup>

This appears to be an exoneration of Michael Dingake's impression and retelling of his experiences during the struggle:

[...] The common characteristic of torture whether physical or psychological is that it is painful to every sensitive victim. The psychological is more painful for, having to do with human dignity, it lingers in memory long after the physical pain has gone and as long as it has not found equitable redress.<sup>229</sup>

### **'Lived' Experience and the 'Referential Illusion'**

Experience as evidence also functions to reinforce the conventions of historical production. As Scott argues, the evidence of experience reinforces evidence's utility in disproving prevailing perceptions of the past for it amplifies the "referential notion of evidence which denies that it is anything but a reflection of the real". Indeed, the notion of "real" experiences that have been 'lived' through implies that nothing "could be truer ... than the subject's own account of what he or she has lived through".<sup>230</sup>

This perception of experience as "lived", forms the factual basis for new histories. It disproves existing histories by proving another history. In this sense, evidence and fact become proof through its use in narrative. Experience thus becomes evidence through its use to support

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<sup>228</sup>Schudson, 'Dynamics of Distortion in Collective Memory', p. 351. This is in contrast to the notion of the inability of assimilating traumatic experiences into consciousness purported by psychoanalysts discussed in Chapters One and Two.

<sup>229</sup>Michael Dingake, *My Fight Against Apartheid*, Kliptown Books, London, 1987, p.203.

<sup>230</sup>Scott, 'The Evidence of Experience', pp. 366-367. Also see Dominick LaCapra, *History and Criticism*, Cornell University Press, Ithaca, N.Y. and London, 1985, pp. 36-44.

arguments and propositions contained in a narrative of the past.<sup>231</sup> However, the structuring of narratives of the past occurs at the moment of writing, at the present time of the author of the narrative.

In this case, the author was the TRC and the present was the transition from apartheid to democracy and national unity. The moment of writing undoubtedly shaped the memories of the past that were recounted at the HRVC hearings. These memories thus spoke largely of people who had suffered gross human rights violations that left both physical and emotional scars that have, in the discourse of reconciliation and in the enunciations of the TRC, become symptomatic of the scars of the nation that the commission was then charged with healing. This healing, thus, was not to occur on an individual level but on a national level, with the individual requirements for healing being metonyms for the requirements of nation healing.

In this discourse, speaking from his position as Chairperson of the TRC, Archbishop Desmond Tutu thus proclaimed that:

[...] We [the TRC commissioners] are meant to be a part of the process of the healing of our nation, of our people, all of us, since every South African has to some extent or other been traumatized. We are a wounded people because of the conflicts of the past, no matter on which side we stood. We are all in need of healing. [...]<sup>232</sup>

The pain that the witnesses who spoke before the commission represented was thus not merely their own but symbolized the nation's pain.

These witnesses were, furthermore, represented as "voiceless" by the commission, and the

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<sup>231</sup>See Scott, 'The Evidence of Experience', p. 366. Also see Pickering, *History, experience and Cultural Studies*, p. 102.

<sup>232</sup>Tutu quoted in "Commission "must heal nation"", *Weekend Argus*, Sunday, December 16/17, 1997.

commission as a space for “giving voice to the voiceless”.<sup>233</sup> By this, the TRC implied that the history that it was ‘uncovering’ was not only ‘real’ and that the TRC was required only to lay it bare, but that it was also a hidden reality, a reality that had until then been obscured through misconceived perceptions of the past and that all the TRC was required was, again, to lay it bare.

Here a double “unearthing” was at play as the TRC not only unearthed a new history but also a hidden reality. The notion of ‘giving’, rather than permitting, ‘voice to the voiceless’ was central to the uncovering of a hidden history but it was a double betrayal of the TRC’s functions of gathering and archiving evidence, and its claims of neutral objectivity in gathering that evidence. The one is indicated by the idea of “giving” voice, the other by the notion of hearing the “voiceless”.

### **The ‘Voiceless’ and the ‘New’ History**

For Alex Boraine, the Deputy Chairperson of the TRC and the HRVC, the condition of the ‘voiceless’ was measured, not merely in terms of the inability to speak, but in terms of the inability to speak to and be heard by the state. Indeed, the TRC represented a ‘safe space’ for making available the memories of a category of people that had been described and regarded as voiceless and creating a ‘collective memory’ and a national past of what the TRC represented as the ordinary victims of human rights violations. Archbishop Tutu was to categorize them as “those who have never received any attention from the authorities or the media”.<sup>234</sup> The process

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<sup>233</sup>By, for example, the deputy director of the Centre for the Study of Violence and Reconciliation, Graeme Simpson. See Simpson quoted in ‘Providing a voice for the voiceless of South Africa’, *Weekend Argus* Sunday, December 16/17, 1995. Also see Odendaal, ‘The Weight of History: Dealing with the Past in South Africa’, Paper, *Justice in Transition: Truth and Reconciliation in South Africa*, Cape Town, 29-30 July 1995, p. 5; and Krog in Boraine and Levy (eds.) *The Healing of a Nation?*, p. 118.

<sup>234</sup>Tutu cited in Antjie Krog, *Country of My Skull*, Random House, 1998, pp. 22-23.



of 'giving voice to the voiceless' was aptly stated by Alex Boraine when, in his introduction to the HRVC hearing into the disappearance of Siphiwe Mthimkulu and Topsy Madaka, he said to Joyce Mthimkulu, the mother of Siphiwe:

[...] You travelled to East London [to appear at the HRVC's first public hearings in April 1996]. You and your husband were excited, at last you were going to have a chance to talk to a presidential commission, to the nation at large about [the poisoning and disappearance of] Siphiwe. This was denied you by a court interdict. You had no chance. We met with you and you very graciously agreed that you will come to the Port Elizabeth hearing [in May 1996] and you came, you sat over there and we waited and once again you were muzzled [by a court interdict], you couldn't speak. All of us were very angry and very upset, but you were remarkable. You too were upset, but you understood, because you knew that one day you would have an opportunity, and today is that day. [...]<sup>235</sup>

The TRC thus claimed to be 'giving voice to the voiceless' through its capacity as an official 'presidential commission'. However, most of the victims highlighted through the HRVC hearings were not 'ordinary' and a large number of them were not voiceless. First, as Steven Robins indicates, the TRC "privileged the experiences of a relatively small number" of people "by concentrating on issues of murder, kidnapping, detention and torture".<sup>236</sup>

Secondly, the testimonies of the "voiceless" were mainly concerned with the fate of the victims of apartheid atrocities. More specifically, these testimonies, while having been presented mainly by black women, who thus became the 'voiceless', were concerned with the black male victims of the security forces. The experiences of black male victims were given voice, rather than the experiences of the women who voiced their male counter parts' experiences. These women thus spoke but did not speak. When their experiences emerged at the hearings, they emerged in relation to a significant other, they emerged in relation to their husbands, their lovers or their

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<sup>235</sup>Alex Boraine to Joyce Mthimkulu, HRVC Hearing, Port Elizabeth, Wednesday, June 26, 1996.

<sup>236</sup>Steven Robins, 'True national reconciliation is imperilled: TRC highlights the plight of the few, but the masses go begging', *Cape Argus*, Monday, February 17, 1997.

sons.<sup>237</sup> These women thus emerged as mothers and partners rather than as agents. The subject position that they assumed was not their own, but that of their husbands, son and lovers.

