

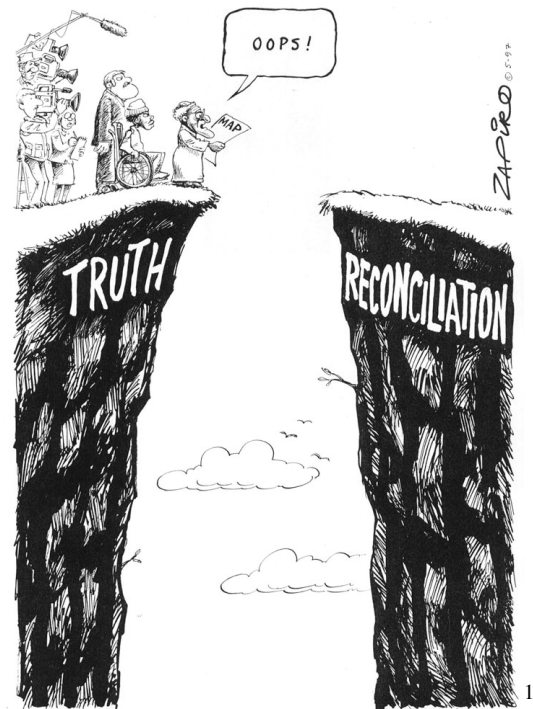
Truth seeking and truth telling in a transitional society

The impact of the Truth and Reconciliation Commission of South Africa

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*so much hurt for truth
so much destruction
so little left for survival
where does one go from here?
voices slung
in anger
over the solid cold length of the past
how long does it take
for a voice
to reach another
in this country held bleeding between us?*

Antjie Krog²

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² Country of my Skull, 1998, p 431

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Truth seeking and truth telling in a transitional society

The impact of the Truth and Reconciliation Commission of South Africa

"There is no handy roadmap for reconciliation. There is no short cut or simple prescription for healing the wounds and divisions of a society in the aftermath of sustained violence. Creating trust and understanding between former enemies is a supremely difficult challenge. It is, however, an essential one to address in the process of building a lasting peace³".

Desmond Tutu

Introduction

Desmond Tutu, the Anglican archbishop emeritus of Cape Town and head of the South African Truth and Reconciliation Commission (SA-TRC) in his foreword for the handbook on *Reconciliation After Violent Conflict* (Bloomfield et.al., 2003) states that no matter how painful passed experiences might have been, they have to be relived, recognized and understood. He argues this is the only way to overcome the traumas of the past and to clear the path for the future.

Having experienced crime, conflict and/or human right abuses has a great impact on both the individual and society. When life seems to have turned to 'normal', the spirit is often to look forward and *let the sleeping dogs lie*. The popular idea is that by not talking about it, it will be easier to go on and forget. Contrary to this popular belief however, reality is otherwise. Ignoring traumas can have far-reaching consequences (Hamber, 1998). History shows many examples of unresolved traumas that eventually resulted in a repetition of violations, conflicts and even war.

While studying and living in South Africa for half a year, I became intrigued by how the South Africans, after endured the suppressive apartheid system, managed to rebuild their country. The SA-TRC is praised for the dominant role it played in this process, as it not only investigated the crimes committed, but also focused on reconciliation in order to build a foundation for a democratic and united society.

In this thesis I will explore if truth seeking and truth telling may lead to a change of attitude and behavior in a disrupted society, which enables people to peacefully work and live together. As truth telling is only one aspect, although the major one, of truth seeking, and as truth seeking is an influential tool in the mechanisms of transitional justice, I start with examining the development of this approach. Thereafter, I describe the traditional system of retributive justice, as well as distributive and restorative justice, being other approaches to justice that are somehow linked to transitional justice processes.

The second chapter firstly explores the right to truth in a transitional society and thereafter questions the necessity of it. Chapter three covers truth telling. The concept

³ Quote from the foreword by Desmond Tutu in the handbook *Reconciliation After Violent Conflict* ((Bloomfield et.al., 2003).

of truth is examined in various ways, it encompasses both the aspect of truth itself and the effect of truth revealing. Thereafter the phenomena of reconciliation will be explored. Chapter four describes the phenomenon of truth commissions (TCs) and their working, including success and failure. Although the SA-TRC is referred to as an example in previous chapters and sections, the SA-TRC itself will be described in chapter five. As reconciliation was a major goal the results will be examined. The chapter ends with some cases to illustrate the complexity of the work of the SA-TRC. Chapter six explores peaceful coexistence, with a focus on South Africa, and reflects on the current situation in South Africa and the perspective for the future. In chapter seven, conclusions will be drawn.

