

# PARABLES OF MASS ATROCITY

## A COMPARATIVE ANALYSIS OF THE NIGERIAN AND LIBERIAN TRUTH AND RECONCILIATION COMMISSION REPORTS



(The Sunday Times, 2012)

This work is substantially my own, and where any part of this work is not my own, I have indicated this by acknowledging the source of that part or those parts of the work.

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*To my supervisor: Graeme Gill*

*Thank you for your invaluable guidance throughout the year.*

*And to my mum*

*Thank you for all your sacrifice, strength and patience.*

## **ABSTRACT**

In the aftermath of conflict, the demand for societies to acknowledge the existence and impact of political violence has instigated creative policy developments in the twentieth and twenty-first centuries. Truth and Reconciliation Commissions (TRCs) operate as mediated sites of historical contestation, offering states an opportunity to ‘come to terms’ with their own pasts. Despite the extensive body of scholarship assessing the TRC’s potential in promoting developmental goals, minimal academic attention has been given to the Report the Commissioners are mandated to produce. This study adopts a critical approach in comparatively examining key sections of the Nigerian and Liberian Commission Reports by using the ‘judgment’ substructure, as part of the ‘Appraisal System’. This thesis argues that the Reports, in summarising the findings of the TRC’s investigations, do not seek to recount objective ‘facts’; rather, project a specific image of the past, framed by the Commissioners’ assessment of how state power should be judged.

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## **LIST OF ABBREVIATIONS**

ECOWAS	Economic Community of West African States
HRVIC	Human Rights Violations Investigation Commission
LTRC	Liberian Truth and Reconciliation Commission
SFL	Systemic Functional Linguistics
TRC	Truth and Reconciliation Commission
UN	United Nations
UNMIL	United Nations Mission in Liberia



# INTRODUCTION

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“The panel being inaugurated today is consistent with this administration’s ... determination to heal the wounds of the past and quickly put the ugly past behind so as to continue to stretch out the hands of fellowship and friendship to all Nigerians for complete reconciliation based on truth and knowledge of the truth in our land.”

*President Olusegun Obasanjo  
Inauguration of the Nigerian Human Rights Violations Investigation Commission  
(Quoted in Kukah, 2011)*

"In my own life I have come to believe that when the truth is told, humanity is redeemed from the cowardice [sic] claws of violence.”

*President Ellen Johnson-Sirleaf  
Inauguration of the Liberian Truth and Reconciliation Commission  
(Quoted in BBC News, 2006)*

In 1999, President Obasanjo inaugurated a public inquiry to investigate perpetrations of human rights violations. At this inauguration, the pillar of the President's speech was 'truth', the discursive vessel by which the Nigerian nation was envisioned to quickly move beyond the 'wounds' that perforated its past. Seven years later in 2006, Nigeria's regional neighbour Liberia was also attempting to assert a new future, one distinct from the debilitating Civil War that stifled the country for over thirteen years. 'Truth' once again was envisaged to play a prominent part as President Johnson-Sirleaf championed its transformative role in redeeming the tenet of humanity itself. Whilst on the surface, the twentieth-century witnessed West Africa plagued by pervasive tensions between the rulers and the ruled; the twenty-first century seemed to deliver a renewed hope for the future, one clearly demarcated from the 'ugliness' of the past.

The expectation harboured by President Obasanjo and President Johnson-Sirleaf, as to the role of Truth and Reconciliation Commissions (TRCs), symbolised the hope vested in the institution of the Commission and the anticipation surrounding what it was envisioned to achieve. Their statements show the powerful momentum behind the idea of 'truth' in both societies, as the two Presidents expressed a belief that the insertion of 'truth' into the public realm would engender a process of rehabilitating society from the damage caused by past political violence<sup>1</sup>. However, despite the appeal of 'truth' as an aspiration goal, the operation of these Commissions serves only to reinforce the fact that "there are no tidy endings after mass atrocity" (Minow, 1998, p. 102). Contemporary scholarship reveals a complicated picture as to how the events of the past are accounted for by these "curious, contradictory

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<sup>1</sup> This sentiment reflects the conceptualisation of the role of factual truth offered by Hannah Arendt in *Truth and Politics* (1961). Arendt, in her articulation of the ideal of factual truth, argued that in communities where mass deception was entrenched, the recognition and diffusion of factual truth was capable of rehabilitating the encumbered social trust between citizens and their government.

bodies” (Grandin, 2005, p. 46) as the study of TRCs prompts an interrogation of the moral and political tensions that pervade post-conflict societies.

The past twenty years has witnessed the power dynamics and normative expectations of the international community transforming contemporary understandings of how societies *should* address the past. Transitional Justice, defined as the mechanisms by which a state chooses to come to terms with political violence (United Nations, 2004a, p. 4), has emerged as a dominant field in the policy discussions of post-conflict societies. From the policy ‘menu’ (Roht-Arriaza, 2006, p. 4) that is offered by this framework, the ‘Truth and Reconciliation Commission’ has evolved to become the most influential option<sup>2</sup>. The structure of TRCs can be broadly identified as comprising the four following factors, compiled from the authoritative definitions provided by Hayner (2011) and Freeman (2006):

1. An *ad hoc* autonomous body empowered by the state.
2. Investigations are focused on the past.
3. Information about the past is gathered from a broad sector of society.
4. Makes recommendations to the incumbent regime addressing how states should ‘come to terms’ with their pasts.

The popularity of TRCs amongst policymakers has instigated a wealth of scholarship that examines the utility TRCs are posited to have on the societies in which they operate. This contrasts with the minimal academic attention afforded to the “legacy” (Wiebelhaus-Brahm, 2010, p. 29) of the Commission contained within the Report it produces (Crenzel, 2011, p. 1063). This thesis seeks to draw attention to the Report produced by the Commission for the purpose of distilling what account of the past the Commissioners offer and what strategies are

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<sup>2</sup> TRCs have been implemented in over thirty countries. Refer to Appendix A.

used to shape this understanding. In comparatively examining the Nigerian and Liberian experiences, the Report produced by each Commission is critically evaluated to engage with how the Commissioners seek to present and justify a specific account of the past. In extrapolating the normative framework that underpins the expositional sections of the Report, the Commissioners' judgments about the nation's past and the nature of state power become evident.

## **ORGANISATION OF CHAPTERS**

The first chapter will examine the literature surrounding TRCs within the frameworks of 'transitional justice' and 'political narratives', in turn, highlighting the contribution of the present research. The methodology adopted for this research paper will then be outlined, including an overview of the structural characteristics of the TRC Reports, before a justification for the case studies is provided. The third chapter comparatively examines the historical antecedents for the violence perpetrated in each state as well as the circumstances that led to the implementation of the TRC, contextualising the analysis that is to follow. The fourth and fifth chapters address the Nigerian and Liberian case studies respectively, following the outline provided in the research design. The findings that these two chapters present are comparatively analysed in Chapter Six followed by concluding remarks that summarise the findings of this study.

# CHAPTER ONE: Frameworks for Analysis

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Truth and Reconciliation Commissions have become a policy catchcry for fledgling democracies around the world. As part of the “toolkit” (Fletcher, Weinstein and Rowen, 2009, p. 170) of transitional justice mechanisms, TRCs operate as a “historic bridge” (South Africa, 1998), seeking to reconcile the relationship between the governed and their rulers and lay the foundation for stability in the future. Thus, whilst TRCs are an integral component of the politics of the present, they also serve to reflect a past perforated with “holes of oblivion” (Arendt, 1965, p. 232) created by political violence. The widely assumed capabilities of the TRC are reflected in the implementation of these institutions in over thirty national contexts in the past forty years (Olsen, Payne, and Reiter, 2010; illustrated in Appendix A). Despite its popularity with policymakers however, the academic literature surrounding the nature of its operations is shrouded by the disconnect between the expectations surrounding the Commission and the realisation of its role in contemporary society.

This chapter will contextualise the academic literature surrounding TRCs within the theoretical framework of Transitional Justice in order to engage and critique how the TRC model is perceived. The different lenses by which scholars examine TRCs will then be discussed, first through the positivist frame and then focusing on its role in producing a tangible political narrative in the form of the Report that is released. The current limitations of the literature are then discussed, highlighting the significance of the present research and the analytical importance of critically evaluating how information is constructed and presented to the audience in the Report.

## **Framework of ‘Transitional Justice’**

‘Transitional justice’, “championed as a critical and transformative response to political violence” (Leebaw, 2011, p. 2), has gained significant momentum in the past two decades. The end of the Cold War delivered an international community that not only experienced the proliferation of intra-national conflict but also one pervaded by the obligation to act after witnessing perpetrations of mass atrocities (Lutz, 2006, p. 328). The idea of ‘transitional justice’ became a response to the angst of the international community, as it struggled to address how society *should* reckon with past acts of political violence (Hayner, 2011, p. 8).

Despite the influence of transitional justice, as a normative idea, shaping policy decisions in periods of significant political upheaval, the dynamic of its operations continues to be an “unruly arena” (Clark and Palmer, 2012, p. 1) of research. The formal definition of transitional justice espoused by the United Nations (UN) states that the term encompasses “the set of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation” (United Nations, 2004a, p. 4). This definition is extremely expansive, covering a wide range of mechanisms within a variety of contexts. However this inclusiveness, whilst postulating as one of its greatest assets (Clark and Palmer, 2012), has caused the very substance of the term to be avidly contested (for example: Rotberg and Thompson, eds., 2000; Elster, 2004; McEvoy, 2008).

Contestation over what the substance of ‘transitional justice’ entails contrast with the narrow scope of empirical research associated with the topic. It is important to emphasise that transitional justice is envisioned to imply a teleological paradigm, as the implementation of such a mechanism is connected with the purpose of furthering democratic goals in the hopes of attaining an improved future (for example: Teitel, 2000; De Brito, Gonzalez-Enriquez and

Aguilar, 2001; Quinn, 2009; Olsen, Payne and Reiter, 2010). Thus, central questions for positivist research focus on the relationship between justice and peace (for example: Sriram and Pillay, 2010), whether reconciliation is fostered or undermined (for example: Malamud-Goti, 1990; Fletcher and Weinstein, 2002; Daly and Sarkin, 2006; Quinn, 2009) and whether these mechanisms serve purported goals of developing a human rights culture (Borer, 2006b). Consequently, the interest in the idea of 'transitional justice' is focused on the question of *effectiveness*, that is, the relationship between the implementation of its processes and 'positive' political change. 'Coming to terms with the past' is therefore envisaged in terms of what political *results* are capable of being delivered as a consequence of implementing a transitional justice mechanism.

The positivists' paradigm, concentrating on the effects these mechanisms are intended to achieve, overlooks the assumptions that are imposed on the politics underpinning the ethos of transitional justice. The goals of transitional justice mechanisms are often conceptualised as an ideal of how society instinctively 'should' be, rather than what society is 'determined to be' (Renner, 2012, pp. 55-56). The assumption therefore is that the goals of transitional justice are *inherently* contained within the very definition of the term, rather than a *product* of political considerations. Despite the problems associated with such an assumption, the positivist conceptualisation of transitional justice has been extremely influential on the academic discussions surrounding TRCs.

## **TRCs through a Policy Framework**

Empirical research evaluating the ‘efficacy’ of TRCs has focused on assessing whether there is a relationship between the implementation of these Commissions and desired developmental and political outcomes (Brahm, 2007; Kim and Sikkink, 2010; Olsen, Payne and Reiter, 2010). These outcomes have focused on whether the implementation of TRCs is capable of decreasing the level of state-endorsed repression (Kim and Sikkink, 2010) and whether their processes contribute to the development of democracy (Sikkink and Walling, 2005).

Whilst there have been numerous attempts at establishing a relationship between the implementation of the TRC and these projected policy goals, the scholarship reveals significant discrepancies in the posited utility of the institution. This is clear when comparing the findings reached by Kim and Sikkink (2010) with the criticisms of Snyder and Vinjamuri (2003). Both pieces of research utilised a large-scale quantitative methodological approach in their analysis of the impact of TRCs. Kim and Sikkink (2010)’s study posited that there is a positive causal relationship between the implementation of the truth commission and ‘positive’ outcomes such as the promotion of democratic processes and respect for human rights. However, Snyder and Vinjamuri’s (2003) study found that truth commissions have a negligible effect on society, criticising advocates of TRCs who claim that the Commission’s processes yield a positive impact. These competing claims reveal two key limitations associated with viewing TRCs through a policy framework. There is contention as to what factors constitute a ‘truth commission’. Thus where a definition is adopted, “concept misinformation” (Sartori, 1970) may lead to selection bias, in turn skewing results and undermining the integrity of the conclusions reached (Brahm, 2009, p. 5).

Secondly, authors such as Snyder and Vinjamuri (2003), Kim and Sikkink (2010), and the



most recent large-scale analyses completed by Olsen, Payne and Reiter (2010), homogenised different TRCs into a uniform category based on the purported ideological aims of the TRC. This is problematic as TRCs may differ widely in their mandates, sources of funding, composition and the extent to which their processes engage with different sectors of society (Brahms, 2007, pp. 29-31).

It is clear that the assumptions inherent within the theory of transitional justice were reflected within the analyses of TRCs by positivist research. The purported purpose of these institutions was not critically evaluated as the metric by which the utility of the TRC was measured was based on what was considered to be the ideal goal of the Commission and not what was stated in each of their respective mandates nor how the mandates were interpreted by the Commissioners. The analysis of TRCs through a policy framework therefore obfuscates the significant differences between Commissions, resulting in conflicting claims of causation between researchers.

Given the limitation of analysing TRCs through a positivist approach, this study adopts an alternative conceptualisation of TRCs that critically evaluates the normative structure framing the work produced by the Commissioners. Growing inter-disciplinary research has provided an alternative lens by which societies are examined in a period of heightened political change. As this thesis examines the narrative presented by the text of the Commission's Report, an overview of the literature on political narratives is first presented before discussing the empirical research that has utilised this framework to analyse specific case studies.

## **TRCs through the Framework of Political Narrative**

Research conducted on political narratives has often highlighted their analytical importance as a rich site of not only knowledge but also understanding (Cole, 2010, p. 651). This area of the scholarship focuses on the analytical utility of personal narratives in politics, especially the relationship between individual voice and the public performance that facilitates its entry into the political realm. Research highlights the concurrent space occupied by these narratives, recognising that whilst it opens a political arena for individuals, the message that is offered serves to simultaneously refract the complex political dynamic that underscores the context in which the words are heard (for example: Mumby, 1987; Clair, 1993; Cole, 2010).

In the context of post-conflict societies, Feldman (2004), in his study of the testimonies heard in the aftermath of political violence, identified specific regimes of truth that shaped how personal narratives were framed and understood by the public. He states that testimonies that “purport to witness violence are subject to protocols of authentication within various regimes of truth: legal, medicalized, psycho-therapeutic, and economic” (Feldman, 2004, p. 164). Feldman (2004, p. 168) argues that the imposition of legal and psycho-medical rationality is a crucial part of reinstating post-conflict *reason*. His study is important as it highlights how pre-existing expectations of rationality indirectly frame the testimonies that ultimately emerge in the public sphere and more importantly, why they are publicly accepted.