Thirdly, most of those victimized by the apartheid security forces were not victimized randomly. The apartheid state forces often acted within a strategy of identifying, isolating, victimising and/or 'eliminating' political leaders in the struggle against apartheid. Although they did not figure in official state discourse, they were not 'voiceless' in their own communities. Some of them were heard in numerous public and institutional forums. Nomonde Calata, for example, recounted the police "harassment" she and her and her husband experienced and the murder of her husband, along with Matthew Goniwe, Sparrow Mkonto and Sicelo Mhlawuli, who became the Cradock Four, at IDASA's "Justice in Transition: Dealing with the Past" conference. They were thus often prominent political activists in the local struggles against apartheid who were framed as 'voiceless' by the rhetoric employed by the commission. Indeed, at the TRC's very first HRVC hearing, the TRC as a space for 'giving voice' to the 'voiceless' became unstable. At this hearing, Boraine welcomed Nohle Mohape as "the first witness in the proceedings of the Truth and Reconciliation Commission". He added that:

[...] we are mindful of the suffering that you have endured in the past. Many of us remember as though it was yesterday when Maphetla died in police custody. We remember the anguish and horror of those days. [...]<sup>238</sup>

The "we" that Boraine referred to here was no doubt larger than the commission and the audience that packed the East London City Hall on that day. Instead it encompassed the entire nation. This was not merely because the hearing was broadcast on national television, but was consistent with

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<sup>237</sup>See Charles Taylor, 'The Politics of Recognition', in Amy Gutmann (ed.) *Multiculturalism: Examining the Politics of recognition*, Princeton university Press, Princeton, N.J., 1994, p. 32.

<sup>238</sup>Alex Boraine to Nohle Mohape, HRVC Hearing, East London, April 15, 1996. Other examples of similar indications of knowledge of the content of testimonies are plentiful. See, for

the TRC's notion of addressing the nation.

Thus, by 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 became part of 'the struggle'. 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.<sup>239</sup>

### **Shared Experience and 'Hearing' Pain**

The TRC's HRVC hearings, at which victims of gross human rights violations were invited to recall their experiences, were what Michael Pickering, in another setting, described as "an irritating form of public address which invites audiences to 'share' certain experiences with the speaker".<sup>240</sup> As Pickering suggests, these forms of public address operate on the "presumption that [the] audience could and would 'share [the] experiences'", and that the sharing of 'experience' is a "guarantee of truth-telling in human interaction". In this event, "the assumption of experience 'being shared'", Pickering continues, "establishes an entitlement to speak in public,

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example, Ilan Lax, HRVC Hearing, Ladybrand, 1997

<sup>239</sup>At the HRVC hearing into the poisoning of Siphiwe Mthimkulu and his and Topsy Madaka's disappearance, for example, Mthimkulu's mother speaks, along with the prominent comrades that were his 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 alongside Siphiwe Mthimkulu. The hearing thus pieced together a biography of Mthimkulu, focussing on his involvement in the struggle against apartheid. No biographical sketch of the life of Topsy Madaka was entered into. See HRVC Hearing, Port Elizabeth, Wednesday, June 26, 1996.

<sup>240</sup>Pickering, *History, experience and Cultural Studies*, pp. 102-103.

and invests the communication with the authority of a truth to historical experience that is implicitly claimed as being held in common”.<sup>241</sup>

The invitation to ‘share’ the experiences recounted at the TRC’s HRVC hearings bears other implications. Essentially, the experiences being ‘shared’ at the HRVC hearings were those of a victimhood inextricably bound to pain. However, pain, as Elaine Scarry suggests, cannot be ‘shared’ for it cannot be expressed in language. This is so because pain, she argues, “has no referential content”, takes no object, i.e. “it is not of or for anything” but itself<sup>242</sup> while it is simultaneously “that which cannot be denied [by the victim] and that which cannot be confirmed”.<sup>243</sup>

When one hears about another person’s physical pain, the events happening within the interior of that person’s body may seem to have the remote character of some deep subterranean fact, belonging to an invisible geography that, however portentous, has no reality because it not yet manifested itself on the visible surface of the earth.[...] <sup>244</sup>

Stories of pain, such as those told at the HRVC hearings were, for Scarry, “vaguely alarming yet unreal”. They were “laden with consequence yet evaporated before the mind because [they were] not available to sensory confirmation”. Yet these were the stories, the experiences, that the public were invited to ‘share’.

Pain was indeed central to the narratives of the TRC: the physical pain of torture, of maiming and of ‘severe ill treatment’; the psychological and emotional pain of losing a loved one through abduction or killing. But the TRC was not about telling and hearing stories of pain; it was about the morality or, rather, the immorality of inflicting pain on, or violating the human rights of,

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<sup>241</sup>Pickering, *History, experience and Cultural Studies*, p. 103.

<sup>242</sup>Elaine Scarry, *The Body in Pain: The Making and Unmaking of the World*, Oxford University Press, New York and Oxford, 1985, pp. 4-6.

<sup>243</sup>Scarry, *The Body in Pain*, pp. 3-5.

another person. This had implications for the TRC as, in all moral or ethical considerations, certain events and experiences are deemed to be more significant than others. At the TRC this affected which stories of pain, and which means of their verification, were deemed appropriate to the overarching moral narrative as a verification of that narrative. Through moral considerations, psychological pain, because of its immeasurability and lack of veracity, thus becomes secondary to physical pain that is etched on the outer surfaces of the victim's body. Indeed, the suspension of human rights through detention without trial and solitary confinement and the psychological pain that accompanies, it becomes secondary to the physical pains suffered during torture and maiming, and the psycho-emotional pain of losing a loved one through murder or abduction. It is as though the loss of a loved one is more readily related to as everyone would have lost a loved one through death. The purely psychological pain of detention without trial and solitary confinement, however, cannot be related to, despite the fact that an estimated 40 000 people were detained in the second half of the 1980s.<sup>245</sup> Perhaps the two weeks, or three months, or even three years of detention, weighs insignificantly against the 27 years of imprisonment that Nelson Mandela, the icon of sacrifice during the struggle and the morality of reconciliation, served. Here it seems that, in the measurement of sacrifice, psychological pain was discriminated against. The loss of two weeks, three months or even three years through detention 'paled' in 'insignificance' in comparison to the experience of physical pain. The sufferings, endured due to detention or solitary confinement, are deemed to have ended but the scars of physical pain, the wounds and the disfiguration of victims of torture and maiming linger on the body's surface. Its pastness cannot be proclaimed, at least not until the work of the TRC was completed and the nation's wounds healed.

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<sup>244</sup>Scarry, *The Body in Pain*, p. 3.

<sup>245</sup>See Max Coleman (ed.), *A Crime Against Humanity: Analysing the Repression of the Apartheid State*, Human Rights Committee, Johannesburg, 1998, p. 48.

These moral considerations and the measure of the significance of pain are accorded an even higher degree of morality when morality is put at the service of nation building and when pain is made to take on an object, when it becomes the pain of gross human rights violations. The investigations of gross human rights violations are not without the moral and ethical considerations of what counts as examples of gross human rights violations and what does not. When these considerations are designed to benefit national reconstruction, examples of gross human rights violations take on by necessity, as Friedrich Nietzsche indicates, the ethical dimension of national significance.<sup>246</sup> The stories of pain were mediated through the measure of sacrifice, through the measure of what counts as gross human rights violations, and through the ethical requirements of bearing national significance.

### **Subalterns and the Fiction of Representation**

As a 'space for giving voice to the voiceless', the TRC seemingly refuted Gayatri Chakravorty Spivak's argument that the subaltern cannot speak.<sup>247</sup> Indeed, through its public gestures and utterances of listening and hearing, and of beseeching victims to "come forward" to tell 'their' stories, the TRC made it impossible for silence to exist legitimately in the new South Africa, as it brought the victims of gross human rights violations to speak for themselves.<sup>248</sup> In this way the

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<sup>246</sup>For Nietzsche, "every nation requires, in accordance with its goals, energies and needs, a certain *kind* of knowledge of the past". See Friedrich Nietzsche, 'On the Uses and Disadvantages of History for Life', in *Untimely Meditations*, Translated by RJ Hollingdale, Cambridge University Press, Cambridge, New York and Melbourne, 1983, p. 77. Emphasis added.