Research question: Can truth seeking and truth telling contribute to the restoration or creation of some balance in a society after conflict and human rights abuses?

Methods

For this thesis, I have conducted a literature review. I began collecting literature with some advice from one of my professors at the University of Stellenbosch, South Africa. *'Truth Commissions'*, the course he taught, was in itself a valuable source, that raised my interest in the topic. Next to that I started with some major works on transitional justice suggested by my supervisor, Dr. Felix Ndahinda. These books and articles were inspiring sources, as were our meetings. I hereby want to thank him for his encouraging support.

Further research was done by examining the references as well as exploring internet sources, using key search terms such as 'truth', 'truth seeking', 'truth telling', 'transitional justice', 'reconciliation', 'truth commission' and 'South African Truth and Reconciliation commission'. I have examined publications regarding transitional justice, and more specific on truth telling and truth seeking. Thereafter these findings were related to the outcome of the SA-TRC by exploring specific publications on the results. To answer the question on whether truth seeking and truth telling can contribute to the recovery of a society after conflict and human rights abuses, I have explored some recent publications, among others some that were highly debated during my stay in South Africa, on the current situation of the country.

Another perspective on the work of the SA-TRC was given by the book *'country of my skull'* by Antjie Krog, who worked as a reporter for the South African radio during the hearings. Her book does not offer an academic perspective, but gives an understanding and feel of the extreme complexity the SA-TRC had to deal with.

As mentioned by Priscilla Hayner in the reflection of the new, updated version of her book *Unspeakable truths, transitional justice and the challenge of truth commissions*,

“the field of transitional justice has successfully engaged a broad and diverse range of disciplines and professions [.....] with important contributions from psychologists, sociologists, anthropologists, political scientists [.....] historians, regional specialists, and others” (2011, p 237). In addressing this topic I have tried, in line with the spirit of the bachelor Liberal Arts and Sciences, to make use of this broadness in the literature to explore the research question.

Chapter 1: A new approach to justice

1.1 The genesis of transitional justice.

"If the pain has often been unbearable and the revelations shocking to all of us, it is because they indeed bring us the beginnings of a common understanding of what happened and a steady restoration of the nation's humanity".

Nelson Mandela 1998⁴

Experiencing conflict and human right abuses has great impact in a country. Not only the infrastructure and institutions are damaged or destroyed, but the people and society as a whole are injured. When life seems to return to normal again, people often tend to ignore the painful experiences, in order to forget. But ignoring the traumas of the past will have consequences on the individual and the societal level, which can be far-reaching (Hamber, 1998, p 10). History has shown many examples of unresolved traumas that led to feelings of suspicion and hatred, resulting in a lack of cooperation and at the end in repetition of the violations and even new conflicts or war. One of the well known examples of unresolved trauma, resulting in mistrust and frustration, and with the trigger of a global crisis leading to new violence, is Germany after World War I. In describing the history of the modern world, Palmer noticed that "Hitler inflamed all such feelings by his propaganda" (2002, p 792).

After the genocide in the second World War, the international community was determined to prevent a repetition, and in order to maintain global peace and avoid new conflicts the United Nations (UN) was founded. One of its goals, as stated in article 1 of the UN charter, is to "take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace"⁵.

There has been debate on the origin of transitional justice. Some argue that it already started with the Nuremberg tribunal against Nazi leaders after WWII, while most point to the political transitions in Latin America in the 1980s and the end of the cold war (Arthur, 2009, p 327; Hayner, 2011, p 3/p 7). Hayner notices a political change that has taken place during the last decades, where "many repressive regimes have been replaced with democratic or semi-democratic governments, and a number of horrific wars have been brought to an end" (2011, p 3), and Arthur specifically mentions that "political

⁴ South African President Mandela when he received on October 29, 1998 the Report of the SA-TRC.