The critical framework developed from the scholarship on personal narratives has been refined in the analysis of the narrative contained within the TRC Report. This area of research focuses on the analysis of earlier Latin American TRCs, especially the Argentinian and Chilean examples. Julie Taylor (1994) and Michael Humphrey (2002), in their analysis of this regional group of TRCs, posit how political legitimacy and identity can be shaped by the power dynamics of the incumbent regime and the strategies employed to achieve such

outcomes. Taylor's (1994) seminal analysis focused on the '*Never Again*' projects, arguing that these projects became an indirect mechanism for incumbent regimes to assert new boundaries of inclusion and exclusion. Through each State's delineation of their Commission's mandate, the TRC process was able to atomise individual identity, determining both who had a *public* voice and what event was 'relevant' to tell (Taylor, 1994, p. 197). Taylor (1994) argues that individual memory is relevant only as recourse to justify the narrative of 'collective memory'. This argument supports the premise that contestations over the past are not often about conflict over past events; rather, they represent a challenge of "who or what is entitled to speak for that past in the present" (Hodgkin and Radstone, 2003, p. 1). Individual experience is thereby "precluded except along lines congruent with facts of power and hierarchy" (Taylor, 1994, p. 200). Thus, Taylor argues that the '*Never Again*' projects operated as coercive avenues for the State to perpetuate its own legitimacy in a politically vulnerable climate.

Humphrey (2002) extends Taylor's theory by exploring the strategies employed by Commissioners to redefine the boundaries of political legitimacy and power in post-conflict societies. His analysis focuses on the discursive patterns that appear in the Chilean, South African and Argentinian Reports, especially in relation to the position of 'victims'. In emphasising the central position of victims, both in how the Commission was conducted and in the narrative offered by the Report, Humphrey (2002) posits that the source of legitimacy, by which a perception of the past is considered as 'truth', is vested in the physical suffering of the victim. He argues that the role of the *public* victim exemplifies the consequences of 'illegitimate' acts of state power by the 'perpetrator' as the identity of the victim becomes one actively constructed to encapsulate a morally and politically cognisant entity. Humphrey (2002) reaches a similar conclusion to Taylor (1994), positing that individual suffering is

ultimately homogenised to produce a dominant narrative of events, highlighting the vulnerability of the witness testimony to appropriation by dominant political and social discourses (Foucault, 1972).

General discussions regarding ‘victim’ and ‘perpetrator’ in the context of TRCs have been recently challenged however, in light of a renewed interest with the Reports themselves. Crenzel (2011) posits an alternative interpretation of the ‘victim/perpetrator’ model, stating that whilst it commands the overall *impression* of the TRC process; the Report, in regards to key events, is less assertive when mediating statements (Crenzel, 2011, p. 1071). Instead, the Report creates a relationship with the reader allowing them to foster doubts about historical events (Crenzel, 2011, p. 1072). This interpretation of the TRC Report reflects the writings of Seremetakis (1991). Seremetakis (1991), in referring to the writings of cultural anthropologist Richard Bauman (1977), argues that spaces, which allow for the public performance of individual testimony, operate not to reinforce the incumbent regime’s power; rather serve as alternative social structures, disturbing and challenging dominant political structures. Crenzel’s (2011) argument supports this statement, positing that the essential objective of the narrative is not to dichotomise society; rather it is to subvert hegemonic interpretations of the past perpetrated by the previous regime.

Crenzel’s (2011) analysis challenges Humphrey’s (2002) conclusion by extrapolating an alternative intent behind the discursive choices made by the Commissioners in the presentation of the TRC’s findings. However, it is important to note that neither Humphrey’s (2002) nor Crenzel’s (2011) research design examined the rhetorical organisation of the Report’s text. Rather, both scholars made general observations about how individuals are incorporated within the Report’s narrative to explore broader theoretical debates about the sociological implications of the TRC’s processes. In light of these competing claims therefore,

methodological questions arise, as it is clear that interpretations of the intended meaning behind the Report's narrative may not be inherently clear through a general overview of its content. Thus, this paper suggests that by focusing on the key expositional sections of the TRC Report, that is, the sections where the voice of the Commission appeals directly to its audience in presenting the purpose behind the TRC, the intent of the Report's meaning is capable of being more clearly discernable. By systematically considering these key sections of the Report, this analysis will therefore seek to identify "the political agency that such narrations refract, replicate, and authorise" (Feldman, 2004, p. 163).

## **Conclusions and Significance of Present Research**

A review of the scholarship reveals that the focus of the literature on TRCs is on whether the Commission operates as an 'effective' policy in societies whose recent past is perforated with political violence. This conceptualisation of TRCs locates the role of the Commission within a teleological timeline underpinned by the *idea* of transitional justice. In challenging the assumptions imposed on TRCs by the positivist literature, this analysis adopts a critical approach to the study of TRCs, utilising the Report as the primary source of evidence.

The current literature interrogating the narrative that is produced by the TRC focuses predominantly on analysing how individual testimony is integrated into the text of the Report. In their analyses of the Latin American case studies and the South African experience, Taylor (1994) and Humphrey (2002) have highlighted discursive patterns contained within the Reports and how a *specific* account of the past is advanced to reinforce the legitimacy of the state. Crenzel (2011), in an alternative interpretation of how individual testimonies were

incorporated into the text of the Report, argues that the shared experience of those that suffered from political violence serves to destabilise the incumbent regime's control over the official history (Bakiner, 2011), rather than reinforce it. The differences in these conclusions highlight the importance of adopting a systematic methodology in analysing the text of the Report.

This thesis addresses two shortcomings of the present scholarship on TRCs. First, an alternative conceptualisation of TRCs is adopted, interrogating the normative substructure that frames the operations of TRCs. This mode of analysis aims to highlight the political judgments that are made by the Commissioners themselves, in turn, elucidating the intended purpose of the Report. Second, it is clear that the focus of the literature is limited to the earlier Latin American examples and South Africa's TRC. The twenty-first century however has witnessed a growing popularity of TRCs within the African region (refer to Appendix A). Despite these policy trends, the academic literature that assesses the TRCs implemented in this region remains relatively underdeveloped. This study therefore, in focusing on the experiences of the Truth and Reconciliation Commissions implemented in Nigeria and Liberia, inserts its discussion within both the broader literature of 'transitional justice' as well as within the discussion of the TRC experience within the West African region.

## CHAPTER TWO: POSING THE PUZZLE

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Truth and Reconciliation Commissions occupy two concurrent roles within the political imagination of post-conflict societies. Whilst their formal role is to investigate past events, the Commission's processes are simultaneously entrenched within the political and cultural dynamics of contemporary society (Andrews, 2003, p. 62). The TRC therefore, in its attempt to transform the events of the past into a tangible and relevant legacy, is designed to operate as both a spectator of the past and an actor in the socio-political space of the present (Leebaw, 2011).

The focus of this research interrogates how the Commission balances these two roles by examining how an image of the past is developed and justified to its audience by the text of the Report. The comparative analysis of Nigeria and Liberia will highlight both the strategies available to Commissioners in their construction of a nation's past as well as the implicit normative judgments that frame the text of both Reports. Before the question posed by this thesis is further assessed, it is important to acknowledge the defining features that characterise the TRC Reports. This discussion provides a general overview of the structure and content contained in TRC Reports and informs the research design of this thesis.

## TRC Reports: An Overview

An integral component of the Commission's role is to issue a Report summarising its investigations into the nation's past<sup>3</sup>. The Report's content is independent of, but may be endorsed by the government of the day and is usually made available to the general public (refer to Appendix A). All the Commissioners are responsible for contributing to the text of the Report; however, this does not imply that the final text represents an overall consensus. A dissenting opinion may be issued (for example: LTRC, 2009) that outlines the opinion of those that disagree with the sentiment of the Report. However, the Commission's official Report is the version endorsed by a majority of the Commissioners and is the text that is considered for review by the incumbent government.

The primary purpose of the TRC Report is to document the findings gathered from the Commission's investigations, of which there are two aspects. First, the Report is required to determine the scope of individual responsibility during the TRC's mandated period of investigation (Stanley, 2001, p. 528). The enunciation of these responsibilities within the text of the Report serves to project an expected standard of behaviour against which the Commissioners assess and judge alleged acts. Further, the process by which the Commissioners define and justify<sup>4</sup> the substance of individual responsibility reveals the source from which the TRC imputes moral and political principles.

The second component of the Report's findings relate to the testimonies gathered throughout the TRC's investigations. A key purpose of the Report is to provide a comprehensive account of the nation's past. This is achieved by collating primary evidence

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<sup>3</sup> This requirement is generally outlined in the TRC's mandate.

<sup>4</sup> The academic commentary on how the Commission's justified the contents of their Report is distinct from research on whether the broader community or the incumbent regime *accepted* these justifications. The extent to which these justifications were accepted is explored in the literature detailing the 'effectiveness' of the Commission and is beyond the scope of this study.



from individuals, who offer their personal experiences of the past to the Commission either through private submissions or at public hearings. These testimonies provide, in extensive detail, the individual's experience of violence and may derive from the person who suffered from an alleged act, was accused of perpetrating the act, or a witness of a relevant event.

Cumulatively, these findings provide the evidential support for the final section of the Report in which the Commissioners offer recommendations as to how society is able to 'move forward' from its past. This section provides the TRC's assessment of past transgressions and how the state is able to acknowledge the acts that were committed and aid the nation's 'healing'<sup>5</sup> process. Thus, these recommendations often reflect sets of ideals that the Commissioners proscribe the incumbent regime to aspire towards (Nevins, 2007, p. 594).

It is crucial to also note the overriding purpose of the Report. As well as its formal function to present an account of the nation's past, the role of the text is also to influence the audience, including the government of the day, why the Commissioner's recommendations should be implemented. Therefore, the text of the Report also serves as a direct avenue by which the Commissioners are able to persuade a national and international audience of the relevance of the TRC's processes. An important consideration for the Commissioners when constructing the Report would therefore be to enhance the relationship between itself and the reader. Thus, the audience's reaction is a critical factor considered by Commissioners in writing the Reports as the political utility and influence that the Report is capable of exerting is ultimately dependent on the extent to which its content is accepted. This relationship is illustrated in Figure 1.

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<sup>5</sup> The process of 'healing' is often cited as one of the TRC's central roles. For example: HRVIC, 2002, Volume 1, p. 34; LTRC, 2009, Volume 2, p. xxiii.

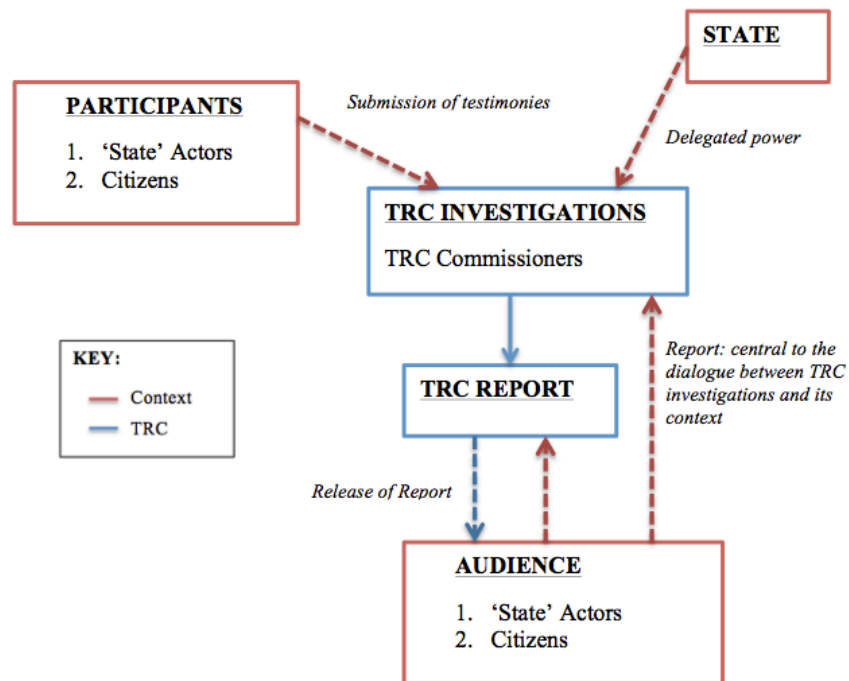


Figure 1

Illustration of the relationship between the TRC and its context

## Methodology

This thesis asks how an image of the 'past' is presented and justified in the text of the Report. In order to address this question, an overview of the nation's 'past' is first presented to contextualise the analysis of the Report that follows. Secondary resources and newspaper articles are used to examine the historical context in which violence was perpetrated, focusing on the conditions that led to the implementation of the TRC.

Following this comparative consideration of the historical context, the research question is interrogated by considering the text of the two TRC Reports in Chapters Three and Four, respectively. The 'past' is firstly deconstructed into the three key groups of actors that populate the social milieu the TRC seeks to represent and engage with (as visualised in Figure 1).

This includes:

1. The role of the Commissioners
2. The experience of the citizens
3. The role of the 'state'

The analysis of each case study is organised according to how these three groups of actors are framed by the text of the Report and how this frame subsequently informs the overall image of the nation's past that emerges.

In order to critique how the Report constructed and assessed the role of these three groups, key sections of the Report were selected for analysis. These sections were informed by the overall structure of the Report<sup>6</sup> and selected after both the Nigerian and Liberian TRC Reports were comprehensively examined. The three sections that were chosen included:

1. Introduction
2. Chapter summarising the individual testimonies
3. Conclusion

The introduction and conclusion is crucial as these chapters represent the key expositional sections of the Report, establishing and perpetuating the relationship shared between the Report's audience and the Commission. More pronounced than any other section, these chapters of the Report are engaged in an explicit dialogue with the political environment it seeks to influence. This is important as the research question asks not only what image of the past is presented, but also how it is *justified* to the audience.

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<sup>6</sup> This was discussed in the general summary of the TRC Report in the previous section of this Chapter.

The chapter summarising the individual testimonies was selected as it encompasses the TRC's primary source of evidence. It is through these testimonies that past events are presented to the audience as the content of their submissions provide the basis upon which the Commissioners justify their assessment of the past. Given the vastness of the text<sup>7</sup>, by focusing on these sections of the Report, the text is capable of being more rigorously analysed by the methodology adopted by this research.

### Discourse Analysis: Substructure of 'Judgment'

This chapter has deconstructed the 'past' according to the roles occupied by the three primary groups of actors and identified the key sections of the Report this thesis will critically evaluate. However, the question remains as to how the selected sections of the Report will be examined in order to engage with the research question. Given the central question posed by this thesis is to examine how the 'past' is presented and justified by the text of the Report, a system of analysis derived from Systemic Functional Linguistics (SFL) is used. SFL examines the dialectical relationship between the choices made in how meaning is created and the socio-cultural context from which these choices emerge (Halliday, 1994). As part of SFL, the 'Appraisal System'<sup>8</sup>, outlined in Figure 2, is designed to show how value judgments are made by the text through the identification and examination of the discursive strategies used by the authors (Oteiza and Pinto, 2008, p. 335).

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<sup>7</sup> The Nigerian HRVIC Report is cumulatively 1,492 pages. Similarly, the Liberian TRC Report is 1,368 pages in total.

<sup>8</sup> As the purpose of this analysis is to explain how national experiences are expressed and constructed by the Commission, this paper is focused more on the "rhetorical organization of a text [rather] than its logic" (Martin and White, 2005, p. 33).