<sup>247</sup>For Spivak, the S/subaltern is an epistemological category of people marginalized to the extent of being denied a subject position from which to speak. Their stories are always told by others speak on their behalf. See Gayatri Chakravorty Spivak, 'Can the Subaltern Speak?', Cary Nelson and Lawrence Grossberg (eds.), *Marxism and the Interpretation of Culture*, MacMillan Press, London, 1988, pp. 271-313.

<sup>248</sup>Indeed, the shattering "the silences around the atrocities under apartheid" was described

TRC obliterated the subaltern as a category of marginalized people that cannot speak but are always spoken for. Yet, as the TRC Report acknowledges, those who were given subject positions from which to speak at the TRC hearing were ‘carefully selected’ subjects.<sup>249</sup>

Furthermore, those who spoke at the TRC spoke not of their own pasts *per se*, but of their experiences that intersected with the narrative of the nation that was being constructed by the TRC. Epistemic violence was at play here, for space was not merely made for the voiceless to speak, space was created for the giving of voice. Here voice was given in two intertwined senses. First, the voice that was given was a national voice. Subject positions were provided for the voiceless that could speak with a national rather than an individual voice. These subjects were thus set apart from the rest of the nation that could not speak, for the rest of the nation’s story was either not deemed to be of national or regional significance<sup>250</sup> or because they did not have a story to tell, as defined by the Promotion of National Unity and Reconciliation Act, having not experienced violations of their human rights in terms of the definition subscribed by the Act.

Their voices were further mediated by the TRC commissioners who “led” them through “their stories” as the commissioners sought the revelation of a national narrative. This was further exemplified by the relation between the witnesses’ testimony and the synoptic reports of the hearings prepared by the TRC’s Research Department. In the TRC’s interim report, where some

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as “a primary aim” of the TRC. See TRC Report, Vol 4, Ch 10, p. 293.

<sup>249</sup>See TRC Report, Vol 1, Ch 6, p. 145-147. The criteria that the TRC used in identifying which deponents would speak the past was: the extent to which they represented the experiences of “the various forms of human rights abuse that had occurred in the area”; the extent to which they represented the perspectives of “victims from all sides of the conflict”; and the extent to which they were representative of “gender, race, age and geographical location in the area where the hearing was ... held”. See TRC Report, Vol 1, Ch 6, p. 146.

<sup>250</sup>This was one of the criteria that the TRC used in identifying witnesses. See TRC Report, Vol 1, Ch 6, pp. 145-146.

of these synopses were published, no mention was made of Rebecca Truter's request that the man who shot and killed her son, a former police captain, be denied his police pension "so he can feel how I suffered."<sup>251</sup> Nor was mention made of the vociferous demands of Maggie Friedman, the surviving partner of assassinated Witwatersrand University academic, placed before the HRVC at its hearings in Johannesburg on Friday, May 3, 1996

[...] The perpetrators need to pay a price that makes the scales balance. It is unfair to ask us to testify and if we hear the truth, we waive our rights to a criminal court case,' she said.

When asked about her expectations [from the TRC] Ms Friedman said: 'I would like the following people to be indicted and prosecuted for their roles in the death and subsequent cover up of David [Webster's] death.'<sup>252</sup>

Instead, in the summary of her hearing, the Interim Report stated that:

Maggie Friedman, partner of David Webster, testified about his death. David Webster, a social anthropologist at [the University of the Witwatersrand] and a prominent human rights activist in anti-apartheid organisations such as DPSC [Detainees' Parents' Support Committee], ECC [End Conscription Campaign] and JODAC [Johannesburg Democratic Action Committee] was gunned down in front of his Troyeville, Johannesburg, home on 1 May 1989. In spite of numerous investigations into this case, generating a huge body of documentation, nobody has been prosecuted. Webster is believed to have been assassinated by a hit squad.<sup>253</sup>

Here the voice with which Friedman told "her story" was silent as well as her concerns that those implicated in Webster's death be prosecuted. It appeared that Webster's story was the national story and not Friedman's quest for retribution. Thus, what was defined as important at the TRC depended more on the commission than on the witness, and was often articulated in terms of national identity and the nation state.

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<sup>251</sup>Rebecca Truter, HRVC Hearing, Cape Town, Monday, April 22, 1996. Also see 'Son "was shot by police captain"', *Cape Times*, Monday, April 22, 1996.

<sup>252</sup>Maggie Friedman, HRVC Hearing, Johannesburg, Friday, May 3, 1996. Also see Friedman quoted in "'Price must be paid to balance the scales'", *Weekend Argus*, Sunday, May 4/5, 1996 and 'A pain that knows no political boundaries', *Sunday Times*, May 5, 1996.

<sup>253</sup>TRC Interim Report, Section 15. Also see Premesh Lalu and Brent Harris, 'Journeys from the Horizons of History: Text, Trials and Tales in the Construction of Narratives', *Current Writing*, 8(2),



The experiences of the black male victims of apartheid that were recounted before the HRVC were thus articulated as representing the ‘experiences’ of the nation. In this sense, the overarching story told at the TRC was not the story of individuals, but of the nation. As such, those given subject positions from which to speak at the TRC spoke for others who did not have similar experiences. Hence, the over arching narrative imposed through TRC was fictional.

### **The Interpellated Subject**

Through the TRC’s HRVC hearings, the subject was constituted as a homogenous entity with a one-dimensional identity. The richness and the contradictions of their experiences were reduced, through their participation in the TRC process to the experience of one event, or one set of closely integrated sequences of events. This was despite the TRC’s tendency to let the witness “tell us a little about [themselves]” at the start of their testimonies. Ultimately, the witnesses only became knowable through their recollection of personal experiences of trauma. They thus could only be known as victims<sup>254</sup> but, more important, they could only be known through the significance of their victimhood to the nation building project.

Here, it would appear, the witnesses/individuals were encouraged to recognize and accept themselves as victims. They were, in Althusserian phraseology, “concrete individuals” who were “interpellated [by ideology] as concrete subjects”, in this case as victims, “by the functioning of the category of the subject”.<sup>255</sup> For Althusser, individuals are subjects for they are “always-

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October 1996, pp 24-38.

<sup>254</sup>This was as much true for the witnesses at the HRVC hearings, the witnesses/victims who opposed amnesty applications at the AC hearing and for a number of witnesses/perpetrators who appeared as amnesty applicants before the AC.

<sup>255</sup>Althusser, ‘Ideology and Ideological State Apparatuses’, pp. 171,173.

already interpellated” as such.<sup>256</sup> Indeed, he suggests that all individuals, through their very existence in society, and their participation in social rituals and practices, a participation that Althusser equates with acceptance, predisposes their positions as subjects.<sup>257</sup> Althusser thus does not distinguish between the speaking subject and the subaltern. Instead, playing on the ambiguity of the word subject, he uses the term to indicate the subjects’ choice, by their free will, to accept their subjugation to a higher authority and the social location allotted to them in the mode of production, in other words, their acceptance of the order of things.<sup>258</sup>

At the HRVC’s victim hearing, then, the TRC ritually performed the shift of subject position from white to black and, in the fiction of nationalism, brought black to speak for white. Through this shift, the TRC created two illusions in the processes of interpreting of the past. It created the illusion that it uncovered a ‘real’ but ‘hidden’ past by having the ‘voiceless’ tell their own ‘authentic’ stories; and it created the illusion that the new nation was characterized by its victimhood.

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<sup>256</sup> Althusser, ‘Ideology and Ideological State Apparatuses’, pp. 175-176.

