SPECIAL ARTICLE

THE DIFFICULT ROAD TO TRUTH AND RECONCILIATION — THE HEALTH SECTOR TAKES ITS FIRST STEPS

Jeanelle de Gruchy, Leslie London, Laurel Baldwin-Ragaven, Simon Lewin, and the Health and Human Rights Project Support Group

The Truth and Reconciliation Commission (TRC) Hearings on the Health Sector held on 17 and 18 June 1997 heralded the beginning of the health sector's 'painful ethical voyage from wrong to right'.[1] A milestone in the history of the health professions in South Africa, this was the first time that those responsible for the health of our nation publicly reflected on the ways in which they were complicit in human rights violations during the apartheid era.

The Hearings, which received extensive national and international media coverage, were attended by large audiences, significantly including Mrs Ntsiki Biko, Steve Biko's widow, and his brother, Mr Khaya Biko. Through the 2 days of testimony, and the more than 50 submissions received, those who had suffered violations of their human rights by health professionals, and those health workers who had challenged and struggled against the abuses, some themselves becoming targets, were given the opportunity to relate their experiences. In addition the Hearings explored the context in which such violations occurred. Accordingly, submissions were made by many health sector institutions including professional councils and associations, government departments, non-governmental organisations and medical schools.

The Hearings were of historic significance internationally for being the first time that a truth commission has held a hearing dedicated specifically to the activities of a nation's health sector.[2] There was therefore an imperative to do justice to the task. Writing in the *SAMJ*, Dr Christian Pross, Medical Director of the Berlin Centre for the Treatment of Torture Victims, called on the South African medical community to 'take advantage of a unique historical opportunity'. He referred to the sobering example of health professionals in Germany who for 30 years denied their culpability in medical crimes during the Nazi regime. Asserting that this resulted in 'the ideology of Nazi medicine, the contempt for the "inferior" . . . in the minds of doctors', Dr Pross appealed to South African doctors to 'give a different example'.[3]

The notion that the past can be brushed aside, or at worst buried,[4] has drawn criticism on a number of levels.[5,6] Firstly, the suggestion that the past is 'water under the bridge' must surely be seen as an exercise in denial, which attempts to exculpate both institutional and individual responsibility for past human rights abuses. This self-serving form of selective amnesia, reflected in public debate concerning the TRC, calls on South Africans to put the past behind them, and seeks to move forward without reflecting on the past. However, it is only by uncovering, documenting and understanding the past that we can begin to understand it and its myriad effects, initiate healing, and 'ensure that nothing of the sort ever happens again'.[7]

Secondly, forgetting is a form of disempowerment. In the same way that apartheid called on us to 'forget' our common humanity, so brushing aside the past continues to deny that common humanity by failing to acknowledge adequately the suffering of others. Milan Kundera has aptly commented that 'the struggle of man [*sic*] against power is the struggle of memory against forgetting'.[8] There are many powerful institutions in this country, including some in the health sector, which are not willing to see their current status, as they perceive it, undermined by a thorough examination of their past. By taking this position and preventing the truth from being heard, they are invalidating the experiences of those who suffered, and perhaps even more significantly, are retarding the process of transformation that arises out of critical reflection.

Though an essential part of developing a culture of respect for human rights in the health sector, and ensuring that human rights are accepted as a fundamental responsibility of the health professions, the Hearings served only to kickstart the process. 'Assuming anything more profound than a first step would be unrealistic, and tantamount to a form of false reconciliation.'[9]

An analysis of the Health Hearings raises a number of challenges to the health professions. This paper will explore some of these themes and raise questions regarding the future direction of the professions.

THE RIGHT TO HEALTH CARE DENIED

The right to health care for certain vulnerable groups was systematically denied by the apartheid state, a situation supported and fostered by the medical profession. Several

Health and Human Rights Project, Cape Town
Jeanelle de Gruchy, BA, MB ChB
Laurel Baldwin-Ragaven, *AB, MDCM, CCFP, FCFP*
Department of Community Health, University of Cape Town
Leslie London, MB ChB, BSc Hons, MD
Health Systems Division, Centre for Epidemiological Research in Southern Africa, Medical Research Council, Tygerberg, W Cape
Simon Lewin, MB ChB, MSc

powerful accounts of the denial of access to medical treatment were delivered verbally at the Hearings.