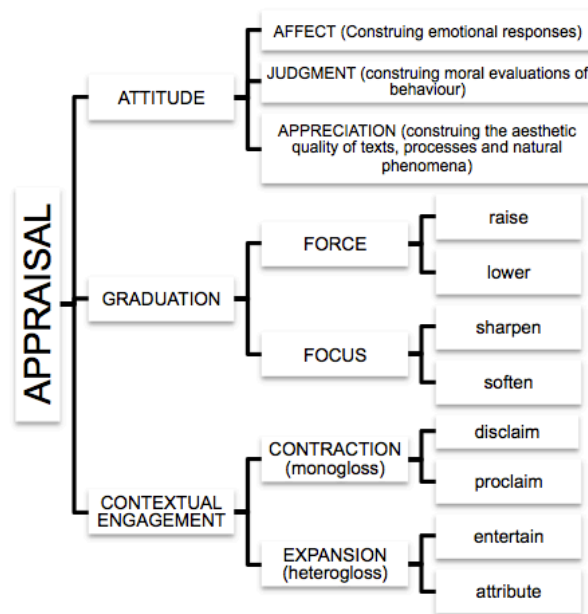


Figure 2: Appraisal System

Adapted from Martin and White (2005)

As outlined in Figure 2, appraisal provides a set of choices for language users. The present research utilises the subsystem of ‘judgment’ in its analysis. This substructure recognises that social behaviour is organised in such a way that is familiar to the reader, but also actively managed by the writer. ‘Judgment’ assesses human behaviour in reference to “a set of institutionalised norms about how people should and should not behave” (Coffin, 2003, p. 224). This system of analysis recognises that a particular word can “evoke a particular judgment on the part of the reader” (Coffin, 2002, p. 512), highlighting the importance of the socially constructed power of discourse (Feldman, 2004). Thus, the analytical subsystem of ‘judgment’ is useful as it recognises how interpersonal meaning can be exploited through the ideational significance that it represents for *both* the reader and the writer.

The ‘judgment’ framework, outlined by Coffin (2003, p. 227) in Figure 3, is applied to key sections of the Report to examine each of the three groups of actors.

<b>COMPONENT OF JUDGMENT</b>	<b>Associated Question<sup>9</sup></b>	<b>Examples (FRAME: positive/negative)</b>
NORMALITY OR CUSTOM	Is the actor’s behaviour or way of life unusual?	Fortunate, Lucky Strange, Unfortunate
CAPACITY	Is the actor competent?	Pragmatic, Powerful Incompetent
TENACITY	Is the actor dependable/committed?	Brave, Determined, Cowardly, Inflexible
VERACITY	Is the actor honest?	Genuine, Honest, Deceptive,
PROPRIETY	Is the actor ethical?	Fair, Just, Respected, Abusive, Immoral

Figure 3: Outline of ‘Judgment’ Substructure

Adapted from Coffin (2003, p. 227)

This framework is used in two stages, identifying:

1. Whether a group is constructed through a positive or negative frame and what component of judgment is the most prevalent in the construction of this frame.
2. What the words used to perpetuate a positive or negative frame are.

The second stage is especially important, as it identifies the specific words used by the author to conjure, in the mind of the reader, a certain image as to why the actor is considered in a positive or negative way.

The words identified in the second stage are then considered at the aggregate level to determine the source from which the TRC derives the moral and political authority to judge.

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<sup>9</sup> ‘Actor’ refers to the subject of the writer’s judgment.

The normative framework that is subsequently identified is then comparatively considered in Chapter Six to reveal the discursive strategies available to Commissioners in justifying a particular image of past events in the narrative of its Report.

## **Case Selection**

This study chose to comparatively examine the Nigerian Human Rights Violations Investigation Commission (HRVIC) and the Liberian Truth and Reconciliation Commission (LTRC). Three reasons were crucial in this selection. Each will be discussed in turn to highlight both the significance of this thesis as well as the limitations faced by the overall study of the TRC and transitional justice.

### *Engagement with West Africa*

The choice of two West African case studies is important as it highlights an underdeveloped area of the literature of ‘transitional justice’ and more specifically, of TRCs. As Nwogu (2010), has suggested in regards to the Nigerian HRVIC, ethnicity-based violence presents a new set of problems for transitional justice mechanisms to contend with. Given that “Africa stands arguably at the cutting edge of the international debate on transitional justice” (Villa-Vicenco, 2009, p. 17), West Africa especially deserves further attention, particularly given its experience of the many manifestations of transitional justice, including truth commissions and an international criminal tribunal<sup>10</sup>.

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<sup>10</sup> At the completion of this thesis, five truth commissions have been implemented in the West African region. In chronological order according to the date in which each commission was established, this includes Chad, Nigeria, Ghana, Sierra Leone and Liberia. (Refer to Appendix A). The international criminal court refers to the Special Court of Sierra Leone that was established, notably, to indict Charles Taylor.

### Examining the 'Second Generation' of TRCs

Secondly, the focus of the literature on the earlier Commissions implemented in Latin America confines analysis to a particular 'generation'<sup>11</sup> of TRCs. As truth commissions are an evolving idea (Bakiner, 2011, p. 37), the earlier TRCs had distinct characteristics that defined their structures. The Latin American case studies of Argentina, Chile and Chad, for example, were implemented to solely address the crimes committed by the military during military rule. 'Responsibility' of past crimes was in this respect, pre-determined by the mandate that the Commission was charged to fulfil. In the more recent case studies, especially in circumstances where the nation's past is complicated by the exigencies of civil war and where the hierarchy of power is less clearly defined, the allocation of responsibility is deduced *through* the process of the Commission. This distinguishes the earlier TRC processes from the processes of more recent West African examples.

### International Political Interest

The case studies that have been chosen have wielded considerable international political interest in the past decade. Nigeria is an important economic actor in the international sphere due to the vast oil reserves in the Niger Delta area<sup>12</sup>. Further, Nigeria is a dominant regional actor, proving to be central in the formation of the regional organisation of the Economic Community of West African States (ECOWAS) (Ojo, 1980).

Liberia has continued to foster considerable international attention; heightened by the Civil War instigated by Charles Taylor's rebel forces. The continued operation of the United

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<sup>11</sup> This classification is adopted from the analysis offered by Bakiner (2011).

<sup>12</sup> According to the World Bank (2008, p. ix), the Niger Delta has enabled Nigeria to become "the largest oil producer in Africa and among the top ten globally".



Nations Mission in Liberia (UNMIL)<sup>13</sup> since a ceasefire was declared in 2003 reveals the international community's sustained interest in the country's development, with the UN deploying considerable resources to Liberia for the purposes of ensuring relative peace.

The nature of the 'transition' is important for different reasons; however the attention that has been placed on the transition of both Nigeria and Liberia commend these case studies to be further examined. Through the analysis that is to follow, the two case studies provide insight into the challenges faced by, as well as the agency afforded to non-government actors, such as TRCs, during the immediate aftermath of conflict.

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<sup>13</sup> The UN Security Council unanimously adopted the resolution to extend UNMIL's mandate on 17 September 2012, extending it to 30 September 2013. Refer to UN (2012) and *United Nations Security Resolution 2066*.

# CHAPTER THREE: A DIFFICULT PAST



Figure 4: Map of Nigeria  
(United Nations, 2004b)



Figure 5: Map of Liberia  
(United Nations, 2010)

The nations of Nigeria and Liberia share striking similarities in their struggle with the concept of ‘statehood’ throughout the nineteenth and early twentieth centuries<sup>14</sup>. This historical struggle will be explored in order to elucidate the political and cultural context in which each respective TRC was established. An understanding of the course of their histories reveals how the relationship between the central government and the citizenry has been shaped by past national experience. This is critical as it reveals how society perceived the role of the Commission and the legitimacy of its delegated power and further, why the ideal of ‘factual truth’ gained political omnipotence in these contexts.

### **A ‘Nation’ not quite its own**

The landmass identified now as Nigeria and Liberia, harboured significant economic and political hope for the Western nations that intervened in its operations at the height of colonialism in the nineteenth century. The Federal Republic of Nigeria, commonly described as one of Africa’s most “promising” (Maier, 2000) states, contained vast human and material resources (Falola and Oyebade, 2010, p. 65), which in turn contributed significantly to the country’s economic and political potential<sup>15</sup>. Liberia, as one of the few countries on the African continent not colonised by a Western nation, does not share the colonial narrative that befalls many of its regional neighbours. Despite this however, the US exerted considerable influence on the country. The Liberian nation was crafted for the purpose of projecting the idealism of freedom as the state was originally envisioned by the US as a haven for

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<sup>14</sup> The discussion that follows seeks to offer a substantive overview of the circumstances that led to the implementation of the TRC. However, it is not intended that this discussion provide a comprehensive history of the conflicts in Nigeria and Liberia. For a comprehensive history of these countries refer to Falola and Heaton (2008) [Nigeria]; Pham (2004) [Liberia].

<sup>15</sup> Nigeria was touted as the ‘Giant of Africa’ (Abedanwi and Obadare, 2010, p. 380). However, this metaphor has been recently used to convey the failure of Nigeria to live up to its potential (For example: Osaghae, 1998).

manumitted American slaves (Levitt, 2012, p. 52). Therefore, the states of Nigeria and Liberia were designed to promote the economic and moral weight of Western power as the inhabitants of both lands became embroiled within the dictates of foreign states.

The period following the initial contact of these two nations with Western powers witnessed a heightened degree of ethnic tensions, prompted in part by the political motivations of the British Empire and the US, respectively. Before the intrusion of British forces in Nigeria, conflict engendered by trade rivalries was prominent between the autonomous tribes that inhabited the region. However, the colonial aspirations of the British instigated an exacerbation of these rivalries for the purpose of asserting imperial control (Abedanwi and Obadare, 2010). The violent policy of “conquer and pacify” (HRVIC, 2002, Volume 7, p. 61) was adopted, as competition and suspicions between the tribes were exploited by the British to affirm colonial rule.

In Liberia, despite the altruistic intentions expressed by the US, its Declaration of Independence in 1847 entrenched an “internal apartheid” (McGovern, 2008, p. 335) in the social and cultural landscape of the country. Embedded within its newly drafted Constitution was an exclusionary definition of who qualified as a ‘citizen’, and subsequently, who was eligible to enjoy the rights the term entailed. The term ‘citizen’ included only Americo-Liberians and their descendants as the immediate impact of this definition entrenched a hierarchical system that considered ethnicity as paramount to identity and central in the determination of social and political rights.

Thus, the impact of Western intrusion on both Nigeria and Liberia emphasised difference between the various ethnicities that inhabited its land. Whilst the British recognised the political capital of ethnicity as a tool by which they were able to entrench their own power, the US indirectly created a hierarchical system whereby the difference between manumitted

American slaves and indigenous Liberians became increasingly pronounced throughout the nineteenth and twentieth centuries.

As the moral and political dilemmas of colonialism became apparent for the British at the turn of the twentieth century, the political capital of ethnic identities as a motivating agent was transposed and actively utilised by Nigerian political parties in the 1930s and 1940s (Falola and Heaton, 2008, p. 150). This was most clearly seen when the ethnicities that formed the largest proportion of the Nigerian population, that is, the Igbo, the Yoruba and the Hausa Fulani, began to consolidate their dominance in the South-Eastern, South-Western and Northern regions of Nigeria, respectively (Refer to Figure 4). The concept of being ‘Nigerian’ “meant little to most people whose lives continued to be primarily centred on local communities” (Falola and Heaton, 2008, p. 158).

In Liberia, between 1847 and 1979, the division of power emphasised the privileged position of ethnicity. During this period, the Liberian political elite and ruling class, including every President and his respective administration, were Americo-Liberian, despite this ethnicity comprising only three per cent of the total population (Dennis, 2006). Corruption became an endemic component of governance as Liberia witnessed the political elite pillage public funds (Lama Wonkeryor, 2007). Consequently, the material difference between Americo-Liberians and indigenous Liberians became increasingly pronounced as the structures of government were seen as exploitative tools for personal gain.

Between Western intrusion and the beginning of the TRCs’ mandated periods of investigation, Nigeria and Liberia witnessed ethnicity<sup>16</sup> operating as a force of both inclusion and exclusion, heightening the mutual suspicion citizens had of the ‘other’ and undermining

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<sup>16</sup> Ethnicity is a social constructed and heavily contested term. According to Stewart (2012, p. 198) ethnic categorisations emerge historically and can include appearance, language or comments that “the very effectiveness [of ethnicity] as a means of advancing group interests depends upon it being seen as ‘primordial’ by those who make claims in its name”.

efforts to establish a 'collective' identity based on nationhood. Further, it is clear that whilst ethnicity was used to undermine efforts aimed towards fostering national unity, it also became the central avenue by which individual identity was internalised and perceived. The concept of the 'nation' therefore was witnessed as being inherently incompatible with the tenet of individual identity as ethnicity became privileged not only by the political elite, but also by the citizenry. Systemic misunderstandings became entrenched in how identity was framed for citizens in both nations as the concentration of political power within an exclusive elite resulted not only from violent force, but also from a campaign of mass deception that privileged ethnic difference.

### **Troubled Times: A Cause for Review**

This analysis will now turn to a historical examination of the mandated period of review for the two TRCs and why it was a significant period for the nation to publicly investigate. In Nigeria, the HRVIC was mandated to investigate human rights violations between 1966 and 1999 (HRVIC, 2002, Volume 1, p. 29). Whilst independence was declared by Nigeria in 1960, the mutual distrust entrenched during colonial rule proved to be a significant destabilising force in Nigeria's First Republic (Falola and Oyebade, 2010, pp. 69-72). By 1966, Nigeria's military elite took control of the government, implementing an authoritarian variance of military rule that would effectively last for over three decades. Corruption and pillaging of Nigerian resources by the political elite resulted in an economy that was unable to sustain its citizenry and incited vicious ethno-religious conflict throughout the different regions of the state (Falola and Heaton, 2008, pp. 168-180).

The most widely publicised example of this was the outbreak of the Biafra Civil War in 1967, a bloody battle instigated by the attempted secession of the southern state of Biafra by the Igbos (Dellos, 1998). The conflict caused international attention through the visceral reaction caused by the widely circulated images<sup>17</sup> showing “fragile skeletons and distended babies” (Brookes, 1987). This war revealed two aspects of Nigeria’s domestic governance. First, it exemplified and intensified the tensions between the constituent states of Nigeria and central government, exacerbating the lack of political cohesion in Nigeria’s federalist structure. Secondly, Biafra was a symbolic reminder of the ability of the State to exert power over the ‘official’ historiography. After the war, the Nigerian military attempted to destroy any remnants of its occurrence by bulldozing the graveyard of the casualties (Brookes, 1987). This act shows the State actively attempting to erase the events of the past through the destruction of any physical reminders that may be reminiscent of challenges to the military’s power.

Nigeria continued to be effectively under military rule until the elections of 1999, which saw Olusegun Obasanjo assume the Presidency. Between 1983 and 1999 however, the process by which one military ruler distinguished himself from his predecessor became customary and symbolic, rather than reflecting any genuine claims. This custom was first developed in 1983, following the public recognition of General Buhari’s rise to power. At his inauguration, Buhari announced that Nigeria would return to the rule of law and democratic governance (as quoted in Obotetukudo (ed.), 2011). His announcement became one of the first attempts in Nigeria’s history where an incumbent political leader declared Nigeria’s commitment to liberal democratic ideals (Falola and Heaton, 2008, p. 212). However, this proclamation became institutionalised as a standard commitment reiterated in the majority of

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<sup>17</sup> The pictures that were circulated can be accessed on Nairaland Forum (2012)

inauguration speeches given by Nigerian leaders since Buhari (Agba and Isah, 2011)<sup>18</sup>. In each successive administration, the rhetoric was not accompanied by efforts to substantiate the claims; rather, it was clear that procedures associated with democracy, such as elections and the enactment of national laws, were being used as tools by which the incumbent ruler attempted to entrench their stranglehold on the Nigerian state (Falola and Heaton, 2008, pp. 212-216). As a consequence of these actions by successive military regimes, there has been growing distrust and antipathy among the Nigerian citizenry toward the proclamation of the ‘promise’ of democracy.