<sup>257</sup> Althusser, ‘Ideology and Ideological State Apparatuses’, pp. 165-183

<sup>258</sup> Althusser, ‘Ideology and Ideological State Apparatuses’, p. 182. For an critique of Althusser’s notion of interpellation see Paul Smith, *Discerning the Subject*, University of Minnesota Press, Minneapolis, 1988, pp. 14-21.

## CHAPTER FIVE

### The AC and the Estranged Past

In its quest to ‘uncover’ the truth the TRC made the past familiar and shareable, and hence part of the nation’s past, through the HRVC hearings. A different process occurred at the AC hearings, however. At the AC hearings, issues of truth were less significant than at the HRVC. What was instead of crucial consideration for the AC was whether the amnesty applicants had made a ‘full disclosure’ of the events they were requesting amnesty for. Despite these differences, however, the AC was as much a site for the display of history and making the past known as the HRVC was. The past displayed at the AC was displayed largely through the perspective of the perpetrator and was not presented to make it familiar and shareable. Rather, it was displayed to indicate its strangeness and its existence as an anomaly of the national past.

Through the interaction between the witnesses, the commissioners and the legal counsels present at the hearings, a pattern emerged that indicated that the truth was indeed less significant than the moral divides between perpetrator and victim. At the AC, contestation tended to centre around the legal issues of guilt and innocence, for an application for amnesty implied a confession of guilt, particularly as a number of amnesty applicants were denied amnesty because they denied their guilt.<sup>259</sup>

This contestation was possible, for while the TRC appeared to have created neat dichotomies between victims and perpetrators, creating separate committees on victims and on perpetrators, a number of agents in the ‘conflicts of the past’ were both victims and perpetrators. Some were, for

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<sup>259</sup>See TRC Report, Vol 1, Ch 10, pp. 276.

example, victims of police torture after being detained or arrested for their role as perpetrators in the necklace killing of a Councillor, supporter or member of a rival political organization, an informer, or a *kitskonstabel*. The latter may again be caught in the same slippage, as a victim of a necklace killing, and as a perpetrator who may have tortured, maimed or killed anti-apartheid activists.

Furthermore, a number of perpetrators that 'worked for the apartheid state' attempted to argue that they were themselves victims of apartheid, that they too suffered the consequences of the atrocities that they were required and requested to carry out under apartheid. Hence, the AC became a site, not so much for the contestation of truth, but for the contestation of the divide that separate victim from perpetrator because of the ways in which the activities of the latter were made strange, and made known to be strange, by the TRC.

In this chapter I discern, albeit indirectly, the demarcation of the boundaries of the national past by considering which aspects of the past were not made part of the new nation's history. Here I consider the means through which the past was made strange, and known to be strange, and the ways in which this process was challenged, rather than considering the silences and omissions in the work of the TRC. The process of estranging the past, I suggest, is a critical mechanism in defining the nation for it represented what was projected to be located outside the boundaries of the nation. At the AC hearings, in particular, this resulted in a complex positional argument in which the assumption that the victim is always 'innocent' was challenged by the perpetrators who simultaneously sought to reduce their burden of guilt. The latter also occurred in relation to other perpetrators who had become icons of apartheid's atrocities, and entailed the perpetrators' attempts to demarcate the difference between themselves and the icons, reinforcing the

discredited position of the icons of apartheid.

This delimitation of the national past also occurred at the HRVC's special and event hearings when alleged perpetrators testified at those hearings. As I have argued in the previous chapter, the special and event hearings of the HRVC were completely different from the HRVC's victim hearings and were characterized by adversity when dealing with perpetrators.

The suggestion of aberration was most powerful when the perpetrator transgressed the boundaries of the unthinkable, i.e. when the perpetrator's actions were deemed to be inhumane and were greeted with the disbelief that accompanies complete disgust. Although a number of incidents are of note here, I focus on three such incidents. First is the issue and implication of necklace murders, particularly for the ANC, in lieu of their "just war" thesis. Second was the process through which, not the truth, but the subject position of witnesses before the TRC was challenged. Third, although it did not occur directly through the TRC, was the making of 'Prime Evil' as a measure of the 'unthinkable'.

At the HRVC hearings, truth played a crucial role. For the TRC, however, the truth required at the AC hearings differed from that sought at the HRVC's victim hearings. At the AC the truth centred around 'full disclosure' and ensuring that the perpetrator did not dissemble or dissimulate the event, for the AC hearings were primarily information-gathering hearings rather than exhibitions of truth.<sup>260</sup> It thus mattered less when there was no corroboration of testimonies of the perpetrator in other hearings, for the testimony of the perpetrator was not accepted as the truth of the matter. It was to be thoroughly investigated outside of the hearing. Instead, it was measured

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<sup>260</sup>See, for example, TRC Report, Vol 1, Ch 6, p. 153.

against the account of the victim(s) and was also to be tested against reality for it was to be proved that the perpetrators did provide a complete account of the event for which they were requiring amnesty.

### **Necklace killings and the Brutal Past**

Chronologically, the first incident at which the past was estranged centred on the issue of necklace killings. Testimonies about these types of killings were heard at a number of hearings, the first of which occurred at Cape Town on Wednesday, April 24, 1996. At this hearing, the HRVC heard of the necklacing of Nombulelo Delato in Colesberg, on October 10, 1985. It was, as John Yeld and Joseph Aranes reported for *The Argus* on the following day,

[...] the first time that the daughter, Busisiwe Kewana, learnt the exact details of how and why her mother [...] had been severely burnt in the Colesberg 'location' [...] <sup>261</sup>

Busisiwe Kewana had been “a student in Queenstown at the time” and was informed of her mother’s death via a telegram sent to her by her grandmother. She was, however, unable to learn the ‘exact details’ of what had occurred. It was only at the hearing that she thus learnt the ‘whole truth’ of the matter.<sup>262</sup> Here, the newspapers implied that ‘the truth’ had indeed been ‘uncovered.’

The notion that the truth was being heard for the first time was reinforced by the performances of the two principles at the hearing. The one was Kewana, who was discovering the truth, and the other was Thomzama Maliti, Nombulelo Delato’s niece, and the principal orator at the hearing. Maliti’s “testimony” was “punctuated” by Busisiwe Kewana’s “grief-stricken cries” as she learnt

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<sup>261</sup> ‘Mother’s “necklace” killing described’, *The Argus*, Thursday, April 25, 1996.

<sup>262</sup> See ‘Woman necklaced because brother was a policeman’, *Cape Times*, Thursday, April 25, 1996 and ‘Mother’s “necklace” killing described’, *The Argus*, Thursday, April 25, 1996.

of the death of her mother.<sup>263</sup> This implied an acknowledgement and an acceptance of what Maliti was recounting as *the* truth of the matter. This performance was supplemented by the tears of the orator, Thomzama Maliti, confirming that, indeed, ‘the truth hurts.’ Maliti’s performance here was capped by her voluntary severance from the social body of which she had been part. After the event, she left Colesberg to live in Cape Town, explaining at the hearing that: “I don’t want anything to do with Colesberg.”<sup>264</sup> This severing of the social body indicated exactly how much ‘the truth hurts’ and also conferred meaning on the TRC’s metaphor of ‘healing the nation’.

This aspect was exemplified by the sequence in which the HRVC heard the two orators. Alex Boraine, under the auspices of the committee, first invited Busisiwe Kewana to relate her ‘story’. Her story was, however, perforated with lacunae that Kewana was unable to fill in adequately, despite numerous attempts. The HRVC was well aware of these lacunae as Kewana, like most other witnesses, was invited to relate her story in public after submitting a statement to the TRC’s statement takers, which usually occurred months prior to the actual hearing. After Kewana indicated that she had approached the TRC in order to enlist the commission’s help in “finding out” why her mother was killed so that the pain of her mother’s death could be eased as it was “a wound that will never heal”.<sup>265</sup> The HRVC then set about ‘healing’ Busisiwe Kewana’s ‘wounds’ and filling her lacunae by asking Thomzama Maliti, who was an eye-witness to the event, and was seated next to Kewana, to tell her side of the story.