⁵ Source: Charter of the United Nations and the statute of the International Court of Justice, as retrieved February 27, 2013 from: <http://www.un.org/en/documents/charter/index.shtml>

shifts, especially away from authoritarian rule, were the crucial new developments” (2009, p 336).

World War II however was a turning point, and it is seen as the first phase of transitional justice when the international community became determined in preventing repetition of genocide and war, and striving for world peace (CSV, 2011, p 9). With the international focus on peace maintenance, these new political changes brought forward the difficult questions on how peace could be maintained and how setbacks in fragile transitional societies could be prevented.

Every society, moving from authoritarian rule or civil war to democracy, despite differences, was facing the same difficulties, or challenges (Hayner, 2011, p 4). Arthur notes that “discussions were similar because the practical problems faced in various countries were understood in similar ways” (2009, p 355). As an outcome of that, ‘*transitional justice*’ as a new field of study arose when scholars and institutions embarked on the task of finding answers to the questions, and solutions for the problems posed by transitional societies (Arthur, 2009, p 324). This field rapidly developed over the last twenty-five years, and resulted in tools and measures to “help to frame most major political transitions the world round” (Hayner, 2011, p 7).

In a UN-report entitled ‘*The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*’ transitional justice is defined as “the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof” (2004, p 4). The International Center for Transitional Justice (ICTJ) in their June 2009 research brief defined their mission as follows: “if transitional justice can find ways to act as a means of political learning across communities, foster trust and recognition, and if it can serve to breakdown harmful myths and stereotypes, then this will be at least a small step toward meeting the challenges for transitional justice in divided societies” (Fullard and Rousseau, 2009, p 1) . The field of transitional justice covers mechanisms and approaches to solving the difficult questions raised earlier concerning peace maintenance and setback in transitional societies.

Gready agrees with Hayner on the booming development of ‘transitional justice’ but he is hesitant in hailing the results. He notices that it often has become an industry, overlooking the needs and participation of the grass roots (2010, pp 5-6). The UN-report already emphasised on the importance of local participation noticing that “the most successful transitional justice experiences owe a large part of their success to the quantity and quality of public and victim consultation carried out. Local consultation

enables a better understanding of the dynamics of past conflict, patterns of discrimination and types of victims" (2004, p 7).

The field of transitional justice is broad, but this thesis will focus on one aspect, namely the process of seeking and revealing the truth. Many scholars assume that this is one of the most powerful prerequisites for healing and reconciliation. Mary Anderson even states: "there is healing in just that" (2000, p 63). These assumptions will be addressed in the next chapters.

1.2 Justice done

"I have always found that mercy bears richer fruits than strict justice".

Abraham Lincoln⁶

Huyse (in Bloomfield et.al. 2003, p 97) states that many people, especially in the Western society, consider it just to acknowledge and punish the crimes done. Therefore, in order to restore cooperation and trust in a post-conflict society, they claim that justice needs to be done. Huyse argues that "justice has many faces" (Bloomfield et.al. 2003, p 97).

To organize and control society there are several systems of justice, and the Nuremberg tribunal was in line with the traditional system of retributive justice. This is a commonly practiced system in which the answer to crime is punishment. The underlying idea is twofold, on the one hand a crime has to be punished as retribution to the harm done, and on the other hand punishment works as a warning not to commit crime, and forces people to obey the rules of society. It is questionable whether retributive justice is the best system for societies moving from authoritarian rule or civil war to democracy (Allan & Allan, 2000, p 462). It might satisfy the victim to see the perpetrator punished, but it does not give back anything for the harm done. Allan and Allan notice that "in many cases, the losses suffered by survivors are pervasive and insidious. They are the effect of systematic discrimination and the withholding of rights, which manifest as forced removals, exclusion from education and career, opportunities, enforced poverty, etc." (2000, p 462).

Arthur notices that with the genesis of transitional justice another focus came forward, away from "naming and shaming" as was the case in the Nuremberg tribunal, toward "social justice and redistribution" (2009, pp 321-322). One system is distributive justice, which focuses on a just distribution of power, wealth, and rights in a society. After apartheid, in building a democratic and just society, the new government of South

⁶ President of the United States of America from 1861 - 1865 in a speech in Washington D.C. in 1865.