In Liberia, the TRC was mandated to investigate perpetrations of human rights violations between 1979 and 2003. 1979 was marked by the successful execution of a military coup by Samuel Doe, an indigenous Liberian of Krahn descent. The intensification of social and economic disparities in Liberia during this period was exploited by Doe in dismantling the Americo-Liberian’s stranglehold on political power, as the coup not only delivered Doe the Presidency, but also enabled the Krahn people to occupy public sector positions despite most having minimal experience in government (Bekoe, 2008, p. 96)<sup>19</sup>. Doe manipulated government structures to serve the personal and collective interests of the Krahn people as during this period, 74% of public funds were diverted into the salaries of government personnel (Reno, 1998, p. 85). Thus, despite displacing the control of the Americo-Liberians, Doe’s ascendancy into power did not challenge assumptions about Liberia’s system of governance. Rather, his actions reinforced the public perception that ethnicity and political power were entangled in a mutually reinforcing relationship.

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<sup>18</sup> Including the inauguration of General Babangida and General Abacha.

<sup>19</sup> This is despite the Krahn ethnicity comprising of only five per cent of the population at the time (Bekoe, 2008).



Doe's Presidency however was distinct on the basis that he was the first incumbent Liberian leader to involve international actors within the country's domestic affairs. The severe exploitation of Liberia's economy by the elite instigated Doe to fashion himself to the international community as a "beacon in an unstable period" (Gilleland, Morton, Schoelen and Calkin, 2011, p. 13), offering to conduct elections in 1985 for substantial American financial aid. The integrity of the elections were widely criticised<sup>20</sup> as foreign observers accused Doe of misconstruing the results to 'win' 51% of the vote (Dennis, 2006). Further, the elections opened a political space whereby opposition to Doe's regime gained momentum within Liberia. Doe and his administration became targets of violent attacks and personal intimidation (Pham, 2004, p. 283) as these attacks provided the platform for Charles Taylor and Prince Johnson to mount a successful coup in 1989.

Following the success of the coup, the partnership between Taylor and Johnson dissipated as the two leaders soon after led separate factions that competed for absolute control. The unadulterated violence that followed heralded Liberia into a debilitating period of Civil War, which witnessed the country's material and human resources becoming objects of violent pillage and exploitation (McGovern, 2008, pp. 337-338). The conduct of Liberia's Civil War was not however, strictly a domestic affair. Charles Taylor's ambitions in attempting to conquer Sierra Leone attracted the attention of both regional and international actors. At an early stage, the UN and ECOWAS put proposals forward to negotiate a peace settlement (Long, 2008, pp. 1-2). The fifteen peace agreements negotiated between 1990 and 2002 had minimal impact as the pillage of the nation's resources and the destruction of the country's infrastructure ensued.

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<sup>20</sup> According to Dolo (2006) and American news commentaries printed in the New York Times (1987), the only foreign department that publicly endorsed the elections was the United State's State Department.

In 2003, propounded by the formal indictment of Taylor by the Special Court of Sierra Leone, a contingency of regional and international peacekeepers along with representatives from the different rebel factions including Taylor's own faction commenced talks at Accra, Ghana. Increasing international pressure pushed for the removal of Taylor, as the commanding warlord of the Civil War, as rebel factions approached the capital of Monrovia (McKenzie, 2003). The negotiations at Accra lasted for less than two months, culminating in the rebel factions signing what became known as the Accra Accord, seven days after Taylor's resignation.

The source of the violence that is to be investigated by the TRC in the two respective countries is important to highlight and contrast. In Nigeria, apart from the state-endorsed violence that was evident in this period by the military, the nation was considered internationally (World Bank, 2008, p. ix) to be effectively operating within 'peaceful' times since the end of the Biafra Civil War. In Liberia however, the violence resulted partially from the Presidency of Samuel Doe, but also partially from the conduct of the various factions involved in the Civil War. The violence resulted not from the oppression perpetrated by the Head-of-State on its own people; rather, the citizens became embroiled in a conflict between factions, each vying for absolute control. Therefore, whilst responsibility for violence was more clearly attributable in Nigeria, the responsibility for the violence in Liberia was considerably more ambiguous.

## **A Commissioned Truth**

The negotiations that led to the establishment of the two Commissions are significant in the analysis of the TRC as these discussions reflect the widely held assumptions pervading public perceptions of the Commission at its early stages.

### *Nigeria's HRVIC: An Exercise in Absolute Power*

In Nigeria, the concentration of federal power within the institution of the military created a culture whereby incumbent regimes were able to exploit the country's resources for personal gain. This culture was not directly challenged by an opposing regime; rather, after the death of General Abacha, the new military ruler, General Abubakar, "bow[ed] to the wishes of the Nigerian people to end military rule" (Ijomah, 2000). Upon assuming power, Abubakar implemented his own transitional system, which included the enactment of a new Constitution, the holding of elections and notably, the implementation of a 'truth' inquiry to investigate past violence. In following the outline of Abubakar's plan of transition, the establishment of the HRVIC was the first act of the newly inaugurated President. President Obasanjo, a former military leader who was persuaded to run for President by the military elite at the time (Nwogu, 2007, p. 24), was popularly elected in 1999 in an election that was "accepted internationally, though largely criticised nationally" (Yusuf, 2007, p. 271). The mode by which Obasanjo chose to implement the HRVIC impeded, rather than gave credence to, the public legitimacy of the Commission's delegated powers. Obasanjo's exercise of the exclusive powers of the President, soon after the enactment of a new Constitution, was a powerful means by which the federal government was able to assert authority over the states (Yusuf, 2007, pp. 272-273). The effect of establishing the Commission without consulting the

other tiers of government instigated suspicions to be raised as to the purported conciliatory motive behind implementing the HRVIC (Yusuf, 2007, p. 271).

The suspicion caused by such an act was effectively channelled by dissenting voices in the public realm as two components of the mandate were questioned. First, the original time frame of the investigation set by Obasanjo was challenged. At the inception of the HRVIC, the intended scope of investigation focused on events between 01 January 1984 and 28 May 1999. The association between the Commission and Obasanjo was quickly questioned however when it became apparent that this mandated time frame conveniently excluded the period in which President Obasanjo was himself the military head of one of Nigeria's constituent states. According to Nwogu (2007, p. 32), public questions were raised suggesting that the Commission's overriding purpose was to legitimise Obasanjo's Presidency, thereby enabling the President to circumvent personal accountability of acts that he may have perpetrated. In recognising these challenges, the proposed Chairman of the Commission and at the time, Supreme Court Justice, Justice Oputa, persuaded the President to extend the temporal mandate of the investigations to incorporate the events that took place between 15 January 1966, the date of Nigeria's first military coup, and 28<sup>th</sup> May 1999 (HRVIC, 2002, Volume 1, p. 29).

Secondly, it brought to light the composition of the Commissioners who led the investigations. The President appointed eight Nigerians in "what seemed to be a random manner" (Nwogu, 2007, p. 29) as the selection process remained enigmatic to the broader Nigerian community and to the Commissioners themselves. Suspicions regarding the personal agenda of the President in implementing the HRVIC were raised when examining the Commissioners' religious background. Whilst each individual was a "highly respected member of society" (Nwogu, 2007, p. 29), the majority of the Commissioners were Christian

with only one Panel member of Muslim faith. This is despite half of the population, notably residing in the Northern states, identifying themselves as Muslims (Falola and Oyebade, 2010, p. 3). Whilst it was not viable for every ethnicity to be represented on the Panel of Commissioners, the recognition of the North as being associated with Islam and the South with Christianity propounded the significance of the underrepresentation of the Muslim community. Obasanjo's choice of Commissioners therefore focused public scepticism on the motivations behind the implementation of the HRVIC, as Obasanjo's exercise of his exclusive executive powers came under heavy scrutiny by the general public and domestic opposition forces (Nwogu, 2007, p. 32).

*Liberia's TRC: A Victoryless War and a Questionable Beginning*

In Liberia, provisions within the Accra Accord mandated the establishment of a TRC to investigate perpetrations of human rights violations. The conditions surrounding the establishment of the LTRC are significant in three respects. First, the Accord resulted from the consensus reached between the competing factions in the violence and was not the product of a decisive victory of one of the parties. Curiously, the initial demand at Accra from the rebel factions was for 'justice' to be served to those that were part of Taylor's administration (Hayner, 2007, p. 15). In the midst of this collective cry for retribution, the ECOWAS mediator reminded the rebel leaders that it was likely they themselves would also be implicated in accusations of guilt if a trial were to be implemented (Hayner, 2007, p. 15). Given that many of the rebel factions participated in the Civil War themselves, it was important for these factions to protect their own power by avoiding any risk of possible indictment. Following this advice, the proposition to establish a TRC was swiftly accepted by the rebel factions (Hayner, 2007, p. 15).

Secondly, an observation of these negotiations revealed that the debate was on what type of transitional justice mechanism was to be implemented, not whether a mechanism *should* be implemented in the first place. Ignoring the international and national demand (Amnesty International, 2008) for the past to be acknowledged was never envisioned to be an appropriate option, as it was clear that it was always the intention of the rebel factions to address, in some way, the violent events of the immediate past. The impact of the direct involvement of international and regional actors (Hayner, 2007, pp. 11-18) is an important factor to consider, as the negotiated peace, including the implementation of the TRC, resulted not solely from the political will of domestic leaders, but was also heavily influenced by the pressures of international stakeholders.

Thirdly, and in sharing a point of similarity with Nigeria, the choice of the Commissioners gained public attention and criticism from the public. This contrasts to the general support that was evident for the TRC Act's enactment in Federal Parliament (Hayner, 2007). TRC Commissioners are important as they directly shape the voice of the Report as well as influence the interpretation of both the mandate and the individual testimonies that are heard. In examining the identity of the Commissioners chosen, none of the nine Commissioners, especially Chairman Jerome Verdier, were perceived to have the requisite moral and political gravitas required to demand change.

“Each Commissioner was acutely aware that within two or three years their work on the Commission would be over and their capacity to find good work in Monrovia [the capital of Liberia] would probably depend upon the largesse of more powerful people.”  
(Steinberg, 2009, p. 139).

The criticism surrounding the choice of the Commissioners indicates that support for the work they were about to undertake was not positively influenced by their individual involvement

with the project. As Steinberg (2009, p. 139) highlighted, the government chose individuals whose senior position within the TRC was seemingly beholden to the discretion of the government.

### **Concluding Remarks: The Question of Legitimacy**

Questions of legitimacy therefore plagued the political climate surrounding the establishment of both the Nigerian HRVIC and the Liberian TRC. The avenue by which the idea of the Truth Commission came to fruition in both contexts raised constitutional issues as to the division of power between the different tiers of government. Whilst Obasanjo's decision to confine the establishment of the HRVIC within the executive powers of the President caused considerable suspicions to be raised about the intent behind the Commission's implementation, the legal ambiguities surrounding Liberia's interim government obfuscated public perceptions as to the legitimacy of the LTRC's delegated power. Thus, in both situations, the vulnerability of the division of power became exacerbated through the political process by which the Commissions were implemented. Further, the identities of the Commissioners themselves in both contexts came under extensive scrutiny. Whilst in Nigeria, the composition of the Panel instigated questions as to the President's personal motives, the choice of Liberia's Commissioners was criticised in failing to compliment the moral and political weight of the TRC's task. In both cases therefore, the choice of the Commissioners infringed upon, rather than served to strengthen the perceived legitimacy of the Commission. The circumstances surrounding the establishment of the TRC in both Nigeria and Liberia emphasised the precarious political standing of the HRVIC and the Liberian TRC. Both Commissions faced challenges to their legitimacy at their very inception as their operations became embroiled within the political struggles that plagued their contemporary surroundings.

## CHAPTER FOUR: NIGERIAN HRVIC REPORT

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This chapter now turns to analysing and critiquing the first case study of this research, the Nigerian HRVIC Report. Implemented in 1999 by President Obasanjo, the Nigerian HRVIC sought to account for the “causes, nature and extent of all gross violations of human rights committed in Nigeria” between 1966 and 1999 (HRVIC, 2002, Volume 1, p. 29)<sup>21</sup>. The Report, presented to President Obasanjo in 2002 (Isaacs, 2002), extends over seven separate volumes and provides a comprehensive account of the Commission’s investigations. As detailed in the methodology chapter of this thesis, this chapter focuses on analysing how the three central groups that feature in the Commission’s operations are constructed by the Report and how the relationship between each group is established. These three groups include the Commissioners, the Nigerian citizens and the state. In extrapolating how the Commissioners assessed a particular group, the substructure of ‘judgment’ within the Appraisal system is used to examine key expositional sections of the Report (for the complete analysis, refer to Appendix B). These sections include the introductory and concluding chapters of the Report, as well as Volume Five of the findings, which enumerates the individual testimonies submitted to the HRVIC’s investigations. The discursive strategies adopted by the Commissioners to present and justify its findings become evident through this analysis, revealing the frame by which a specific assessment of the ‘past’ is constructed.

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<sup>21</sup> The mandate of the Nigerian HRVIC is not widely available. Relevant sections appear in the Report. However, the mandate does not appear as a whole, with the Commissioners choosing to include only relevant sections.



## **The Role of the Commissioners**

In the Report produced by the HRVIC, the Commissioners' convey a distinct image of how they intended the audience to perceive their role. In the introductory and concluding chapters, the Commissioners separate its role into two components. This involved the text distinguishing between the role delegated to the Commission and the capacity of the Commission to fulfil such a role. Each is discussed in turn to show how discursive strategies are actively employed by the Commissioners to present and justify a specific image of the Commission to the reader.

In describing the purpose delegated to the Commission by President Obasanjo, the frame of *positive propriety* is used extensively to emphasise the historical and moral importance of the work that it has been assigned. This is clearly seen in the introduction of the Report where the Commission describes its mandate as a "historic mission" (HRVIC, 2002, Volume 1, p.3), one designed to "lay the groundwork for an enduring and sustainable peace" (HRVIC, 2002, Volume 1, p. 19). The work of the Commission was envisioned to mark the commencement of Nigeria's journey into an improved future, as the HRVIC's processes were projected to form the "basis for the establishment of a framework for a just, fair and equitable Nigerian society" (HRVIC, 2002, Volume: Conclusions, p. 33). Thus, not only is the intended role of the Commission depicted positively, the HRVIC's appreciation for the magnitude of the task it has been set is also conveyed to the audience.

This aspect of the Commission's role is contrasted with the limited capacity the Commissioners afford themselves to perform such a task. When describing its own operations, the HRVIC casts its operations hesitantly through a negative register. The Commissioners convey their ability as having "attempted" and "tried" to achieve their duty (for example: HRVIC, 2002, Volume 1, p. 3). This modesty is supplemented by expressions of *positive*

*tenacity*, where the Commission reinforces to the audience that it is “undaunted” by the magnitude of the task (HRVIC, 2002, Volume 1, p. 4) and it is willing to undertake such an important role. Whilst the *negative capacity* reinforces the Commission’s reverence to the nature of the task set before it, by affirming the Commissioner’s *positive tenacity*, the commitment of the TRC to this task is reinforced to the reader.

By distinguishing how the Report expressed the delegated role of the HRVIC and the Commission’s capacity to fulfil such a role, it is clear that the Commissioners’ self-effacement is central to how they wished their role to be perceived. The HRVIC’s awareness of its precarious position within its national context created a necessity for Chairman Oputa to pre-emptively justify any shortcomings of the Commission’s work. By emphasising the symbolism vested within the processes of the HRVIC, the Commissioners were capable of contrasting the idealism of their historical mission with the pragmatic realities they faced. In reinforcing the importance of their role, whilst simultaneously highlighting the limitations they faced in the Report, the Commissioners frame their role strategically by acknowledging their political shortcomings and simultaneously, attempting to justify the course of action they ultimately adopted.