Another body was, however, involved in the event. At the time of her necklacing, Nombulelo Delato was pregnant. The presence of this unborn body conferred greater moral significance on

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<sup>263</sup> ‘Mother’s “necklace” killing described’, *The Argus*, Thursday, April 25, 1996.

<sup>264</sup> Thomzama Maliti, HRVC Hearing, Cape Town, Wednesday, April 24, 1996. Also see ‘Mother’s “necklace” killing described’, *The Argus*, Thursday, April 25, 1996.

the perpetration of the event and displaced concerns for the 'essential truth' with concerns for the unborn child and moral issue of causing the death of that unborn child. The significance of this was to become more lucid, eleven months later, at an AC hearing on Tuesday, March 18, 1997, when the AC heard the amnesty application of Thobani Makrosi at East London.

At the time of the hearing, Makrosi had served three years of a six-year jail sentence for participating in the kidnapping of Nomsa Mphangisa and Nomangwana Mandita. The latter was subsequently necklaced. Makrosi had, however, been acquitted on the charge of murder, which arose from the necklacing, as he had left the scene when the police arrived and the group dispersed into two smaller groups. This dispersion occurred prior to the killing. The presiding judge chose not to apply doctrine of common purpose<sup>266</sup> in this case. The record of Makrosi's Eastern Cape Supreme Court trial was handed to the AC as part of the amnesty application. It also served as an important source of information for the newspaper's reportage on the hearing, when journalists cited the trial record to allude to the moral issue of killing unborn bodies, an issue that did not play a significant part of the actual amnesty hearing. The judge that presided at the trial was reported to have said that the victims were taken to two separate places when the initial group split. While Nomangwana Mandita was necklaced, "some discussion [...] ensued among the people who were holding [Nomsa Mphangisa] as to whether it was justified and

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<sup>265</sup>Busisiwe Kewana, HRVC Hearing, Cape Town, Wednesday, April 24, 1996.

<sup>266</sup>The doctrine of common purpose stipulated that when "two or more people associate in a joint unlawful enterprise" each person can be held accountable and punishable for the acts of their accomplices which fell "within their common design or objective." (CR Snyman quoted in Dennis Davis, 'Capital Punishment and the Politics of the Doctrine of Common Purpose', in Desirée Hansson and Dirk van Zyl Smit (eds.), *Towards Justice? Crime and State Control in South Africa*, Oxford University Press, Cape Town, 1990, p. 135) This doctrine was first brought to South Africa by the native Territories Penal Code G24 of 1886 (Davis, 'Capital Punishment', p.139) and first used in political unrest trials in 1987 in the case of the Sharpsville Six (Davis, 'Capital Punishment', p. 135).



correct to kill a pregnant woman.”<sup>267</sup> This ‘discussion’, however, was not relevant to the Makrosi’s amnesty application, nor was Mphangisa’s pregnancy. Indeed, Makrosi, in reply to two brief questions, indicated that, at the time, he was not aware of Mphangisa’s pregnancy.<sup>268</sup> The fact of her pregnancy thus had no bearing on Makrosi’s trial or on the AC hearing. Yet journalists in the print media tended to focus on this moral issue. It appears that the fate of the unborn body took precedence, in the print media at least, over the necklaced victim, the amnesty applicant and his amnesty hearing, and alluded to the role of morality in defining what were acceptable aspects for the nation’s past and what were not.

The moral concerns of the necklacing and killing of impregnated and unborn bodies epitomized the moral dilemma of accepting accountability for the gross human rights violation of necklacing political opponents. On Wednesday, April 25, 1996, “speaking at a media conference after another day of raw emotion, tears and anger at [the] Cape Town hearings,” Desmond Tutu “warned” that the act of necklacing opponents “was out of proportion to political objectives, and most people would say that the perpetrators of such acts should therefore not qualify for amnesty”.<sup>269</sup> By then the narrator of necklace killings had, as Allen Feldman suggests in his discussion on the narration of political violence in Northern Ireland, already been ‘powerfully inscribed’. The narrator is thus, “already the recipient of narratives in which he or she has been inserted as a political subject”,<sup>270</sup> as were the agents responsible for such perpetrations. They were already socially mediated, not least since the television news broadcast of the necklace killing of Maki Skhosana, which became a key element in the apartheid state’s ‘anti-terrorist’

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<sup>267</sup> ‘ANC man tells how student was necklaced: Prisoner seeks amnesty’, *Cape Argus*, Wednesday, March 19, 1997.

<sup>268</sup> See Thobani Makrosi, AC Hearing, east London, Tuesday, March 18, 1997.

<sup>269</sup> Tutu cited in, ‘Expect no deal, necklace culprits warned’, *The Argus* Thursday, April 25, 1996. Tutu, however, indicated that a decision on this matter rested with the AC.

propaganda machinery.<sup>271</sup>

Thus, long before the TRC has been established, and as far back as the occurrence of the event itself, the narrations of certain events were imbued with particular meanings and with particular readings. At the moment of rewriting South Africa's history that was represented by the TRC, these inscriptions influenced the consideration of some types of events as aberrations, and as not being part of South Africa's new past.

The extent of this aberration and its inscription was further alluded to in the ANC's second party submission to the TRC on Wednesday, May 13, 1997 and at the belated UDF submission on Wednesday, May 6, 1998. In its submission, the ANC distanced itself from the act of perpetrating necklace killings, although not to the extent of refusing outright to accept 'political responsibility' for violations of this nature and denouncing supporters who had committed such deeds. The ANC delegation, however, did describe these perpetrators, not as ANC supporters, but as activists aligned to the UDF and the MDM.<sup>272</sup>

In their representations to the TRC, the ANC adopted the position that the liberation struggle that they, and their supporters, had engaged in was a 'just war.' The gross and brutal violations of killing people by the necklace method affected this position quite critically as the notion of a 'just war' implied a measure and application of morality. The ANC's 'just war' thesis inferred that the apartheid state's actions against 'freedom fighters' were, by definition, unjust. Providing

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<sup>270</sup>Feldman, *Formations of Violence*, p. 13.

<sup>271</sup>See Max du Preez, *TRC Special Report*, SABC 1, Sunday 9 February 1997; Jacques Pauw, *Into the Heart of Darkness*, pp. 46-48 and 'An epitaph for Maki', *Mail & Guardian*, February 2 to 8, 1996.

<sup>272</sup>See HRVC Hearing: Political Party Second Submission, Cape Town, Monday, May 12,

evidence, at a moral level, that apartheid and, by extension, the defenders of apartheid, the NP and its security forces, were unjust was not hard to come by, as apartheid had been declared a crime against humanity by the United Nations on December 13, 1984, and as a heresy by the World Alliance of Reformed Churches.<sup>273</sup>

The ANC, however, had to defend their 'just war' thesis in terms of the contradictions between this discourse and the moral discourse around necklace killings, for it, particularly on account of it being defined as an anomaly, and hence not part of the new South African past, threatened to taint the morality of their 'just war'. The ANC representatives at the party's second submission to the TRC did this by first deflecting some of the moral accountability of the practice of necklace killing on the apartheid state's security forces, claiming that it was introduced to South Africa by the security forces and that the TRC, "through [its] work and through the work of many trials" already knew of this "finding".<sup>274</sup>

Second, it attempted to distance itself from this practice and attempted to contextualize the movement's initial lack of forthright condemnation of it without distancing themselves from those who participated in these activities. As Mac Maharaj explained it, there were "developments" in South Africa that the ANC did not condemn because of a tension between the ANC's "political responsibility" and its "leading role" in the struggle. The ANC incorrectly believed that necklace killings were "something devised by the oppressed ... to defend themselves against repression". Hence, the ANC first had to "get reports" and "discuss it" with

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<sup>273</sup>See, for example, Charles Villa-Vicencio, 'On Taking Responsibility' in Botman and Petersen (eds.), *To Remember and To Heal*, p. 136.