Elda Bani was 56 years old when she died in her 12th month of detention in Port Elizabeth in 1987. While the official cause of death is listed as a 'stroke', Elda Bani died neglected and unattended from complications of her insulin-dependent diabetes. Fellow detainees Ivy Gcina and Sheila Lizani testified how her right to medical care was systematically withdrawn. Her medical alert bracelet, indicating her diabetic condition, was removed by prison officials. Although she had informed her captors that she was 'an outpatient at Livingstone Hospital, had had diabetes for 13 years and was taking insulin',[10] no medication was provided for her at the prison. Without access to a special diet and the necessary medication, Elda Bani's condition deteriorated over the year, her humiliation and suffering witnessed by her cellmates. Instead of the medical assistance that she desperately needed, Elda Bani was beaten and tortured. Finally, after 333 days of detention, following weeks of mental confusion and incontinence, and in a coma for some days, she died. Although the district surgeons and the Department of Health, as well as the prison staff, must share the blame for Elda Bani's torture and the denial of her right to appropriate medical treatment, no one has even been held accountable. The violence of using access to medical care as a political weapon in this way must be challenged.

Betty Ncanywa, a nurse who worked at Livingstone Hospital in Port Elizabeth in the 1980s, recounted how she and her colleagues experienced gross interference from security forces during the States of Emergency. Heavily armed police and soldiers were free to invade the hospital, arrest patients and access confidential records. Dr Mark Blecher, who worked at SACLA (South African Christian Leadership Academy) Clinic in Crossroads through the period of 'witdoek' vigilante devastation, told how patients who they referred to hospitals in Cape Town were arrested and how 'in one particular hospital a whole ward of patients was held under police guard'.[11] Both of these cases illustrate the active collusion or lack of assistance from hospital administrators, the Health Department and the Medical Association of South Africa (MASA).

DOCTORS COMPLICIT IN HUMAN RIGHTS ABUSES

It was telling that no individual doctors came forward to give testimony of their own collusion in violations of human rights. The complicity of doctors, whether covertly with the forces of apartheid, or overtly protecting security force abuses, was uncomfortably evident throughout the Hearings.

The well-documented role of district surgeons[12-15] was re-examined at the Hearings, with evidence of their undeniable collusion with 'those who were actively engaged in committing gross violations of their patients' human rights'.[16] District surgeons operated in situations where they had dual allegiances — responsibility to their patients (often detainees) and loyalty to their different employers, a situation which undermined their ability to 'honor the responsibilities that they had to their detainee patients under international and South African law'.[17] It is significant that this legal framework which governs the role and responsibilities of the district surgeons has not yet undergone major changes.

The Hearings heard further testimony of the extent to which health professionals were involved in the security apparatus of the State. A resident of a small farming town[18] spoke of how one general practitioner, who also served as a police reservist, participated in a joint police-vigilante raid in the township at night. The resident recounted how he was assaulted by police in his house as he attempted to prevent them from abducting his convalescent son. The GP looked on and did not intervene. When the resident sought medical care for his injuries, he was told by the police that all health services were closed. Clearly the bonds between doctor and police were stronger than those between doctor and patient, the GP failing to appreciate that his dual roles of doctor and police reservist raised ethical issues regarding his professional obligations.

Mike Simpson, a psychiatrist, and Peter Klatzow, a forensic scientist, each presented cases in which they were involved as expert witnesses. The material illustrated how medical doctors could reach dubious findings which secured the interests of the security forces. Disclosing that there were psychiatrists who boasted privately to him about the substantial financial benefit of acting as expert witnesses for the apartheid State, Simpson called on the Commission to make public the records of these fees, commenting 'Like Faust, I would like to know what the cost of a doctor's soul is!'.

THE INEVITABLE RESULT OF ALLEGIANCE TO APARTHEID

Was this an aberration in an otherwise proud if not excellent profession or was it inevitable? The truth was that it was the latter.

Professor Folb commenting on the case of the Biko doctors at the Truth and Reconciliation Commission Health Hearings.