## **The Experience of the Nigerian Citizen**

This analysis turns now to the primary group of actors mandated by the Commissioners to investigate, the experience of the Nigerian citizen between 1966 and 1999. The identity of the Nigerian citizen heavily features in the introduction of the Report as well as in the volume that contains the testimonies gathered by the HRVIC’s investigations. Each of these sections

is discussed in turn to show how the Commissioners perpetuate a specific image of the past through the identity of the citizen.

*The inclusion of the Nigerian citizen in the Report's Introduction*

In the introductory chapter of the HRVIC, the image of the nation is framed as a society in turmoil, contextualising the environment ordinary citizens inhabit. *Negative normalities* are used to describe the historical period in which the HRVIC has been mandated to investigate, utilising imagery such as “dark period”, “battered and bruised” and a nation that has turned “suicidal” (for example: HRVIC, 2002, Volume 1, p. 17). Without providing further detail, the audience is able to appreciate that the nation has deviated away from an accepted norm. By locating the citizen within an ominous context, the perceived vulnerability of the individual is exacerbated through the stark imagery associated with what their nation has become.

The nature of this vulnerability is further elucidated by the Report's description of the individual as innately “innocent and hardworking”, working “conscientious[ly] and with dedication” (HRVIC, 2002, Volume 1, p. 54). This description serves to contrast with the frame of *negative propriety* that constructs how the Commissioners express the character of the individual during military rule. Terms such as “ethnicised anger” and “marginalisation” (HRVIC, 2002, Volume 1, p. 64) frame individual action as the influence of the military on individuals is expressed not only negatively, but also contrasts with the established norm of individuals as hardworking and dedicated. The Report juxtaposes the inherent characteristics of the individual with the impact of the state on its behaviour, promoting an inference that it is the “suicidal” (HRVIC, 2002, Volume: Conclusion, p. 17) turn of the state that has caused individuals to deviate from a *positive* standard of behaviour.

### *Incorporation of Individual Testimonies in Volume Five*

The voice of the individual is the most pronounced however in Volume Five of the Report, which included transcribed versions of the individual testimonies submitted to the HRVIC's investigations. In holistically considering Volume Five of the Report, it is clear that the instances of violence accounted for by these testimonies focused exclusively on the events that had occurred during the Buhari, Babangida and Abacha regimes. This is significant as the exclusive focus of the testimonies on the three successive military regimes between 1983 and 1998 excludes the events of the intermittent civil wars that characterised the HRVIC's mandated period of investigation between 1966 and 1999<sup>22</sup>. By focusing on the conditions of military rule exclusively, the source of violence is contextualized within a particular political context as the 'untidy' circumstances of Civil War experienced recurrently between 1966 and 1999 are effectively silenced.

In examining the individual testimonies that were included in the Report, it is clear that the Commissioners exerted considerable control in how their experiences were expressed and how the perpetration of violence was conveyed. In analysing the discursive tools used by the Commissioners, the term 'petitioner' is constantly used throughout to refer to the individual who put forward the statement to the Commission. By using the term 'petitioner', any guilt or victimisation that may be pre-emptively attached to the individual is effectively neutralised. The absence of assumed categories from the text of the Report reflects a process by which the Commission is able to homogenise difference by referring to all subjects, irrespective of the nature of their involvement in the conflict, through a neutral term. Thus, the Commissioners do not project a pre-emptive judgment of the individual character within the Report. The central element of the statement therefore is on the event that is contained in

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<sup>22</sup> A notable event that was excluded was the Biafra Civil War in 1967 for example.

the testimony as the character of the individual is derived from their association with that event, rather than imposed by the use of categorical descriptions, such as ‘victim’ or ‘perpetrator’.

The second feature of the memo’s format is the way in which the Commissioners filtered the original language with which the testimony was expressed. The individual testifiers’ original phrasing is never explicitly contained within the text of the Report. Rather, the claim contained in the testimony was reformulated by the Commission and referred to in the ‘memo’ through terms imported from international human rights discourse. Terms such as ‘rape’, ‘torture’, and ‘extra-judicial killings’ were referred to throughout the course of the petitions (HRVIC, 2002, Volume 5). The effect caused by these acts are then associated with statements declaring that the individual’s ‘right to life’ or ‘right to property’ have been contravened (HRVIC, 2002, Volume 5, Memo: 186, 1626, 1714). Thus, by connecting the actions of the state with the direct infringement of individual rights, the frame of *negative propriety* was constructed to convey the experience of the individual during military rule.

In constructing the image of the citizen, it is clear that the Commissioners exerted a high level of control in restructuring how the experience of the individual was expressed and projected in the narrative of the Report. The absence of the original voice of the testifier highlights the reliance placed on international legal discourse, encompassing the language of ‘rights’ and acts that contravene such rights. The individual was therefore reframed and homogenised by the language adopted by the HRVIC as their role was positioned for the purpose of projecting an overall negative image of the military’s exercise of state power.

## **The Role of the State**

The representation of the ‘state’ is the third central element of the Report’s narrative of events and is important to consider in light of the above discussion regarding how the citizen’s experience featured in the HRVIC’s narrative. The discussion on individual testimonies has highlighted how the ‘petitions’ within the Report focus exclusively on the acts committed during the military regimes of Buhari, Babangida and Abacha. A review of the introductory and concluding chapters reinforce the fact that the HRVIC considered the ‘state’ to be synonymous with military rule. The following analysis examines how the military was framed in the key expositional sections of the Report and how this perpetuates a particular image of the role of state to the reader.

The military’s role is expressed constantly through terms of *negative propriety* in the Report. This is achieved through the establishment of a triadic association between the military, political violence and human rights violations. The dominant role of the military in propelling the “vicious cycle of political violence” (HRVIC, 2002, Volume 1, p. 105) is reiterated throughout the text, reinforcing the impact of military power. Further, the theme of violence is constantly associated with “human rights violations”<sup>23</sup>, implicitly embedding the consequence of violence within the text of the Report. An image of the acts committed by the military is perpetuated therefore as the military’s constant association with violence and human rights violations instigates a perception of its power as one that attacks the intrinsic humanity of the individual.

The second theme that is developed is the impact of the military on the development of the nation. This is achieved through the image of a decaying state (HRVIC, 2002, Volume

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<sup>23</sup> This association is made 21 times throughout the text of the Introduction and Conclusion of the HRVIC Report (HRVIC, 2002). A complete illustration of the analysis that was completed is contained in Appendix B.

1, p. 1-2, 13-15) and the association of the military with corruption and the personal accumulation of wealth (HRVIC, 2002, Volume 1, p. 15). By emphasising the *personal* advantages that are gained and the subsequent decline of social morality, a zero-sum relationship between society and military rule is created where the military's actions directly impact on the society that citizens must inhabit.

Further, the direct impact of the military on developmental goals is clearly established through the negative framing of such goals. For example, by referring to the military's act as 'imbib[ing the] democratic spirit' (HRVIC, 2002, Volume: Conclusion p. 37), democracy is framed as the 'natural' standard of good governance. Thus, an organic state that is naturally on the course of democracy is an image created through the negative frame that is used. In this respect, the Commission's ideal about the nation's future represents the inverse of the society that the military created.

### **The Source of the Political Authority to 'Judge'**

This analysis has presented how the 'judgment' substructure is useful in deconstructing how the HRVIC sought to construct and assess the identities of the three different groups. This analysis will now focus on how the Commissioners' use of negative framing to describe the role of the military and the experience of the individual.

The process by which the Commissioners sought to justify their assessment of the state's actions is explored to draw attention to their reliance on legal authorities to legitimise their judgments. The social sanctions imposed by the HRVIC on the military were justified in the text of the Report by consistently referring to the Commission's legal mandate (HRVIC, 2002, Volume 5). This mandate dictates that its investigations must address the 'injustices' of

the past by examining the perpetrations of “gross violations of human rights”<sup>24</sup>. The process by which the HRVIC interpreted this mandate is important to consider as it shaped not only the scope of the investigation, but also how the frame of *negative propriety* was used and justified in the text.

The Commissioners’ presented its interpretation of its mandate as solely concluded by the deductive reasoning of legal texts. The Report extensively scrutinises the obligations of the Nigerian state under an international regime of human rights, discussing at length the implications of the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights* and the *African Charter of Human Rights* (HRVIC, 2002, Volume 2, p. 10-58). It is important to highlight that the international legal system operates horizontally in that its compliance is completely dependent on the will of nation-states (Mitchell and Beard, 2009). However, the HRVIC’s interpretation of these documents as being inherently binding on the Nigerian state reveals that the Commissioners aimed to reinforce the impression that the commission’s mandate, in actuality, affords the HRVIC *minimal* discretion.

A significant consequence of embedding international legal criteria within the HRVIC’s operation is the automatic importation of a series of pre-defined crimes that are considered to be ‘legitimate’ standards by which state action should be judged. This is clear from the individual testimonies contained within the Report, as international legal terminology was frequently used to categorise their descriptions of events and frame state

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<sup>24</sup> Subparagraph (b) as stated in the *Instrument Constituting a Judicial Commission of Inquiry for the Investigation of Human Rights Violations* (Nigeria).



action through *negative propriety*. These terms included ‘extra-judicial killings’<sup>25</sup>, ‘torture’<sup>26</sup>, as well as crimes committed by law enforcement agencies<sup>27</sup>.

International legal discourse was therefore critical in not only describing the military’s actions, but also central to how the HRVIC presented and justified its assessment of state power. The reliance of the Commission on international legal norms imported a set of expectations that “appears already to have been established and accepted” (Leebaw, 2011, p. 36). Thus, legalism served to depoliticise the nature of the violence and by extension, compel the idea that the operations of the HRVIC itself transcended the political. By following the ‘rules’ of the international system, the Commission sought to construct its own role as one of ‘rule-following’ (Leebaw, 2011, p. 36), minimising the degree of discretion that was perceived to be delegated to the HRVIC.

## **Concluding Remarks**

This analysis of the Nigerian HRVIC Report has identified the discursive strategies used by the Commissioners to frame a specific representation of three distinct groups involved in the HRVIC’s processes. In inserting the Commission, as a distinct agent, within the text of the Report, the Commissioners were given an avenue by which it could put forward a pre-emptive assessment of the work that it had undertaken and legitimise the judgments that it put forward. In incorporating the individual testimony of citizens, a particular image and assessment of violence was developed, as the responsibility of past suffering was primarily placed upon the military. It is clear however that the complexity of its history has become narrowly construed

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<sup>25</sup> *Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.*

<sup>26</sup> Article 12, *Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.*

<sup>27</sup> *Code of Conduct for Law Enforcement of Officials.*

within the text of the Report. Whilst the Commissioners did not ignore the effect of colonialism and ethnicity, a direct causal relationship was established between the suffering of the individual and the responsibility of the military confining the implications of past violence within the parameters of this relationship.

The overall image of the military also revealed the normative substructure underpinning the entire Report. In assessing the acts committed by the military, the language of international human rights was used to justify the negative framing utilised by the Commissioners. Specific terms were used to represent the acts as the original wording of the event submitted by the testifiers were expressed through the discourse of legalism that was imposed. This showed not only the extent to which Commissioners controlled the expression of violence within its Report, but also the reliance of the Commissioners on the language imported from international law. This shows that the HRVIC was significantly dependent upon the political and moral authority of an international legal regime, as the institutional frailties of Nigeria's domestic legal system were circumvented completely by the direct engagement, by the Commissioners, with an international legal system.

## CHAPTER FIVE: LIBERIAN TRC REPORT

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The second case study examined is the Liberian TRC Report<sup>28</sup>. The LTRC Report synthesises over twenty thousand individual testimonies, collected over the three and a half years of the Commission's operation (LTRC, 2009, Volume 2, p. 12), into six separate volumes. Under section 4(a) of *An Act to Establish the Truth and Reconciliation Commission (TRC) of Liberia 2005* [Liberia] ('TRC Act'), the Commission was charged with investigating perpetrations of "gross human rights violations and violations of humanitarian law" between the period of 1979 and 2003. In 2009, four years after the passing of the TRC Act, the Commission presented the Final Report to President Johnson-Sirleaf's government.

In analysing the presentation of the Commission's findings and the conclusions that were reached, this analysis will focus on the Commissioner's 'Final Remarks' and Chapter Eight of the Report entitled 'Confronting the Bitter Past' (LTRC, 2009, Volume 2, pp. 173-268). The Final Remarks are important as it appears twice throughout the Report, first in the introduction of the Report and the second time, as the conclusion that immediately precedes the Commissioner's Recommendations. As the expositional section of the text that directly addresses the Report's audience, the structural positioning of the Final Remarks and frequency with which it appears imputes to the reader the importance of this statement. Chapter Eight was chosen for analysis as it contains the summaries of the findings that were gathered by the TRC and presents the conclusions that were deduced from the investigations. Furthermore, Chapter Eight provides the basis for the recommendations that were ultimately

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<sup>28</sup> For the complete analysis, refer to Appendix C.

put forward to the regime, discussing in detail the role of and the relationship between the Commissioners, the state and the Liberian citizenry. Through an analysis of the discursive strategies used by the Commissioners, this analysis considers how the TRC assesses the role of these groups and highlights the source of authority from which the Commissioners derived their capacity to judge.

### **The Role of the Commissioners**

The TRC Report embeds a particular conceptualisation of the Commission into the narrative of its text. As is evident from the first column of Appendix C, a positive frame consistently describes the role of the Commissioners, emphasising the LTRC's moral and political importance. In deconstructing the positive frame, two distinct images are discernable that informs how the audience perceives the Commission's role.

The first image advanced by the Report contextualises the Commission's role within the broader narrative of Liberian history. Throughout the Commissioners' Final Remarks, the role of the Commission is framed according to a "duty" that it has been mandated to execute. The word "duty" is subsequently associated with its function as being one that has been acted "on behalf of the people" and a "patriotic service" (LTRC, 2009, Volume 2, p. xxv) that is integral in building a more stable future. The Commission describes its purpose as developing a "roadmap" for the future in order to "lay the foundation for sustainable national peace and unity" (LTRC, 2009, Volume 2, p. xxiii). By positioning the TRC within a nation-building teleology, the Report reinforces to the reader the importance of the TRC's intended function. The aspirational goals of peace and unity operate as *positive propriety*; terms that heighten the moral and ethical importance of the Commission's role within the context of post-conflict

Liberia. By asserting its significance in the attainment of ideal goals, the Commissioners magnify the importance of its processes to a nation whose past has been actively perforated by Civil war.

The second image developed by the text relates to how the Commission sought to convey the character of its own processes. The Commission presented its processes as trustworthy, diligent and thorough, seeking to gain the trust of the public. This was achieved through the *positive veracity* it attributed to its structures as well as the *tenacity* it afforded itself. In Chapter Eight, (LTRC, 2009, Volume 2, pp. 173-267) the text utilised positive terms such as “credible”, “comprehensive” and “independent” to pre-emptively project its processes and the content contained within the Report in a trustworthy light. Further, by highlighting the scope of the mandate, the Commissioners expressed that that they had no illusion as to the size of the task but was able to work “tirelessly” to achieve their goals (LTRC, 2009, Volume 2, p. 12). This is shown by the reiteration of the phrase “We have done just that!” (LTRC, 2009, Volume 2, p. xxiii) throughout the course of the Final Remarks section, reinforcing the capability of the LTRC in rising to the challenges that were set before it and pre-emptively asserting that the Commission was able to achieve its mandated goals.