<sup>274</sup>Mac Maharaj, HRVC Hearing: Political Party Second Submission, Cape Town, Monday, May 12, 1997.

“cadres inside the country by long roots of communication, to get that understanding of the problem and then to discuss it through”. He later added that “it would be an extremely foolhardy leader of the ANC of 1984/85 ... to have stood up and said this is wrong, out with it. I know some people had the courage, but [the ANC] had to balance the need for that understanding with a proper appreciation of what was happening at home, and ... were always mindful that being so far from home, [we needed] to temper our judgements by a better understanding of what was happening on the ground.” Eventually, however, “a point was reached” when the ANC President, Oliver Tambo, met “a very important delegation who had gone to the Children’s Conference in Harare” and “specifically address ... this problem” and defined it as a practice that “we need to desist from”.<sup>275</sup>

In this way, the ANC sought to contextualize their approach to, and initial lack of condemnation of, necklace killings. In so doing, they submitted to and acknowledged the TRC’s reading of necklace killings as aberrations in the nation’s past.

### **The Slippages from Victim and Perpetrator**

TRC Commissioner Wynand Malan later raised an issue that emerged at a number of AC hearings, namely, the slippage across the fissures between perpetrator and victim through which a number of amnesty applicants attempted to relocate their position in the nation and in relation to the estranged past. The TRC had set up neat dichotomies between perpetrator and victim, treating the one critically and the other sympathetically, and setting up two separate committees to deal with them. A number of deponents however existed in a slippage between the two categories.

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<sup>275</sup>Maharaj, HRVC Hearing: Political Party Second Submission, Cape Town, Monday,

Indeed, Commissioner Malan indicated that the TRC found that a number of people “who claim[ed] that they have been tortured” and were “uncritically portrayed as innocent victims” had actually done “atrocious things”. The TRC found “that people admit[ted], for instance, to having participated or actively led a necklacing, but [came] before [the TRC] as victims of torture”, adding that the commission found much more of the “dual role” than it “care[d] to admit” at the time.<sup>276</sup> This slippage between the categories of victim and perpetrator was often exploited by the amnesty applicants or their legal counsels precisely because of the privileging of the victims’ testimony at the TRC. Thus, when the AC dealt with Operation Zero Zero in the amnesty application of Brigadier Jack Cronjé, it was not so much the truth that was contested but the meaning of ‘victim’.

Operation Zero Zero was the code name for a “pre-emptive” covert operation in which Joe Mamasela, an askari or ‘turned guerrilla’ working undercover for the security forces, infiltrated a group of militant of Congress of South African Schools (COSAS) activists in Mamelodi, in June 1985. He supplied them with booby-trapped hand grenades “of which the ignition device had been set to a zero delay” so that they exploded as soon as the activists pulled the pin.<sup>277</sup> Eight COSAS activists were killed and seven were injured in the operation.

The victims of this operation were inextricably caught in the slippage between victim and perpetrator. Indeed, their victimization was entirely dependent on their willingness to perpetrate a gross human rights violation. The security forces merely made the grenades available and at no point, they agreed, were these activists coerced into embarking on the perpetration that ultimately

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May 12, 1997.

<sup>276</sup>Wynand Malan, TRC Hearing: ANC Second Part Submission, Monday, May 12, 1997.

<sup>277</sup>Jack Cronjé, AC Hearing, Pretoria, Friday, March 7, 1997. For more information on

led to their victimization. This was a point that the amnesty applicant and his representatives at the hearing were eager to emphasize. Cronjé claimed that “at that stage” information obtained from “the Security Branch at Springs” indicated “that there were activists in search of weapons specifically to use in the attacks on policemen’s homes”, adding that this was confirmed by “the information obtained from informers” and that “they also knew the names of these activists”.

These activists were thus supplied with these booby-trapped grenades, Cronjé claimed, in order “to protect *innocent* policemen and also to eliminate activists and *terrorists* involved in serious crimes and terrorist actions”.<sup>278</sup> In this passage, Cronjé clearly attempted to challenge the categorization of the activists as innocent victims and the police as perpetrators. In his testimony, the police were innocent, not the activists. Indeed, the activists were represented as terrorists involved in criminal activities. Cronjé added that General Johan van der Merwe, who had proposed the operation and who had secured approval for the operation from the Minister of Police, Louis le Grange and State President PW Botha, “made it very clear ... that the activists should not be solicited or enticed in any way but that they should, on their own accord, make a request for weapons”. Indeed, the activists “would have chosen [the targets] by themselves”.<sup>279</sup>

One of the survivors of the operation, Philip Lukhele, contested this when he was called on to present his version of events to the committee.<sup>280</sup> Lukhele attempted to reclaim his victimhood by claiming that Joe Mamasela had in fact identified the targets for him and his comrades and had

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Operation Zero Zero see TRC Report, Vol 2, Ch 3, pp. 259-261.

<sup>278</sup>Cronjé, AC Hearing, Pretoria, Friday, March 7, 1997.

<sup>279</sup>Cronjé, AC Hearing, Pretoria, Friday, March 7, 1997.

<sup>280</sup>Philip Lukhele had survived the incident as he had not removed the hand grenade’s pin when he saw that the other activist’s grenades explode immediately when its pin was removed. He fled and handed the grenade over to a lawyer, Priscilla Jana. See Philip Lukhele, AC Hearing, Pretoria, Friday, March 7, 1997.

“promised” to give them money, adding that when he was later arrested, he was “severely tortured”. In his response, the legal counsel for the applicant, Advocate Roelof du Plessis, did not refute Lukhele’s testimony. Instead, he attempted to portray Lukhele as a perpetrator who had attempted to kill a policeman and was implicitly involved in the necklacing of Maki Skhosana rather than as a victim of torture and Operation Zero Zero.<sup>281</sup> Du Plessis began his cross questioning of Lukhele by attempting to tease out Lukhele’s role in the death of Maki Skhosana. Lukhele, however, denied any involvement in Skhosana’s death, denying that he had suggested that she was a police informant but confirmed that she was, in his mind, a police informer and, hence, a perpetrator.<sup>282</sup> “She was”, he suggested, “an activist but she was never arrested”. Furthermore, he added that he had identified one of the policemen that had assaulted him after his arrest as someone “that used to go to Maki Skhosana’s place”, and that he had “personally” seen the policeman there as he “would visit Maki Skhosana’s place as a fellow comrade”.<sup>283</sup> In so doing, Lukhele challenged the social inscription through which Skhosana’s killing had been heard a month earlier at the HRVC hearings in Duduza,<sup>284</sup> and challenged the basis upon which the memory of her death had been made familiar, and part of the South African past, while the perpetration of the death became an anomaly. In essence, he adopted the same strategy that the amnesty applicants had adopted to challenge the process through which certain aspects of the past became part of the nation’s past while other aspects were consigned as aberrations.

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<sup>281</sup>When the AC Chairperson, Judge Hussan Mall was later to ask Advocate du Plessis were his questions related to the death of Maki Skhosana he replied that he was “trying to determine in how far this person was responsible for her death”. See Judge Hussan Mall and Advocate du Plessis, AC Hearing, Pretoria, Friday, March 7, 1997.