The Hearings illustrated how apartheid permeated the health sector,[19] distorting and corrupting health services and health professional training. Submissions from individuals and organisations gave testimony to the allegiance of the health professions to apartheid ideology and the ways in which the medical profession effectively concealed the reality of apartheid medicine behind a veneer of professionalism. The submissions highlighted the failure of statutory institutions and professional organisations to hold members accountable for subjugating their professional, moral and ethical responsibilities to an abusive state. Their responses were cloaked in claims of 'neutrality' or 'lawfulness'. However, as one submission pointed out, 'doing nothing or behaving as if nothing

untoward was happening is not neutral. It is highly effective and often essential assistance to the primary perpetrators and renders one a secondary perpetrator.'[20]

Thus the complicity of health professionals in violations of human rights was not the isolated actions of a few 'bad apples', but rather the inevitable result of an environment in which human rights abuses could be condoned by the medical establishment.

In its presentation, MASA admitted that the apartheid government had had undue influence over the decisions of the organisation, possibly through connections to the Broederbond.[21] Their position of defending the State's interests was evident through their mouthpiece, the *SAMJ*. Articles published in the *SAMJ* vigorously defended apartheid health policies until the late 1980s.[22]

Concomitantly, the *SAMJ* suppressed articles or letters that were outspoken on apartheid health policies, or criticised MASA itself. On the basis of being 'too political', or not acceptable on 'scientific grounds', the *SAMJ* rejected articles such as those of Dr Neil White on the nutritional status of children in Crossroads and Nqutu, and Dr Greg McCarthy's paper on 'The health care of detainees'.[23] In the case of the 'Biko doctors', there was a 'deliberate conspiracy by the MASA hierarchy of the day and the *SAMJ* editorship to keep members of the profession largely unaware of the swell of disquiet in their ranks regarding Steve Biko'.[24] The *SAMJ* editorial of August 1980 pontificated that 'much harm can be done to the profession and to the cause of good medical care in this country if we do not temper our concern regarding [the Steve Biko case] with a modicum of unemotional savvy'.[25]

The comprehensive way in which the organised health profession misinformed and misled doctors was manifest at the Hearings. Frances Ames recalled how prior to the case of the 'Biko doctors', she had 'abdicated responsibility for medical ethics to the SAMDC [South African Medical and Dental Council]'.[26] This unquestioning belief continues today. Dr U L Badenhorst asked in a recent letter to the *SAMJ*,
'Am I now to accept that I have been fooled for all these years, that . . . MASA was never open, independent and autonomous?'[27]

AN INSTITUTIONAL EXERCISE IN SUBTERFUGE

The overwhelming sense of disregard for accountability remains a deeply concerning matter for the profession.[28,29] Certain institutions were unable or unwilling to give a clear account of their roles in relation to human rights abuses during apartheid and showed no signs of transformation.

The submission by the Interim National Medical and Dental Council (INMDC) in no way acknowledged that political beliefs shaped decisions by a statutory body mandated with upholding the highest standards of the profession. Explaining the contradictions in its handling of the case of the 'Biko doctors', the submission detailed events 'from the Council's perspective, to put the chronology in perspective', ingenuously relying on bureaucratic explanations bordering on the absurd. The response to their submission was one of general dissatisfaction,[29] the sentiment being that the SAMDC 'displayed an arrogance and an unrepentant attitude that was as appalling as it was striking'.[28]

Similarly, the submission by the South African Medical Services (SAMS) was a cynical statement of blamelessness. Choosing to completely ignore evidence of involvement in human rights violations, their report focused rather on the minutiae of the SAMS structure and activities, such as their annual community singing project code-named 'Project Harmonia'. The SAMS submission and their presence at the Hearings were a not-so-subtle refusal to deal with their past and to co-operate with the objectives of the Commission. The Commissioners, indicating that the submission was unacceptable, requested the SAMS to respond in writing to a series of questions covering participation in the wars in Angola and Mozambique, health care for war veterans, the development of biological warfare capabilities, the development of methods of, and participation in, interrogation and torture, and the use of aversion therapy for gay recruits. Although the SAMS has subsequently responded, their answers fail to clarify their involvement (Dr Wendy Orr, TRC Commissioner — personal communication).

These submissions, for what they omitted to acknowledge, and for their lack of insight, illustrated how difficult the institutional transformation processes will be. A recommendation to incorporate the language of human rights and to establish a standing committee on human rights was presented by the Health and Human Rights Project at the Parliamentary Hearings on the Health Professions' Council Bill in September 1997. The Bill was passed without modification.