The work of the Commission was therefore presented through a distinctly positive frame. The Commissioners positioned their purpose within the trajectory of nation building as their work was envisioned to be integral to the development of the state. Further, by attempting to project the trustworthiness and reliability of its investigations to its readers, the very character of the Commission was reinforced to the public.

## **The Experience of the Liberian Citizen**

In assessing how the Liberian citizen was represented by the text of the Report, distinctive discursive frames shape how individual experience was incorporated within its narrative. The discussion of these strategies elucidates how the Commission's processes have actively constructed the identity of the citizen and how it sought its audience to perceive their role in Liberia between 1979 and 2003.

The citizen is contextualised, like in the Nigerian HRVIC, in a society described by imagery that connotes a 'dark' reality. The impact of Civil War is projected through a negative tone whereby the "mistakes" of the past have paralysed the nation's future and created a "national nightmare" (LTRC, 2009, Volume 2, p. xxv, 208). Contributing to these images is the use of terms such as "perpetrators" and "victims" by the Report, presenting a dichotomous image of society to its audience (LTRC, 2009, Volume 2, pp. 188-201). Whilst the Report acknowledged that witnesses to relevant acts gave testimonies (LTRC, 2009, Volume 2, p. xxiv), their contribution is implicit in constructing this dichotomous illustration of society, as their personal experiences are not explicitly contained within the text. Thus, 'victim' collectively incorporates the identity of the Liberian individual. This terminology was important as it not only collectivised the identity of Liberian citizens as a sufferer of the state's abuse of power, but also excluded the voice of witnesses and those indirectly involved in the violence (Leebaw, 2011) from the findings presented by the Report.

Further, the agency of the individual is not accounted for in the Report, rather the individual is framed by an inherently negative capacity to act. Terms consistently describe the individual as "fleeing", "ill-treated" and "insecure" (LTRC, 2009, Volume 2, pp. 221-239). When outlining the timeline of events that detailed Liberian history during the Commission's mandate between 1979 and 2003, citizens were presented as characteristically vulnerable,

with the fact that they were “unarmed” repeated throughout the Report’s descriptive passages (LTRC, 2009, Volume 2, pp. 216-243).

This is exacerbated by the emphasis of the descriptive passages of the Report on acts affecting the experience of women and children, especially young girls and pregnant women. The identities of these individuals are always referred to in the Report tangentially by their overriding identity as a ‘girl’, ‘woman’ or a ‘child’, with their names consistently omitted from the text. Their vulnerability and innocence are highlighted by the descriptions that accompany their inclusion within the text. In accounting for the impact on the crimes of children for example, the Commission writes “... [children] were forced to eat human flesh and to take drugs and other hallucinating substances” (LTRC, 2009 Volume 2, p. 226). This quote is indicative of how individual experience was expressed throughout the Report and shows how the suffering of the individual is matched in intensity by the act of the state in causing such pain. Thus, by detailing the impact of state power on a vulnerable sector of society, the image of violence, as perpetrated by the state, is magnified further.

The use of the term ‘victim’ to describe the individual’s experience highlights how the Liberian citizen is structurally framed by the Report. The citizen is consistently represented through the relationship it shares with the ‘perpetrator’ and subsequently, reacting to the agency of the perpetrator. In this respect, the individual’s personal capacity to act is circumvented by the text’s narrative. By privileging the power of the state in the representation of the citizen, the TRC does not account for the ‘voice’ of the victim explicitly, rather refers to the victim implicitly, that is, as the visible representation of the state’s power (Humphrey, 2002).

## **The Role of the State**

As discussed above, the focus of the TRC Report is on creating and reinforcing the linear relationship between the state and the Liberian citizenry through the lens of the perpetrator-victim relationship. The ‘state’, as defined by the Commissioners, incorporates the factions involved in the Liberian Civil War, especially Charles Taylor’s rebel faction (LTRC, 2009, Volume 2, p. 265). The Report states that the “warring factions” accounted for 96 per cent of the violations of human rights that occurred in the period, with the timeline and commentary confirming this fact (LTRC, 2009, Volume 2, pp. 216-243).

In examining the way in which the warring faction’s actions were described, the Commissioners coded the testimonies and categorised their statements according to twenty-three ‘crimes’ (LTRC, 2009, Volume 2, p. 87) imported from international human rights. The Report frequently used terms such as ‘egregious domestic crimes’, ‘serious humanitarian law violations’ and ‘gross violations of human rights’ (LTRC, 2009, Volume 2, p. 209). These broad classifications were then further organised into specific crimes that were recognisable in law, such as ‘torture’, ‘rape’, ‘extra-judicial killing’ and ‘forced dislocation’.

The frequency with which an act was committed was illustrated by the Report through statistical tables (LTRC, 2009, Volume 2, pp. 257-259). The presentation of the act through the use of statistics has three clear implications. First, in the Commission’s attempt to convey the far-reaching consequences of the state’s actions, a correlation is made between the number of perpetrations and the degree of suffering endured by the Liberian people. Secondly, by coding the acts committed by the state, the subjective experiences of the individual are homogenised (Humphrey, 2002, p. 104) into recognisable numerical units. Thirdly, the process of classification conformed to a generalizable definition that was directly imported from the discourse of international humanitarian law. Through the use of this terminology, the



relevance of the perpetration of crime by the state was expanded beyond the suffering it engendered upon the individual, or even the nation, and became capable of being acknowledged and appreciated by an international audience.

The presentation of the statistical data is supported by the commentary on the atrocities that follow (LTRC, 2009, Volume 2, pp. 260-268). The frame of negative propriety is utilised constantly throughout the Report to project the severity of the acts that were committed by the political elite. Proliferated throughout the Report are terms that convey the “brutal” and “severe” (LTRC, 2009, Volume 2, pp. 230-238) nature of the crimes. The massacres that eventuated were ‘egregious’ as the deliberate nature of the state’s act was reinforced to the reader. Beyond conveying the magnitude of the acts, the incomprehensibility of acts committed during the Civil War was described as being “unimaginable” and “repugnant to human sensibilities” (LTRC, 2009, Volume 2, p. xxiv, 255, 267; refer to Appendix C). The Report’s description of the acts that were committed by the State utilised poignant language, instigating an immediate visceral reaction from its audience. The acts are formulated to be beyond the rationality of the reader as a clear antithetical relationship is reinforced between society’s most vulnerable and the arbitrary abuse of state power.

The appeal of the Report is therefore to the reader’s *human conscience* and not a product of deductive reasoning or thorough adherence to a legal standard of proof. The amorphous entity of ‘human morality’ becomes the benchmark with which the TRC attempts to justify the validity of the report to the reader as the emotive response it intends to engender from readers is translated into a rigorous belief that the state has transgressed the audience’s *personal* standards.

## **The Source of the Political Authority to ‘Judge’**

The analysis of the role of the Commissioners, the state and the position of the Liberian citizenry brings to the foreground the discursive strategies available to TRCs in their construction of a specific image of the past. The ‘judgment’ substructure has been used on key passages of the text to show how the TRC has sought to present and assess the role of these three sectors of society. The vocabulary that was adopted by the Commissioners will now be assessed to synthesise how they sought to justify their assessment of the past and the source from which the TRC derived its moral and political authority.

The social sanctions imposed by the Liberian TRC derived from a distinct source of authority. In referring to the mandate conferred upon its operations, the TRC imputed the language of international human rights discourse in categorising the specific crimes that it sought to investigate. The specific crimes that were deduced by the TRC were justified on the basis that it derived from the mandate, which states that its investigation is required to focus on “gross violations of human rights and violations of international humanitarian law”. In reviewing the discussion of the mandate of the TRC, the applicability of the law was circumvented by the Commissioners, expending only a cursory review (LTRC, 2009, Volume 2, pp. 48-57) of what standards its mandate conferred upon its investigations. The absence of any jurisprudential analysis of the implications of the law conveyed the impression that the specificity of the crimes by which the Commissioners coded the acts perpetrated by the state resulted from an opaque process as the operation of the mandate remained couched in ambiguous terms.

Instead of strictly adhering to international legal standards, the Commissioners instead relied on emotive language, especially as it pertained to the expression of pain. In the text of the Report, a distinct demarcation was perpetuated that presented the nation, during the Civil

War, as comprised of ‘victims’ and ‘perpetrators’. This demarcation defined the relationship between citizens and the state and was integral in how the image of the past was presented to the reader. Statistical analysis was first presented, illustrating the magnitude of the state’s acts. This was supplemented by the explicit expression of pain and individual suffering, described as being “barbaric” and “unimaginable”. This frame of negative propriety transplanted the acts of the state as beyond human rationality as the acts that were described within the text appealed not to a legal standard, but to the personal morality of the reader.

The expression of pain in the Liberian Report is itself, an important discursive strategy to consider. As pain must be witnessed to be recognised (Humphrey, 2002, p. 107), Robert Meister (2005, p. 101) has argued that “what makes [bodily pain] ‘readable’ are the political conventions we have for representing its significance”. Thus, the significance of frequently expressing pain in the Report lies in its ability to transcend social hierarchies and become communicable to people on a national and international scale (Meister, 2005, p. 101). Its transcendental ability operates as a force of inclusiveness where the pain experienced by a victim becomes a basis for the experience of the nation as a whole. Therefore, it is clear that in the LTRC, the expression of pain was central to how the Commissioners sought to justify their assessment of the nation’s past as the *impact* of violence, manifested on the body of the victim, became the standard by which the sphere of legitimate state power was judged.

## **Concluding Remarks**

The LTRC Report revealed how Commissioners are able to implicitly construct, project and legitimise a standard of behaviour expected of the state. Further, through the discursive tools available to it, the Commissioners were able to frame their own contribution to the narrative of the nation as one that was critical to the future development of peace and unity in Liberia. By perpetuating nationalist undertones as to how it perceived its purpose, the LTRC sought to pre-emptively justify the judgments that it made upon the actions of the state.

The decisions made by the Commission also served to limit, both the narrative that it sought to present to the public, as well as the access of certain Liberian citizens to a public voice. The focus of the Report on the actions committed during the Liberian Civil War constrained the temporal scope of the mandate to 1989 to 2003, when in actuality, the mandate also covered the period of military rule under Samuel Doe. Further, the demarcation of the social fabric into ‘victims’ and ‘perpetrators’ effectively silenced the voice of witnesses as well as those implicitly involved in the violence that occurred during the civil war. This curtailment of the narrative shows the agency that is capable of being asserted by the Commissioners and the considerable discretion that they are afforded in carrying out the task that is set before them.

It is clear that the image of the past that is presented puts into perspective the political power contained within the language of pain. The normative substructure that is projected bases its legitimacy upon the visceral reaction the Commissioners intend to cause. By highlighting the importance of pain and advancing the plight of victimhood suffered by Liberian citizens, the LTRC sought to appeal to the human conscience of its readers in justifying its assessment of the State.

## CHAPTER SIX

### **Comparative Analysis of the Nigerian HRVIC Report and the Liberian TRC Reports**

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Truth and Reconciliation Commission Reports bestride an ambiguous space between the objectivity expected of ‘factual truth’ and a desire to bring awareness to the ‘lessons’ the past poses. The previous two chapters, in elucidating how the Report aimed to balance these two ideals, analysed how the position of the Commissioners, the experience of the citizen and the role of the state were presented within the Reports of the Nigerian HRVIC and the Liberian TRC. It identified the discursive strategies available to the Commissioners in their construction of distinct identities for these three separate groups of actors and how this supported the Commission’s assessment of the nation’s past.

This chapter comparatively examines the findings that were reached, with the focus of the analysis on *how* the image of the past was constructed and justified to the audience. The historical context of each nation is comparatively reviewed to show the similar challenges faced by both nations leading up to the implementation of the TRC. After this review, the focus of the analysis centres on the findings extrapolated from key sections of the Report. By considering the two Reports in tandem, it is clear that what is advanced by the text is an account of a distinct past, one shaped by a specific judgment as to the ‘legitimate’ bounds of state power. This reveals that the Report was not intended by the Commissioners to be a collation of objective fact; rather, was utilised as a mechanism by which the experience of political violence was transformed into a cogent parable of the past for the present in the hope of deterring its reoccurrence in the future (Borer, 2006a, p. 3).

## **The Background to Violence**

Chapter Two detailed the circumstances that led to the implementation of a TRC in Nigeria and Liberia. In considering the structural similarities of the two states, two striking similarities became apparent. First, ethnicity was an idea historically entrenched within the minds of the people and fundamental to how identity was perceived by the citizenry of both states. In both states, ethnicity operated as a means by which the political elite sought to include and exclude key sectors of society. Secondly, and connected with the exploitation of ethnicity, was the mutual distrust citizens had of central government. In Nigeria, the concentration of federal power within the institution of the military created a culture by which each successive military regime was able to exploit the country's resources for personal gain. In Liberia, whilst Americo-Liberian rule was successfully challenged in 1979 by Doe's coup, corruption and the personal accumulation of wealth by the elite were patterns of behaviour not dismantled, rather reinforced, by subsequent authoritarian regimes.

The relationship between those who wielded political authority and the citizenry of each nation was therefore plagued by an embedded degree of distrust. These factors lay the foundations for not only the violence that ensued, but also informed the climate in which the TRCs of each nation operated.

### **Establishment of a TRC: A difficult process**

The circumstances in which each TRC came to be established differed substantially, reflecting alternate avenues by which each country reached its decision to investigate the past. In Nigeria, a pseudo-federalist system overridden by the power of the military continued to characterise its government. President Obasanjo's first act after assuming office was to

independently establish a TRC to investigate the past, signalling his willingness to circumvent Nigeria's federalist structure. The decision to review the past was therefore an act that directly excluded the involvement of the other tiers of government, causing suspicions to be raised about the President's motivations in implementing the HRVIC.

In Liberia, the decision to implement a TRC resulted from the Accra Accord provisions, a treaty formally signalling an end to Liberia's Civil War. Whilst the ceasefire was successfully implemented, the absence of any decisive victor and the considerable pressures placed on the rebel factions by external actors in the Accord's negotiations instigated questions as to the legitimacy of the TRC's implementation (Levitt, 2012).

Despite the clear differences in the process leading up to the TRC's implementation, it was clear that at the outset, both Commissions suffered from questions of legitimacy. Both TRCs therefore were established upon uncertain political foundations as the very authority delegated to the Commissions, through their mandates, were perceived to suffer from the inconsistencies of the political climate that troubled each nation at the time.

### **Analysis of the TRC Reports**

Recognising the public scepticism evident at the outset of the Commission's implementation is important as it influences the relationship that was developed between the TRC and its national audience throughout the Commission's processes. This analysis turns now to the findings extrapolated from the examination of the text of the Report, in particular, to how the position of the Commissioners, the citizens and the state were presented and assessed by the Commissioners. The 'frame' by which each group of actors are discussed in each case study

is then comparatively analysed to reveal the strategies that were available to each Commission in its attempt to discursively legitimise the judgments that it puts forward.

*A Judgment of One Self*

The Nigerian HRVIC and the Liberian TRC inserted a particular image of the Commission within the narrative that it put forward in its Report. Both groups of Commissioners sought to actively construct the way in which the audience perceived its role, showing the importance of the Report as a mechanism by which the Commission was able to publicly justify its operations.