<sup>282</sup>Lukhele, AC Hearing, Pretoria, Friday, March 7, 1997.

<sup>283</sup>Lukhele, AC Hearing, Pretoria, Friday, March 7, 1997.

<sup>284</sup>See Chapter three above.

### **Making 'Prime Evil'**

Another strategy adopted by amnesty applicants to relieve the contempt with which their testimonies were heard, was to relativize the extent of their brutality. Here a man called 'Prime Evil', Eugene de Kock,<sup>285</sup> was significant. The life of Eugene de Kock had been powerfully inscribed through a flood of newspaper reports, a two year long trial and various documentaries. His life was reduced to the twenty years he spent in counter insurgency units in, what was then, South West Africa, and later in South Africa itself. By 1978 de Kock had spent ten years in the police service, but mostly outside of South Africa. Soon after completing his police training, he applied to do a course in counter insurgency and did nine tours of duty in the 'Rhodesian bush war'.<sup>286</sup> Thereafter he served as a police station commander in Northern Namibia. At the end of 1978, he was transferred to 'Koevoet',<sup>287</sup> a counter insurgency unit that became a brutal killing machine in Namibia. It comprised a small number of 'white' security police personnel who commanded a number of "turned terrorists", Ovambo 'trackers' and former Angolan FNLA soldiers that had left Angola in 1975, when the MPLA government took over their country.<sup>288</sup> De Kock spent four and a half years as the commander of one of Koevoet's fighting units, Section Zulu Delta which "boasted the highest kill rate" in the Namibian conflict.<sup>289</sup>

Then in May 1983, he was transferred to Vlakplaas under the command of Jack Cronjé, a

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<sup>285</sup>See Pauw, *Into the Heart of Darkness* and the television documentary directed by Jacques Pauw, *Prime Evil*, SABC 1, October 20 and 21, 1996.

<sup>286</sup>See Pauw, *Into the Heart of Darkness*, p. 36 and Eugene de Kock, *A Long Night's Damage: Working for the Apartheid State*, Contra Press, Saxonwold, 1998, pp. 57-62.

<sup>287</sup>See Pauw, *Into the Heart of Darkness*, p. 37 and de Kock, *A Long Night's Damage*, p. 69.

<sup>288</sup>See Pauw, *Into the Heart of Darkness*, p. 37 and de Kock, *A long Night's Damage*, p.76.

<sup>289</sup>Pauw, *Into the Heart of Darkness*, p. 39.



Lieutenant-Colonel at the time.<sup>290</sup> Vlakplaas was a counter insurgency unit, code named Section C1, that was established in 1981, on a police farm ten kilometres outside of Pretoria. Like Koevoet, it comprised a number of ‘turned terrorists’, who became known as *askaris* and who were commanded by a few ‘white’ security police members. When Cronjé was transferred to Section C2, the Northern Transvaal Security Branch, de Kock became commander of Vlakplaas and, in the reckoning of the atrocities of apartheid, became a “symbol of apartheid’s most evil face” and “all that was rotten in the South African past”.<sup>291</sup>

The Sunday after the first part of Cronjé’s amnesty hearing, Max du Preez introduced the weekly *TRC Special Report* stating that:

Five policemen who are applying for amnesty from the truth commission lifted the veil on several unthinkable and sometimes bizarre acts of cruelty and cold blooded murder [...]<sup>292</sup>

At the hearing itself, Eugene de Kock and Dirk Coetzee became the measure of the “unthinkable” while Jacques Pauw’s documentary on Eugene de Kock, *Prime Evil* became measure of the unthinkable. Here the ‘unthinkable’ became the ultimate aberration of the past and Eugene de Kock a ‘rouge operator’. He became the embodiment of apartheid’s atrocities, and the anomaly of the past.

The first part of *Prime Evil* was broadcast on Sunday, October 20, 1996. The following day the AC hearing that dealt with the amnesty application of Brig. Cronjé, Gen. van der Merwe, Col. Venter, Capt. Hechter, Capt. Mentz and W/O van Vuuren began. In the course of leading his

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<sup>290</sup>See Pauw, *Into the Heart of Darkness*, pp. 40-41, 43, 45-46 and Eugene de Kock, *A Long Night’s Damage*, pp. 86-87, 106.

<sup>291</sup>Pauw, *Into the Heart of Darkness*, p. 29 and Jeremy Gordin, ‘Forward’ in de Kock, *A Long Night’s*, p. 31. Also see Max du Preez, *TRC Special Report*, SABC 1, Sunday, November 2, 1996.

evidence on behalf of the applicants, Advocate Roelof du Plessis made reference to the *Prime Evil*, using it as a measure of “evidence”<sup>293</sup> and attempted to indicate that the Vlakplaas under the command of Cronjé was not the aberration that the Vlakplaas under dirk Coetzee and Eugene de Kock were. Soon after the AC after lunch, Advocate du Plessis turned to the television documentary, asking Cronjé if he had seen the programme and if it confirmed his impressions on the command structure at Vlakplaas.<sup>294</sup> Later, du Plessis indicated the “only point” he wanted to make was

[...] that there should be, to a large extent, a distinction made between the actions of Colonel de Kock and Captain Dirk Coetzee and my clients. We will show that my clients, the applicants, did not act exactly in the same way and we will indicate to you, the evidence will be that the applicants never received, for instance, any monetary or financial gain in respect of anything that they did. We will draw a definite distinction between us and those two persons who were also at Vlakplaas, Dirk Coetzee before Brigadier Cronjé and Colonel de Kock after Brigadier Cronjé.<sup>295</sup>

This process played itself out at the second part of the amnesty hearing at Pretoria. On the second day of that hearing, du Plessis screened excerpts from *Prime Evil* as part of his ‘evidence’. At this stage of the questioning, Brigadier Cronjé took the opportunity to emphasize that:

[...] the people who worked with me, did not look anything like the people on the video. I refer to Colonel Venter, he was the type of man who worked with me. Furthermore, parties as the one on the beach, would not have been, never have been allowed in my time. I would also like to say that de Kock was transferred to me from Koevoet, I did not want him there, but I was given an instruction to take him. Those type of things never happened under my command and it would never have happened under my command, I kept my foot on de Kock’s throat and such things would never have happened under my command.<sup>296</sup>

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<sup>292</sup>Max du Preez, *TRC Special Report*, SABC 1, Sunday, November 2, 1996.

<sup>293</sup>In the second part of the AC Hearing, du Plessis was to refer to statements made on *Prime Evil* as “evidence”. See du Plessis, AC Hearing, Pretoria, February 25, 1997.

<sup>294</sup>See du Plessis and Cronjé, AC Hearing, Johannesburg, Monday, October 21, 1996.

<sup>295</sup>du Plessis, AC Hearing, Johannesburg, Monday, October 21, 1996.

<sup>296</sup>Cronjé, AC hearing, Pretoria, Tuesday, February 25, 1997.

In this passage, Cronjé clearly set out the boundaries between himself and de Kock in particular, indicating that for him, as well, the past that de Kock represented was an aberration while simultaneously resisting the estrangement of the past that he represented. Thus, the ‘unthinkable’ atrocities that took place at Vlakplaas, under the command of de Kock would not have occurred, he implied, if he remained there and ‘kept his foot on de Kock’s throat’ and de Kock was indeed a ‘rouge operator’. Later, when asked to comment on Dirk Coetzee’s “evidence” on *Prime Evil*, in which Coetzee stated that “he was like God” at Vlakplaas and “could do as he pleased”, Cronjé similarly drew a boundary between Vlakplaas under Coetzee and Vlakplaas under his command, stating that “that [was] not how we operated”.