AN ENVIRONMENT OF IMPUNITY

In introducing the Hearings, Dr Wendy Orr spoke of 'the mystique of the medical profession, the fact that people don't speak out, the fact that doctors are viewed as a closed club . . . who stand up for each other rather than for their patients'. Dr Orr declared that breaking this 'culture of silence' was fundamental to taking the process forward.

This 'closed club', coupled with the lack of organisational accountability, has created an environment for individual impunity. Many of the individuals implicated in complicity with human rights abuses are still working in the health sector; many even hold senior positions in professional organisations and in the public health services. Their failure to 'come clean' regarding their past activities may present the most serious obstacle to reconciliation within the profession and to the success of institutional reform directed at building a human rights culture.

TRAINING INSTITUTIONS COMPLICIT IN RACIAL DISCRIMINATION

The Hearings made it abundantly clear that the appropriate training of health professionals is essential to the development of a profession that understands and respects human rights and universal ethical codes. Drs Solly Ratamane and Ahmed Moosa presented their experiences as black medical students. Their submissions illustrated the extent to which the training institutions actively enforced racist, discriminatory practices and systematically disadvantaged black students.

By neglecting human rights and tolerating the racism and inequality in health that extended to their own training institutions, all of South Africa's medical faculties failed abysmally to instil in their students a critical awareness of the ethical abuses of the apartheid health system. Students and health professionals need role models as well as individual and institutional support for the courageous and difficult ethical decisions they may have to make. Addressing this issue, Commissioner Dr Ramashala asked: 'If we agree that all medical students should be trained, or should be taught about human rights, taught by whom? By the very professors who perpetrated discriminatory practices? . . . Who teaches the teachers of the medical students?'[30]

How then are the medical institutions tackling the issue of the training of doctors in health and human rights? While every medical faculty was encouraged to prepare submissions, only four medical schools provided input to the Hearings. The way in which the information in these submissions informs structural reform is surely the biggest challenge to our training institutions arising from the Hearings. Initiatives planned through the Health and Human Rights Project, international NGOs in health and the TRC Task Team, may provide some impetus to health science faculties to galvanise their curricula within a human rights framework.

THE CHALLENGE FOR THE HEALTH SECTOR

The challenge for the health sector — individuals, institutions, faculties and organisations — is to continue the process of serious self-examination initiated by the Hearings. There needs to be an assessment of what went wrong, and a plan for putting in place measures to prevent future aberrations.

To initiate this process the Hearings culminated in an open forum plenary session in which presenters, members of the professional spectrum, human rights activists, lawyers and the general public participated. This meeting charged the Task Team that had assisted the TRC in planning the Hearings to continue to meet, and to organise a national conference for 1998. The aims of such a convention would be to achieve broader consultation geographically, professionally and organisationally, to create a human rights culture, and to monitor ongoing human rights abuses in the health sector.

Positive steps are already being taken. Once the mouthpiece of a conservative MASA, the *SAMJ* has affirmed its commitment to the fundamental importance of contributing to the development of a culture of respect for human rights. In conjunction with the Health and Human Rights Project (HHRP), the *SAMJ* has undertaken to publish a regular feature on health and human rights. This edition launches this effort which, it is hoped, will stimulate thought and debate around vital issues facing our profession today. NGOs in the health sector, such as the HHRP and the National Progressive Primary Health Care Network (NPPHCN), are promoting health and human rights. The Human Rights Commission is placing a high priority on interventions to combat human rights violations in health.

Support from members of the professions for this work is essential if the health professions are to *own* a process of establishing human rights as a professional responsibility. We need to recognise that abuses are not confined to an apartheid past; sadly, the abuse of human rights continues to occur in the new South Africa. The complexities of HIV/AIDS, the persistent evidence of torture in police activities and the continuation of solitary confinement in the new C-max prison are challenges that confront us even now.

One of the most useful contributions that professional institutions could make to the country at this time is to engage seriously and systematically in raising the awareness of their membership regarding human rights issues. Unfortunately, articles such as this and others published in the *SAMJ* are necessary but not sufficient to that process. Research should be undertaken to understand the barriers practitioners may encounter in engaging with and applying values of human rights in their work. Training programmes need to be developed to allow such values to be explored and internalised.

What matters is not only that we remember history, but the way in which we respect that history. There needs to be a commitment to the development of a strong moral respect for human rights, and an active engagement with the transformation of the health sector to ensure that the violations described never occur in this country again.

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