<b>Nigerian HRVIC</b>	<b>Liberian TRC</b>
<p><i>Role delegated to the Commission</i>  <b>6 x positive propriety</b>            a. “ours was a historic mission”            b. “laying the foundation for a just and democratic Nigeria”            c. “ensure justice”            d. “lay a durable and solid foundation”            e. [role of the recommendations to create] “a civic sense of belonging to a nation”            f. “basis for the establishment of a framework for a just, fair and equitable Nigerian society”</p>	<p><i>Role delegated to the Commission</i>  <b>18 x Positive Propriety</b>            a. role is “on behalf of the people”            b. role as a “duty” with “prestige”            c. “realistically”            d. lay the foundation for sustainable national peace, unity            e. “foster national healing and reconciliation”            f. “roadmap to liberation and lasting peace”            g. build “stable” future</p>
<p><i>Work Completed by the Commissioners</i>  <b>9 x negative capacity</b>            a. “attempted”            b. “grappled”            c. “tried”            d. “[role at times] as not possible or easy”  <b>5 x positive tenacity</b>            “undaunted and unfazed”, “determined”, “indefatigably”, “resolving some of the thorniest and seemingly intractable issues”  <b>1 x positive veracity</b> - “proper”</p>	<p><i>Work Completed by the Commissioners</i>  <b>5 x Positive Capacity</b>            a. “deliberate planning and engagement”            b. Report is “comprehensive”  <b>4 x Positive Tenacity</b> (established by contrasting the magnitude of the task and the willingness of the Commission to undertake such a task)            a. “no illusion of the task”            b. “we have just done that!”            c. “worked tirelessly”</p>

Figure 6: Comparison of the frames used to describe the work of the Commissioners  
 (For the complete analysis, please refer to Appendix B and C)

A salient similarity was how the Nigerian HRVIC and Liberian TRC utilised similar strategies in positioning their role within the broader project of post-conflict ‘nation-building’. Both TRCs highlighted the magnitude of the task that it was set to achieve, inciting narratives of



‘reconciliation’ and ‘democracy’ to describe the ideals that informed how the Commission envisioned the state’s future and its own role in this project (Refer to Figure 6).

Whilst both recognised the weight of the expectations that were placed upon the Commission, the Nigerian Commissioners constructed its actual performance very differently to how the Liberian Commissioners sought its readers to perceive its work. The Nigerian HRVIC, by using the frame of *negative capacity* through words such as “attempted” and “tried”, reinforced the limitations it faced and opted to construct its role as a modest one. Liberia’s TRC however opted to use the frame of *positive capacity*. The Commissioners proclaimed many times its achievement of the goal it was assigned, stating that they had “no illusion of the task” and that they “have done just that!” (Refer to Figure 6; LTRC, 2009, Volume 2, p. xxiii)

Whilst each constructed their assessment of their own performance differently in their Reports, both Commissions demonstrated their self-awareness of their role within the community, acknowledging the scrutiny that would emerge from the stakeholders of its processes. Whilst the Nigerian case study attempted to lower the standard of expectation that *should* be harboured for what its processes were mandated to achieve, the Liberian case study pre-emptively reiterated its achievement of the task that was set before it. Thus, by providing an assessment of its own product within the Report, both groups of Commissioners attempted to strengthen the legitimacy and impact of the work that they ultimately produced, justifying the direction it took with its investigations on their own terms.

### *The Citizen and their State*

This analysis turns now to considering the substantive content of the Report, that is, how the HRVIC and the LTRC constructed the relationship between the citizen and the state within its

narrative. When considering how the *relationship between* individuals and the state has been constructed, it is evident that the central connection that defines the interaction of the State with their citizenry is the perpetration of human rights abuses, that is, the event of political violence. Both Reports put forward a narrative detailing the abuse of state power by the political elite, that is, either by the military or the rebel factions at the centre of Liberia's Civil War. However, beyond this preliminary observation, what is of analytical interest is *how* the Commissioners sought to justify the responsibility that it attributed to the state through the evidence submitted by citizens. This section will consider how an image of the past is developed and what the discursive patterns that emerge reveal about the specific techniques available to Commissioners when constructing their Report.

#### *Confining the parameters of the 'state'*

Both the HRVIC and the LTRC confined the definition of the 'state' to focus on one mode of political 'order'. In the Nigerian HRVIC Report, the Commissioners defined the state solely through nation's experience of military rule. The image fostered by the Report was therefore one where the perpetration of violence was confined to the period in which the military wielded the absolute power of the state. In the LTRC, the Report primarily focused on the events of Civil War between 1989 and 2003. The image of the Civil War's "warring factions" is perpetuated throughout the LTRC's account of the past (LTRC, 2009, Volume 2, pp. 216-243) as the Commissioners confine their temporal mandate further by largely silencing the period between 1979 and 1989. Thus, both groups of Commissioners further refined their mandates by projecting an image of the past through the period of a specific lens of government. This served to simplify the political struggles that characterised each nation's past as the 'state' was exclusively associated with a particular political system.

## *Expression of Violence*

This analysis now turns to the expression of political violence, at the centre of the relationship between the individual and the ‘state’, and how the Commissioners imputed responsibility for such acts. Whilst the frame of *negative propriety* was central in how both Reports framed the actions of the ‘state’ (Refer to Appendix B and C), the terms used to construct this frame was markedly different.

The HRVIC Report consistently expressed the perpetration of violence through the language of ‘crime’ as the discourse of legalism framed the conclusions reached by the Commission as to the responsibility of such acts. Legalism, as described by Judith Shklar (1964, p. 1), is the “ethical attitude that holds moral conduct to be a matter of rule following”. The importance of this discourse was evident in how individual testimony was incorporated within the Report. The testimonies that were submitted to the HRVIC were not enumerated within the Report in its original wording. Rather, the Commissioners formatted the testimonies according to a formulaic model that depoliticised the personal experience articulated by the individual (for an example, refer to Appendix D). Terms imputed from international humanitarian law, such as ‘torture’ and ‘rape’, were often included within the Report’s description of the testimonies and central to how the frame of *negative propriety* was reinforced. However, these words were not accompanied by further detail. The Commission’s assumption was clear, as it was expected that the word of the crime was itself sufficient to express the nature and magnitude of the act. In removing the original wording of the testimony and subsequently, the explicit detail of the act, the act was not only depoliticised but depersonalised as the representation of violence was narrowed according to how the testimony aligned with pre-existing legal classifications. Thus, the importance placed on the

international legal framework reinforces the intertwined operation of law and morality, as transgressing the ‘rule’ as recognised in international law was projected by the Report to correlate with a transgression of the nation’s morality.

The strategy of legalism adopted by the Nigerian HRVIC contrasts to how the LTRC represented individual testimonies and justified its construction of ‘truth’. In the Liberian Report, the Commissioners used statistical analysis to illustrate the extent of the crimes and supplemented this through the explicit description of the act by referring to the testimonies that were heard. Instead of strictly adhering to legal standards of proof however, the LTRC relies on the shared language of pain, targeting the human conscience of the reader. By articulating the “unimaginable” suffering and pain experienced by the individual, the TRC attempts to engender a visceral reaction from its audience by appealing directly to their personal morality. Thus in the LTRC, the power of the trauma that violence caused is translated beyond its location within the psyche of the individual as it “takes you out of your life shockingly and placed you into another one” (Berlant, 2001, p. 76).

Further, in representing society through the dichotomous categories of ‘victim’ and perpetrator’, a zero-sum relationship is established whereby the agency of the state is magnified at the expense of the citizen’s. This dichotomy also excludes a section of the community that were not directly involved in the context, such as witnesses or those indirectly involved in the conflict. In prioritising the relationship between the ‘perpetrator’ and the ‘victim’, the Report’s narrative serves as a “lucid, manageable story” (Grandin, 2005, p. 48) that provides an unadulterated reminder of the possible consequences that may eventuate when state power is abused.

## Concluding Remarks

TRC Reports offer the Commissioners an avenue by which the work they have performed and the past that they present can be projected and justified to the public. This comparative analysis has shown how the Commissioners are able to frame the expectations placed upon its processes by the public as both the HRVIC and the LTRC offered a pre-emptive judgment as to the ‘success’ of its processes. This reveals the highly politicised forum of the TRC as well as the Commission’s active attempts in engaging with its audience.

When presenting the findings of its investigations, both the HRVIC and the LTRC confined past violence to a specific temporal period that is, during military rule and Civil War, respectively. By narrowing the discussion as to how political violence was potentially caused, the relevant ‘frame’ of analysis was confined to a specific period characterised by a single system of government. This enabled the Commission’s discursive allocation of responsibility to be more convincingly emphasised throughout its Report as the judgment put forward by the Commission focused on a specific political structure.

In examining how the frame of *negative propriety* was developed however, it was clear that the two Commissions utilised different discursive techniques. Whilst the Nigerian HRVIC rely on human rights legalism as a discursive tool to appeal to an international legal framework, Liberia utilises the pain of the victim to appeal to the individual morality of the reader. This comparison reveals the different strategies available to Commissioners as they attempt to construct a particular version of ‘truth’ within the text of the Reports. TRCs are afforded substantial political discretion in *choosing* how political violence is framed and on what basis responsibility is allocated as it is evident that the image of the past that is advanced projects a specific relationship between the state and its citizenry.

# CONCLUSION

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*“... the living memory of the past is temporal and there is nothing in this world... that can keep it alive but the labours of the imagination.”*

- Michael Geyer (1997, p. 196)

Truth and Reconciliation Commissions have been advanced in the past two decades as the primary investigative tool available to states whose past has been characterised by political violence. Despite the popularity of these Commissions with policymakers however (refer to Appendix A), the question remains as to what ‘past’ is contained within the TRC Report and what this reveals about the agency that is afforded to these Commissions by ‘transitioning’ societies.

As Geyer (1997) expressed in the above quote, representations of the past in the present involve processes of interpretation and reinterpretation, with each hermeneutic layer redefining the boundary of past ‘truths’. This research has sought to challenge the notion that TRCs produce a narrative of objective ‘facts’. Rather, in recognising the normative substructures framing its processes, this thesis has examined the discursive strategies available to TRCs in constructing a particular account of the ‘past’ within the text of its Report.

In recognising that the role of the Commission is to mediate between the ‘facts’ of the past and the demands of the present, this thesis first examined what past the Commissions were mandated to ‘spectate’. A comparative consideration of the histories of the two case studies revealed that the historical narrative of both Nigeria and Liberia shared striking similarities. Entrenched within the foundations of both countries was a mutual suspicion of the ‘other’; with the ‘other’ demarcated predominantly along ethnic lines. Further, endemic corruption and the pillaging of public resources by the political elite progressively undermined social trust between governing institutions and the citizenry.

Despite similar thematic contours shaping Nigerian and Liberian histories, the HRVIC and LTRC’s respective representation of their findings differed, projecting contrasting standards by which state behaviour *should* be judged. The ability of each Commission to do so derived from their ability to construct and project a distinct image of political violence to its audience. Whilst the Nigerian HRVIC exercised considerable control as to how the perpetration of violence was expressed, rephrasing individual testimonies through international legal discourse, Liberia utilised the visceral imagery evident within the (alleged) crimes that were perpetrated to incite a deeply emotive response from the reader. However, it is of interest that both Commissions did not rely on national legal frameworks or depended wholly on the delegated power enumerated by its mandate. Both Commissions were dependent on a universalised discourse as the nature of the crime was articulated as transcending the national jurisdiction.

The emphasis of this research, in highlighting both the historical and contemporary importance of the Report released by the Commission, aims to show that its contents are capable of contributing to how policymakers and academics alike conceptualise how norms permeate the narrative of the past the Report presents. In drawing attention to the Nigerian

and Liberian examples, this analysis has highlighted the pervasive operation of ‘universal’ discourses within the West African region. The historiographical task of the TRC therefore must be placed within a setting that is not obfuscated by the symbolism surrounding the Commission’s ideal. The text of the Report and the discourse that it perpetuates is ultimately the result of a political process, designed to achieve the ends of a specific perception of how state power *should* operate.



## APPENDIX A

### List of TRCs in Chronological Order from the Date of Implementation

COUNTRY	Source of Mandate	Period of Operation	Subject of Investigation	Publication of Findings
BOLIVIA	Presidential Decree	1982-1984 (Disbanded)	Forced disappearances committed during prior period of military rule from 1967 to 1982	Report never completed
ARGENTINA	Presidential Decree	1983 (9 months)	Forced disappearances committed during prior period of military rule from 1976-1983	Yes
UGANDA	Minister of Justice pursuant to Parliamentary statute	1986-1995 (with stoppages)	“Serious human rights violations” perpetrated between 1962 and 1986	No
NEPAL	President pursuant to Parliamentary statute	1990-1991	Forced disappearances between 1961 and 1990	No
CHILE	Presidential Decree	1990 (9 months)	Disappearances, extrajudicial kills and human rights abuses committed between 1973 and 1990	Yes
CHAD	Presidential Decree	1991-1992	Violation of human rights and economic crimes committed between 1982 and 1990	Yes
GERMANY	Act of Parliament	1992-1995	Repression and human rights abuses caused by the outgoing dictatorship in East Germany between 1949 and 1989	Yes
EL SAVADOR	Peace Accord	1992-1993	Serious acts of violence committed between 1980 and 1991	Yes
SRI LANKA	President pursuant to Parliamentary statute	1994-1997	Involuntary removals and forced disappearances between 1988 and 1994	Yes
HAITI	Presidential Decree	1995-1996	“Serious human right violations” and “crimes against humanity” committed between 1991 and 1994	1 <sup>st</sup> publication: only 74 available 2 <sup>nd</sup> publication: in French (most Haitians can not read)
SOUTH AFRICA	Act of Parliament	1995-2002	“Gross violations of human rights” during apartheid between 1960 an 1994	Yes
ECUADOR	Ministry of Government and Police	1996-1997	Human rights violations committed between 1979 and 1996	Report never completed
GUATEMALA	Peace Accord	1997-1999	Human Rights Violations and acts of violence connected to Civil War between 1962 and 1999	Yes
<b>NIGERIA</b>	<b>President pursuant to Parliamentary Act</b>	<b>1999-2002</b>	<b>“Gross Human Rights Violations” committed between 1966 and 1999</b>	<b>Yes (By NGO). Court order preventing govt. from releasing report</b>

REPUBLIC OF KOREA	Act of Parliament	2000-2002	“Suspicious deaths” in period of authoritarian rule preceding ‘democracy’	Yes
URUGUAY	Presidential Resolution	2000-2002	Disappearances committed during prior period of military rule from 1973 to 1985	Yes
PANAMA	Presidential Decree	2001-2002	Serious human right violations during military rule (1968-1989)	Yes
FEDERAL REPUBLIC OF YUGOSLAVIA	Presidential decree	2001-2003 (Disbanded)	Human rights violations and war crimes committed during the armed conflict in the former Yugoslavia	Report never completed
GRENADA	Governor General pursuant to the Commission of Inquiry Statute	2001- Ongoing till Report published in 2006	Violent political events that occurred between 1976 and 1991	Yes
PERU	Presidential Decree	2001-2002	Violations of human rights and other serious acts of violence committed between 1980 and 2000	Yes
TIMOR-LESTE	UN Transitional Administration for East-Timor	2002-2005	Violations of Human Rights and Humanitarian Law committed during period of Indonesian occupation (1974-1999)	Yes
GHANA	Act of Parliament	2002-2004	Human Rights Violations Committed between 1957 and 1993 (esp. during military rule)	Yes
SIERRA LEONE	Peace Accord followed by statute	2002-2004	Violations of Human Rights and Humanitarian Law committed during period of armed conflict 1991-1999	Yes
MOROCCO	Dahir (Royal Decree)	2004-2006	Forced disappearances and arbitrary detentions committed between 1956 and 1999	Yes
PARAGUAY	Act of Parliament	2004-2008	Serious human rights violations committed between 1954 and 2003	Yes
DEMOCRATIC REPUBLIC OF CONGO (DRC)	Peace Accord followed by statute	2004-2007	Political Crimes and Massive violations of human right and humanitarian law committed since 1960	Report presented to Parliament but not publicly distributed
<b>LIBERIA</b>	<b>Peace Accord followed by statute</b>	<b>2006-2009</b>	<b>Gross violations of Human rights and humanitarian law committed between 1979-2003</b>	<b>Yes</b>
INDONESIA	Act of Parliament	2005-2006	Acts of Genocide and Crimes Against humanity committed between 1965 and 1998	Yes
ECUADOR	Ministerial Decree by President	2007-2009	Investigate, clarify and impede impunity with respect to human rights abuses between 1984 and 1988	Yes

Compiled from Freeman (2006), Hayner (2011), Wiebelhaus-Brahm (2010), United States Institute for Peace (2012).