The distinction Cronjé drew between himself and de Kock and Coetzee was of importance to his hearing because it was one of the first AC hearings at which application was made for amnesty with regards to what Max du Preez referred to as the ‘unthinkable and bizarre’<sup>297</sup> atrocities of the ‘death squads’, some of which left the AC members “visibly shocked”.<sup>298</sup>

The incident that enlisted this reaction was the killing of the ‘Nieverdiend 10’ on June 26, 1986. In this incident, ten young anti-apartheid activists between the ages of fourteen and nineteen were infiltrated by Joe Mamasela who gave the youth the impression that he was a MK soldier. Mamasela agreed to help the youths get to Botswana where they were to contact an ANC representative and go for military training. On the night of June 26, 1986, Mamasela drove the youth towards the Botswana boarder, stopping at a fuel station at Zeerust to pick up an ‘escort’. The escort led them into dense bushes where Mamasela stopped the vehicle. As he stopped, the

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<sup>297</sup>See du Preez, *TRC Special Report*, SABC 1, Sunday, November 2, 1996.

<sup>298</sup>du Preez, *TRC Special Report*, SABC 1, Sunday, November 2, 1996. Du Preez was referring to Cronjé’s testimony concerning the killing of the ‘Nieverdiend 10’.

vehicle was surrounded by South African soldiers. At that point, the youths were poisoned, their vehicle, with them inside, pushed down hill into a wall and was then blown up.<sup>299</sup>

In his cross questioning of Cronjé, Brian Currin, legal counsel for the victims, suggested that Cronjé's "action ... in the circumstances [was] totally excessive, it was disproportionate in relation to what [the youths] had done prior to their elimination." Cronjé disagreed, predictably, stating that his actions were pre-emptive and argued that had the youths returned to South Africa as "well-trained terrorists ... they could have struck anywhere in the Republic".

The short exchange, between AC commissioner Hussan Mall and Brian Currin, that followed Cronjé's response was, however, crucial in marking the event as an aberration and separating it from the nation's past. In this exchange, Mall suggested to Cronjé that the "prospect of them returning was nil" as they were "being sent to their death". Currin, who was cross-questioning Cronjé at the time, added to this condemnation when he suggested that he was left "speechless in response".<sup>300</sup> Cronjé's attempts to distinguish himself from the aberration represented by de Kock were thus made in an attempt to diffuse the possibility that his own actions would be read as an aberration.

At the AC, but in conjunction with the HRVC, boundaries were clearly drawn around the past, around which parts of the past became part of the nation, around what roles agents performed in the past, and which subject positions they occupied in the new South Africa.

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<sup>299</sup>See TRC Report, Vol 2, Ch 3, pp. 264-265.

<sup>300</sup>Mall and Currin, AC Hearing, Pretoria, October 30, 1996.

## CONCLUSION

### The Epistemic Violence of the New Narrative

From its inception late in 1995, the TRC began to position itself in relation to the nation that it was mandated to reconcile and unite. It was one of the 'new' government's mechanisms for nation building and operated by historicizing the political conflicts of the last three and a half decades of the apartheid era.

The notion of the nation, and its past, that the TRC set out to establish was, however, that of the government. The TRC thus authorized the government's notions of nation, citizenship and nation state. This the TRC did through its public hearings, through its display of history, and through the archiving of the evidence that it gathered in 'uncovering' the past. However, the TRC's archive and the new South African history that it produces, however, exist in a relationship that Roland Barthes termed the "referential illusion". For while the TRC claimed to uncover a real past, it constructed the past discursively.

The TRC's version of history that it produced, like history in general, does not facilitate the understanding of empirical or functional matters but are modes of signification through which meanings are established. Yet, by claiming that history is objective and real, it is implied that the past exists apart from the historical narrative through which it is constructed and that this narrative of the past mirrors the past. In essence, it denies the existence of the signified and "claims to let the referent speak for itself".<sup>301</sup>

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<sup>301</sup>Barthes, 'The Discourse of History', pp.128 -133.

In the TRC, the 'referential illusion' was complicated by the consignment of a body of evidence into the archive. The TRC not only produced the new history of the new South Africa, it also produced the archive upon which that past is constructed. In this formulation the 'violence of the archive' was brought to bear on the past. Here the violence did not merely centre around memory and forgetting, inclusion and exclusion, but also occlusion—the obstruction of the recording of, and for memory. This was most evident at the HRVC's Umtata hearings on Tuesday, June 18, 1996, when Teddy 'Mwase' Williams appeared before the commission. Williams recounted his experiences while in exile in Angola in the early 1980s and the sexual abuse of newly arrived female recruits by the ANC's camp commanders. The picture he presented was not one the commission wished to uncover at that stage and he was promptly requested to

[...] please confine yourself to the question of the human rights violations to yourself, especially what happened to you at the ANC camps so that we would not take long with peripheral issues. We would like you to tell of yourself, tortures and experiences. Just a small reminder for you to confine yourself to the things that have happened to *you* and what you did. [...] <sup>302</sup>

By being occluded from the archive, the parts of the past that were not consigned to the past by the TRC cannot be visited, read, and interpreted, let alone revisited, reread and reinterpreted. As such, the past cannot be kept open. The TRC archive is thus not the place where the occluded past can begin but rather the place where it does not exist for memory because it has not been deposited in the archive. This is precisely because the archive is the hall mark for, and of, history. The archive, or rather, written documents, still figures in history as the basis of verification; written sources are still privileged as evidence over oral sources with the latter often being used

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<sup>302</sup>Ntsiki Sandi, HRVC Hearing, Umtata, Tuesday, June 18, 1996. The TRC has subsequently attended to the abuses suffered by women at a special hearing at Johannesburg on Monday, July 28, 1997 and Tuesday, July 29, 1997. It also held hearings on the abuses suffered at the ANC's detention camp, Quattro, in Angola. It, however, did not bring to light the sexual abuses alluded to by Williams. See HRVC Special Hearing on Women, Johannesburg, July 28-

only when they can be verified by the former.<sup>303</sup> This prejudice is, however, not a question of inclusion, exclusion and occlusion, nor is it of orality versus textuality. Rather, it is a question of the 'reality effect' in the production of History.

The TRC's primary sources that the TRC relied upon in constructing its history, and what were to form the core of its archive, were memories of people who had suffered gross human rights violations and who were framed as 'voiceless' in the discourse of the TRC. By framing them as such, the TRC implied that the past that it 'uncovered' was not only real but also 'hidden'. The TRC's history was, however an ethical interpretation for it chose to elevate the importance of one side of the conflicts of the past at the expense of the other. The side that it chose to honour was that of the liberation movements. Thus, the memories that were told at the TRC's hearings were mainly those of black males who were caught up in the struggle against apartheid. In the fiction of nationalism, and through its epistemic violence, these black men came to represent all South Africans.

Furthermore, the TRC's version of history was put on display at the same time that it was gathering evidence of that history for the archive. By displaying parts of this history at the HRVC victim hearings, the TRC made it familiar to the nation and made it part of the nation's past, for at those hearings the victim was treated with empathy and 'invited' to become part of the nation. At the AC hearing, however, the inverse tended to occur. At these amnesty hearings, the TRC seemed to demarcate the boundaries and the extent of the South African past for the perpetrators

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29, 1997.

<sup>303</sup>See, for example, Charles van Onselen's use of "documentary evidence" and other interviews to "check" the accuracy of Kas Maine's interviews. See Charles van Onselen, *The Seed is Mine: The Life of Kas Maine, A South African Sharecropper, 1894-1985*, David Philip, Cape Town, 1996, pp. 10-11.

who appeared before the AC were often ostracized and at times their activities were defined as 'unthinkable'. Here the TRC seemed to indicate which aspects of the past were not to become part of the nation's past.



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