Africa adopted a constitution⁷ that was based on the principles of distributive justice, in order to fight inequality. It states in the preamble to "improve the quality of life for all citizens and free the potential of each person" (p 1243). The South African constitution is widely recognized as one of the most progressive in the world, striving for "a society based on democratic values, social justice and fundamental human rights" (p 1243).

Restorative justice is the other system; it builds on principles of reconciliation, focusing on both the perpetrator and the victim. The first not only has to acknowledge the harm done, but also has to give a form of reparation to the victim, while the goal is that the latter is able to reconcile and (possibly) forgive. The outcome of this system is victim satisfaction, a future for the perpetrator, and in the end a situation of peaceful coexistence, which will be addressed in chapter 6.

Restorative justice is a system of justice based in the traditional juridical systems of African and Asian cultures. According to Huyse these traditional systems "might be of great value as instruments in the reconciliation processes in developing post-conflict countries" (Bloomfield et.al, 2003, p 112). He refers to Bishop Tutu who often mentions the African philosophy of Ubuntu⁸, arguing that retributive justice does not fit in the African tradition. The proper form of justice, in line with restorative justice and based on the philosophy of Ubuntu focuses on recovery of balance and broken relationships.

In the transition from authoritarian rule and suppression to democracy, we recognize the system of restorative justice in the SA-TRC. Alexander Boraine, former member of the SA-TRC and founder of the International Center for Transitional Justice (ICTJ) has described it as "a deeper, richer and broader vision of justice, which seeks to confront perpetrators, address the needs of victims and assist in the start of a process of reconciliation and transformation" (as quoted in the consultation report of the CSV, 2001, p 10).

It is beyond the focus of this thesis to further analyse these approaches to justice, however it is interesting to notice that Huyse mentions two other forms of justice. Historical justice, as being the result of a TC, done when false myths about the past are driven out and replaced by a shared memory about what has happened, and compensatory justice as being the goal of reparation policies (Bloomfield et.al. 2003, p 97). Both are aspects of restoring the balance in a disrupted society, and therefore I would consider them outcomes of the mechanisms of transitional justice.

⁷ The Constitution was approved by the Constitutional Court (CC) on 4 December 1996 and became operational on 4 February 1997; source: <http://www.info.gov.za/documents/constitution/index.htm>

⁸ Ubuntu is used to describe "a particular African worldview in which people can only find fulfilment through interacting with other people"; source: <http://africanhistory.about.com/od/glossaryu/g/Ubuntu.htm>

Chapter 2: Truth Seeking

2.1 The right to truth

"right to the truth about gross human rights violations and serious violations of human rights law is an inalienable and autonomous right, linked to the duty and obligation of the State to protect and guarantee human rights, to conduct effective investigations and to guarantee effective remedy and reparations".

The Office of the United Nations High Commissioner for Human Rights

In the report by the OHCHR on the 'study on the right to the truth' the conclusion, as quoted above, is clear. The report even specifies that this right is "closely linked with other rights and has both an individual and a societal dimension and should be considered as a non-derogable right and not be subject to limitations" (UN, 2006a, p 2). It seems obvious that everybody in society has the right to know what happened in their country, to their loved ones, and every society has the right to find out about their past. At first sight the 'right to the truth' seems to be an undeniable human right, and denying this right to people would be a human right abuse in itself. But Naqvi notices that what seems so obvious has some angles that should be taken into account.

Despite international pressure and moral obligation, not all governments are willing to –fully- reveal the truth (Hayner, 2011, pp 23-25). There are several arguments used by governments or states for this failure. One argument is national security, often used by governments to prevent the publication of data and documents (Naqvi, 2006, p 265-266). Naqvi therefore refers to the practices of the United States in the fight against terrorism after the September 11, 2001 terrorist attacks.

Governments can also be reluctant to open their archives as bringing out the truth might be undesirable for them, for instance if people involved in the dark past are still part of government. (Hayner, 2011, p 227). The author refers to Mozambique where "on the elite political level [.....] neither party to the peace talks was interested in airing their crimes in public" (2011, p 201).