# APPENDIX B

## Visual Representation: Analysis of the Nigerian HRVIC Report

Role of the Commissioners	Role of the State	Image of the Nation and the position of citizens
<p><b>Work Completed by the Commissioners</b></p> <ol style="list-style-type: none"> <li>1. <b>9 x negative capacity</b></li> <li>a. “attempted”</li> <li>b. “grappled”</li> <li>c. “tried”</li> <li>d. “[role at times] as not possible or easy”</li> <li>2. <b>5 x positive tenacity</b> = “undaunted and unfazed”/“determined”/ “indefatigably”/ “tenacity”/“resolving some of the thorniest and seemingly intractable issues”</li> <li>3. 1 x positive veracity: “proper”</li> </ol> <p><b>Role delegated to the Commission</b></p> <ol style="list-style-type: none"> <li>4. <b>6 x positive propriety</b> =             <ol style="list-style-type: none"> <li>a. “ours was a historic mission”</li> <li>b. “lay the groundwork for an evolving and sustainable peace and development in the country”</li> <li>c. “ensure justice”</li> <li>d. “lay a durable and solid foundation”</li> <li>e. [role of the recommendations to create] “a civic sense of belonging to a nation”</li> <li>f. “basis for the establishment of a framework for a just, fair and equitable Nigerian society”</li> </ol> </li> <li>Experience of individuals of the Commission</li> <li>6. <b>1 x Positive Propriety</b>: “commendable stories [from Nigerians]”</li> <li>7.: <b>3 x Positive Propriety</b>: “unburdened”/ “reconciled”/ “therapeutic”</li> </ol>	<p><b>Military:</b></p> <ol style="list-style-type: none"> <li>1. <b>72 x negative propriety (NP):</b></li> <li>21 x NP = “human rights violations”</li> <li>12 x NP = “institutional and moral decay”/“decay of our society”</li> <li>11 x NP = corruption and/or personal accumulation of wealth/ greed/ sad and ugly</li> <li>5 x NP = vicious cycle of violence</li> <li>5 x NP = injustice of the state/ obstructing justice</li> <li>2 x NP = [actions] were “atrocious and abysmal”</li> <li>2 x NP = “whims and caprices”/ “prejudices and partisanship”</li> <li>1 x NP - “an instrument sounding the death-knell of key principles of good governance”</li> <li>1 x NP = “imbibe democratic spirit”</li> <li>1 x NP = “general tension and crisis in its wake”</li> <li>1 x <b>Negative propriety and Negative capacity</b>: “Failed its citizens”</li> <li>2 x <b>Negative veracity</b>: “deliberately misled government”, “dubious”</li> </ol> <p><b>Democracy:</b></p> <ol style="list-style-type: none"> <li>1. <b>10 x positive propriety (PP):</b></li> <li>5 x PP = “good governance”/ “social harmony”/ “stable nation”</li> <li>5 x PP = “human rights”</li> <li>2. 1 x positive normality = “return to democracy”</li> </ol>	<p><b>Image of the Nation and experience of the citizen</b></p> <ol style="list-style-type: none"> <li>1. <b>7 x Negative normality:</b></li> <li>a. “dark period”</li> <li>b. “gory past”</li> <li>c. “chequered history”</li> <li>d. “battered and bruised”</li> <li>e. “where did Nigeria take the <i>wrong</i> turn?”</li> <li>f. Why did the nation turn <i>suicidal</i> ?</li> <li>g. “wandering the wilderness”</li> <li>2. <b>3 x Negative normality:</b></li> <li>Citizen’s experience of military rule: “fall-out was the gross violations of human rights”</li> <li>3. <b>6 x Negative propriety:</b></li> <li>representation of a citizen’s past:             <ol style="list-style-type: none"> <li>a. “marginalization, stranger, discrimination”,</li> <li>b. “ethnicised anger”</li> <li>c. “casting a pall of mutual distrust”</li> </ol> </li> <li>4. <b>3 x Negative tenacity</b> of citizen’s relationship with the state: “frustrations”</li> <li>5. <b>3 x Positive tenacity and propriety:</b></li> <li>a. Nigerians “work conscientiously and with dedication”</li> <li>b. great work done</li> <li>c. “innocent and hardworking”</li> </ol>

Visual representation of the analysis completed (refer to Chapter Two: ‘Methodology’ of this thesis and Coffin, 2003, p. 227) on key sections of the Nigerian HRVIC Report (HRVIC, 2002, Volume 1 and Conclusions & Recommendations)

Information noted in the table: The component of ‘judgment’ used by the HRVIC to frame a particular actor is noted as well as the frequency (number) with which a particular ‘frame’ appears in the selected sections of the text.

# APPENDIX C

## Visual Representation: Analysis of the Liberian TRC Report

Role of the Commissioners	Role of the State	Image of the nation and the position of citizens
<p><b>Role delegated to the Commission</b></p> <p><b>18 x Positive Propriety</b></p> <ul style="list-style-type: none"> <li>a. role is “on behalf of the people”</li> <li>b. role as a “duty” with “prestige”</li> <li>c. “realistically”</li> <li>d. lay the foundation for sustainable national peace, unity</li> <li>e. “foster national healing and reconciliation”</li> <li>f. “roadmap to <i>liberation and lasting peace</i>”</li> <li>g. build “stable” future</li> </ul> <p><b>3 x Positive Veracity</b></p> <ul style="list-style-type: none"> <li>a. “throw light” on general impact and trends of human rights violations</li> <li>b. “credible”</li> <li>c. “objective and independently”</li> </ul> <p><b>Work Completed by the Commissioners</b></p> <p><b>5 x Positive Capacity</b></p> <ul style="list-style-type: none"> <li>a. “deliberate planning and engagement”</li> <li>b. Report is “comprehensive”</li> </ul> <p><b>4 x Positive Tenacity</b> (established by contrasting the magnitude of the task and the willingness of the Commission to undertake such a task)</p> <ul style="list-style-type: none"> <li>a. “no illusion of the task”</li> <li>b. “we have just done that!”</li> <li>c. “worked tirelessly”</li> </ul>	<p><b>Historical Timeline of events:</b></p> <ul style="list-style-type: none"> <li>- “State” interlinked with “warring factions”</li> <li>- Labelled broadly under the term “perpetrator” (Negative Propriety)</li> <li>- Magnitude and nature of acts committed were expressed through frame of Negative propriety</li> <li>- Report expressed explicit disregard for human life and the <i>distinct</i> nature of the crimes</li> </ul> <p><b>1. 108 x Negative Propriety</b></p> <ul style="list-style-type: none"> <li>a. “Human Rights Violation” and “Constitutional Violation”</li> <li>b. “Massacre” / “egregious”</li> <li>c. “high cost of human lives”</li> <li>d. contrast “unarmed” men with acts of the government who “illegally arrested and beaten” them</li> <li>e. “devastated the city”</li> <li>f. “no regard for the rule of law”</li> <li>g. “deliberate and repugnant to human sensibilities”</li> <li>h. “wanton”, “severe” and “brutal” acts</li> <li>j. “bodies were dumped”</li> <li>k. “beaten with electric wire”</li> </ul> <p><b>Negative Propriety also connected with negative normality</b></p> <ul style="list-style-type: none"> <li>a. “unimaginable”, “barbaric”, “savagery”, “cannibalism”</li> <li>b. “repugnant to human sensibilities”</li> <li>c. “<i>distinct</i> nature of violations”, “species of crimes”</li> </ul> <p><b>2. 13 x Negative Propriety and Negative Capacity: State described as comprising of “warring factions”</b></p> <ul style="list-style-type: none"> <li>a. Warring factions: accounted for 96% of <i>violations</i></li> <li>b. “scores” were killed and tortured</li> </ul>	<p>Image of the nation</p> <p>Civil War: <b>Negative propriety and normality</b></p> <ul style="list-style-type: none"> <li>a. national nightmare</li> <li>b. distrust is widespread</li> <li>c. scars of historical exclusion</li> <li>d. “mistakes” of the past</li> <li>e. “paralyzed the city”</li> </ul> <p><b>After Civil War:</b></p> <p><b>Positive Normality and Positive Propriety:</b></p> <ul style="list-style-type: none"> <li>a. “first period of calm and relative peace”</li> </ul> <p>Position of Citizens</p> <ul style="list-style-type: none"> <li>- In a reactive position: referred to only in terms of the act that is committed by the State</li> <li>- Language throughout: individual described as a “victim”</li> <li>- Centrality of Women and Children, (girls, pregnant women)</li> </ul> <p><b>17 x Negative Capacity and Positive veracity – heightening their innocence</b> (Describing “victims”)</p> <ul style="list-style-type: none"> <li>a. “fleeing”</li> <li>b. “insecurity of poor and disadvantaged”</li> <li>c. “ill-treated”/ “ill-treatment”</li> <li>d. “unarmed”/ “while they were sleeping”</li> <li>e. “allowed to starve to death”</li> <li>f. “innocent civilians”</li> <li>g. “futile” attempts to obtain justice</li> </ul>

Visual representation of the analysis completed (refer to the ‘Methodology’ section of this thesis and Coffin, 2003, p. 227) on key sections of the Liberian TRC Report (LTRC, 2009, Volume 2, pp. xxi – 25; 173-268)

Information noted in the table: The component of ‘judgment’ used by the LTRC to frame a particular actor is noted as well as the frequency (number) with which a particular ‘frame’ appears in the selected sections of the text.

## APPENDIX D

### Example of how Individual Testimonies were included in the Nigerian HRVIC

(HRVIC, 2002, Volume 5, pp. 19-23)

#### BRIEF ON MEMO

NO 327

#### Petitioner's Full Name(s) and Address(es)

Chuks Nwana,  
41, Ishaga Road,  
Surulere.

Tel: 01/5849576, 5850944, 090/409406

#### Title of Petition

Untitled

#### Date of Petition

19th July, 1999

#### Particulars of Petition

The petitioner, a Lagos based legal practitioner wrote to complain about the violation of his right to personal liberty by the National Drug Law Enforcement Agency (NDLEA), the Inspector General of Police as well as agents of the State Security Service (SSS). The facts of the said violation were that on the 16th of May, 1997, some officers of the NDLEA visited his law office and invited him for an interview in their Lagos office. He honoured the invitation and was subsequently

detained for sixty days without access to anyone and without being offered any explanation for his detention. On the 16th of July, 1997, the petitioner was asked to react to allegations of drug trafficking leveled against a certain client of his. The petitioner explained that the individual in question was indeed his client and that his office only handled legal briefs brought to it by the client. According to the petitioner, his explanation appeared to satisfy his captors who

however informed him that the order for his release would have to come from Abuja. An application for the enforcement of his fundamental rights was meanwhile filed at the Federal High Court, Lagos. On the 4th of August, 1997 the court ordered his release on bail (copy of court order attached to petition). However, on the 6th of August, 1997 and in total disregard of the order of the court, the Presidency according to the petitioner directed the Inspector-General of Police to detain him under the State Security (Detention of Persons) Decree No. 2 of 1984 (as amended) (copy of detention order attached to petition).

The petitioner alleges that as soon as he was incarcerated at Kuje Prisons Abuja, fresh charges of involvement in acts prejudicial to State Security were levelled against him. He was also accused of being in charge of a syndicate which was using proceeds from narcotics to buy arms for the purpose of starting an insurgence in Nigeria with Niger Republic as the base. His account was immediately frozen on the orders of the NDLEA. All entreaties to the Presidency on account of his deteriorating health went unheeded. His detention continued despite the subsisting court order directing his release. On the 11th of August, 1998, his detention order was abruptly revoked and he was taken on a two day journey across the Nigerian border to Niger Republic. He was taken across the border in a Police Black Maria containing

several jerry cans of petrol. The petitioner finally arrived Niamey where according to him, Niger Officials stated that he had never been to their country and that they did not request for him. When the petitioner's family protested about the treatment being meted out to him, the National Security Adviser wrote to his family claiming that he was taken to Niger Republic for further investigation of security related matters (copy of letter attached). The petitioner was apparently tried for an unspecified offence in Niger Republic and convicted. The said conviction was however quashed by the Niger Court of Appeal which set him free (translated copy of the said judgment attached to petition). The petitioner alleges that the allegation of drug trafficking was actually a smokescreen used by the Government to use him to get at certain unnamed individuals whom he had refused to implicate during his ordeals. The petitioner maintains that he was never involved in drug trafficking and prays the Commission to redress the violation of his fundamental rights.

#### Period Covered by the Petition

May, 1997 till date

#### Names and Addresses of Persons or Institutions Petitioned Against

- The Federal Government of Nigeria
- The NDLEA
- The Nigeria Police Force
- The State Security Service

#### Injury Alleged Suffered by the Petitioner

- Violation of his right to personal liberty
- Torture, inhuman and degrading treatment

- Illegal abduction and extradition to Niger Republic without due process.
- Economic losses as a result of (1) above.

#### Relief Sought by the Petitioner

- That the Commission should determine whether a legal practitioner should suffer for the alleged offence of his client.
- That the Commission should determine whether his forceful and illegal extradition to Niger Republic for trial was proper despite a certain letter from the Presidency (not attached) and a valid court order ordering his release.

#### MODE OF TREATMENT OF PETITION:

The petition was heard during the public hearing of the Commission in Lagos. The petitioner gave evidence, tendered relevant documents and was given the opportunity to cross-examine the alleged perpetrators.

#### EVIDENCE OF THE ALLEGED PERPETRATORS:

The alleged perpetrators denied the allegations of unlawful detention, torture and illegal deportation to Niamey in Niger Republic. They claimed that the petitioner was detained under Decree No.2 based on incriminating evidence of two drug dealers.

#### FINDINGS AND OBSERVATIONS:

The Commission carefully reviewed the evidence adduced by all the witnesses and makes the following findings and observations:

- a) That the petitioner, a legal practitioner was arrested by the officers of the National Drug Law Enforcement Agency (NDLEA) on the 16<sup>th</sup> of May, 1997 and detained for alleged relationship with drug dealers.



- b) That after about three months in detention without charge or trial, a Federal High Court judge sitting in Lagos ordered for an immediate release of the petitioner on bail.
- c) That instead of complying with the court order, the petitioner was detained for about 14 months under Decree No.2 of 1984.
- d) That the petitioner was forcefully taken to Niamey in Niger Republic to face investigation and trial for alleged drug dealings.
- e) That the petitioner was subsequently set free by the Niamey Court of Appeal which established that the petitioner was merely a solicitor to a drug dealer.
- f) That the petitioner was released after spending about 2 years in detention.
- g) That the long period of detention under Decree No.2 was without any justification whatsoever.
- h) That the petitioner was humiliated, tortured and subjected to inhuman and degrading treatment on account of his professional relationship with suspected drug dealers.

#### RECOMMENDATIONS:

The Commission recommends that the Federal Government of Nigeria should:

- i) Issue a public apology to the petitioner.
- ii) Pay the petitioner the sum of N100,000.00 (One Hundred Thousand Naira) only as compensation.

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