And lastly governments can be reluctant to open their archives if the content puts the national history in a darker perspective. For example the Canadian Truth and Reconciliation Commission (CaTRC), investigating the policy of the Canadian Government⁹ concerning the indigenous people, often meets closed doors at their request for insight in official governmental documents¹⁰ (CaTRC, 2012, p 16-17).

But not only governments can be reluctant to open their archives. The recent inauguration of the new 'Argentine' pope opened old wounds in Argentina. Survivors and families of the victims are trying to find out truth about the church involvement in the

⁹ During many decades of the previous century the Canadian Government conducted the policy of assimilation. Indigenous children were removed –often by force- from home and family, in order to adapt to the Western culture and Christian religion; Source: website Canadian Truth and Reconciliation Commission.

¹⁰ In their interim report the CaTRC explicitly mentions the lack of co operation by the Canadian Government. The refusal to hand over documents and data might enable them to achieve their mandate.

atrocities by doing an appeal on his influence for opening the still closed church archives¹¹.

And where some governments and institutions are reluctant to deliver archives, data and documents, others even actively destroy evidence. This phenomenon is explicitly described in the paragraphs 104 and 106 of the SA-TRC report, noting that "the mass destruction of records ... has had a severe impact on South Africa's social memory. Swathes of official documentary memory, particularly around the inner workings of the apartheid state's security apparatus, have been obliterated ... Ultimately, of course, all South Africans have suffered the consequences – all are victims of the apartheid state's attempted imposition of a selective amnesia"¹² (1998, Volume 1).

Discussing Human Rights Naqvi (2006, p 249) states that the right to truth is a right of the victims and their families. It will help them in dealing with the past and continue with their lives. And it is a way to prevent impunity. But related to the right of the one person is the denial of the rights of the other. Naqvi refers to the "lack of procedural safeguards of the accused" (2006, p 270). Indeed, despite the obvious right of the victim, the perpetrator has rights too. First, according to a legal right recognised in many countries, one is innocent unless guilt is proven, and next to that there is a right to defence and a right to a fair process. Hayner points to these two contradictory principles that many TCs have struggled with (2011, pp 121-122). The SA-TRC decided in favour of the victim and the broken society, allowing naming of the suspects. However they provided opportunity for the alleged perpetrator to respond by handing in counter-evidence. According to the report (Volume 5, p 6) "any alleged perpetrator named in a statement had to be given due notice that he/she was thus implicated and given an opportunity to respond. This led to one of the legal challenges to the Commission"¹³. This procedure could result in erasing an accused's name from the perpetrators list (Hayner, 2011, p 136).

And lastly in the debate on the right to truth one can ask 'what actually is truth'. As Naqvi mentions in her conclusion it is difficult to define as "it implies objective credibility but also requires subjective understanding" (2006, p 272). Truth can have different faces, what is fact for the one, can be false for the other.

¹¹ Source: TV-program EenVandaag of March 25, 2013;
http://www.eenvandaag.nl/buitenland/45255/paus_wist_van_misstanden_videla_regime?autoplay=1

¹² Source: <http://www.justice.gov.za/trc/report/execsum.htm> as retrieved March 26, 2013.

¹³ Source: <http://www.justice.gov.za/trc/report/finalreport/Volume5.pdf>

2.2 Truth seeking, a necessity?

"While individual survivors struggle to rebuild shattered lives, to ease the burning memory of torture suffered or massacres witnessed, society as a whole must find a way to move on, to recreate a livable space of national peace, build some form of reconciliation between former enemies and secure these events in the past".

Priscilla B. Hayner, 2011¹⁴

Although being just one aspect of the broad field of transitional justice, truth seeking is assumed to be a strong element in its mechanisms. It enables people to do what is necessary to built the new democracy, namely examine the crimes of their past, learn about the myths and the facts, understand what lies underneath and come to terms with it. In talking about transitional justice mechanisms truth seeking is often used in one breath with truth telling. But although truth telling is an aspect of truth seeking, there are also other tools involved in the process of revealing the truth.

Truth seeking can be based on initiatives of local organizations. Examples include information gathering on violations and human rights abuses by (human rights) NGOs or religious organizations, or by academic institutions, when the government does not take the lead in bringing accountability for the dark past. These so called 'unofficial truth projects' often serve as the base for further investigation (ICTJ, 2009)¹⁵. One of the strong examples of an 'unofficial truth project' is the cooperation of churches in Brazil. When government failed to take action to investigate the disappearances and atrocities, they copied documents from the military and intelligence archives, resulting in 1986 in the Nunca Mais report. This report led to local activities on reconciliation and reparation, but the message was out; calls were made to ensure "that the violence, the infamy, the injustice, and the persecution of Brazil's recent past should never again be repeated" (website USIP¹⁶). By 2007, based on the Nunca Mais report, the government granted reparations to survivors (ICTJ, 2009). Also in Guatemala¹⁷ an 'unofficial truth project' was set up. The Guatemalan Catholic Church's 'Project for the Recovery of Historical Memory' (REMHI¹⁸) collected testimonies of victims from the military suppression in the country. Two days after presenting the report Bishop Gerardi¹⁹ was killed.

¹⁴ Priscilla Hayner in the introduction of the second edition of *Unspeakable Truths, Transitional Justice and the Challenge of Truth Commissions* (2011).

¹⁵ Source: website ICTJ, www.ictj.org

¹⁶ "From 1964 to 1985, Brazil was ruled by military regimes that sanctioned the systematic use of torture in dealing with their political opponents". Source: website USIP: <http://www.usip.org/publications/commission-inquiry-brazil>

¹⁷ "From the mid-1950s through the 1970s Guatemala was characterized by increasing state repression against citizens in response to rising unrest by various militia groups. In 1982 the Guatemalan military conducted a scorched earth campaign against the newly formed Revolutionary National Unity of Guatemala (URNG), resulting in the a high number of deaths". Source: <http://www.usip.org/publications/truth-commission-guatemala>

¹⁸ The work of the REHMI has been fundamental for the later established Guatemalan Commission for Historical Clarification (CEH) (Hayner, 2011, pp 33-34).

¹⁹ Bishop Gerardi was one of the leaders of the REMHI project.

Where governments do take action, one of the most prominent initiatives to do so is the establishment of a truth commission (Hayner, 2011, p 20). According to Hayner and Freeman TCs have become "one of the most popular transitional mechanisms" (Bloomfield et.al., 2003, p 123). The SA-TRC has served as an example for TCs in other transitional societies, as it has been an influential instrument for revealing the truth in a society recovering from a repressive rule and severe human rights abuses.

With a mission to "discover, clarify and formally acknowledge past abuses" (Hayner, 2011, p 20), the search for the truth was done in many ways. In public hearings families of victims and survivors told their stories. In institutional hearings the involvement of institutions and organizations in the suppressive regime and human rights abuses were examined. Perpetrators testified in the much criticized 'truth-for-amnesty' offer. All these aspects are defined as 'truth telling' and will be addressed in the chapters on this topic. But truth was also revealed by investigating data, documents and archives of apartheid government, military and intelligence. That this was not without obstacles and resistance might be obvious and the process of truth seeking therefore can be very complex.

Some transitions are so painful, for instance as mentioned by Hayner with regard to Mozambique and Cambodia where "the past is too much part of the present" (2011, p 196), that victims are not willing to speak about it. One reason is fear for the consequences and repercussions, another however is that there are other priorities, like the daily life struggle in a destroyed society. Hayner also notices that some societies have found their own ways, often embedded in their culture, to deal with the past, reducing the need for official truth seeking, or even make it unwanted (2011, p 196).

The UN-report notes as factors that can negatively influence the transitional process among others: "a weak civil society, political instability, victim and witness fears about testifying, a weak or corrupt justice system, insufficient time to carry out investigations, lack of public support and inadequate funding" (2004, p 17). They recognize a role for the international community in encouraging countries to comply with their obligation. The international community however can also play a supportive role in the transition with knowledge and technical support, by guaranteeing independent research and security, and with funding, as the process of truth seeking can be very costly especially for poor and severely damaged countries (UN, 2004, Hayner, 2011, pp 207-209). But cautiousness has to be taken. The UN-report notices that the international community sometimes has failed by overlooking the countries perspective; "too often, the emphasis has been on foreign experts, foreign models and foreign-conceived solutions", and although he underlines the importance of experts, he emphasizes that "effective and sustainable approaches begin with a thorough analysis of national needs and capacities" (2004, pp 6-7). This is in line with Gready's comment that transitional

justice has become an industry, "led by an epistemic community [....] rather than locally rooted victim-survivor or social movements" (2010, p 5).

Without ignoring the importance of truth seeking in the transitional process, there are situations where other priorities prevail, and despite the interest of the international community "ultimately, the decision to institute broad truth-seeking should be made by the country itself" (Hayner, 2011, p 197). Hayner recognizes the risk of postponing, especially when she mentions the present situation of Mozambique with a society suffering from psychological trauma and leaders still using '*the instruments of the past*' in order to maintain their power and silence their opponents (2011, p 203). But she also notices that force from the international community will encounter resistance from both, victims and perpetrators, resulting not only in failure but also in possible harm done.

Concluding, in the process of transition it is -in most situations- necessary to examine the past and come to terms with it, in order to prevent a built up of hatred that leads to repetition of the crimes and atrocities. The processes of truth seeking thereby should not only concentrate on identifying the perpetrators, but also explore what lies underneath, the roots of the past. In revealing the facts and the myths, truth seeking can lead to a mutual understanding and contribute to the process of societal change. But there are many angles involved. Gready even questions "whether effectiveness claims are backed up with evidence" (2010, p 5-6). In the chapters on truth telling and TCs the different aspects of truth and the successes and failures of truth seeking will be further explored.

Chapter 3: Truth telling

3.1 The whole truth and nothing but the truth

"Each society has its regime or truth, its 'general politics' of truth: that is the types of discourse which it accepts and makes function as truth; the mechanisms and instances which enable one to distinguish true and false statements, the means by which each is sanctioned; the techniques and procedures accorded value in the acquisition of truth; the status of those who are charged with saying what counts as truth".

Michel Foucault²⁰

In the previous chapter the importance of truth seeking in an injured society transitioning towards a democracy, has been examined. It has become clear that examining the past is generally seen as a requirement for working out the horrible experiences and putting a halt to what Hayner calls "the circle of revenge and hatred" (2011, p 182). Truth has become a powerful concept and truth seeking meets high expectations.

When testifying in court, as was also the case when speaking out before the SA-TRC, the witness promises, by swearing or affirming, that "the evidence that I shall give, shall be the truth, the whole truth and nothing but the truth". People in general define the concept of truth as an objective and unchangeable fact. But in the same time many admit that truth depends on the various perspectives of individuals and thus is relative (Putnam, 1981, pp 50-51).

Where a truth commission is supposed to reveal the truth, based on stories and testimonies, several questions can be raised. Firstly, whose truth is revealed? Krog states that everybody has the right "to tell the truth as she (he) sees it" (1998, p 280). People have different views, based on different stands, upbringing and backgrounds. In section 1.2 Huyse referred to Tutu's view on justice, based on a broad understanding of African traditions, which differs from the Western perspectives (Bloomfield et.al. 2003, p 106).

Lemarchand notes that "each group's memory is distinct" (2007, p 26). Depending on their role in the events people have different constructed realities. He thereby refers to the atrocities in Rwanda between Hutu and Tutsi groups. For the South African situation, some argue that to the black population²¹ no truth was revealed, as they already knew what had happened. Whites, on the other hand, claimed ignorance of the injustice and the atrocities done to the black population (Gibson, 2004, p 78).

Secondly, the accuracy of a testimony should be taken with caution. It is essential to realize that a testimony is based on the victims memory, which can be affected by loss of details because of time passing by, by experiences of other victims, and by what is called 'imagination inflation', when imagined events over time seem to become real to the victim (Odinot & Wolters, 2006, p 32). A study by Odinot and Wolters revealed that

²⁰ Foucault, 1980, p 131.

²¹ See Appendix 1 for 'a note on the concept of race'.

if there is a long period between event and testimony, there is a "reduced memory performance" meaning less recollection of the events as well as less accurate recollections (2006, p 32). In their conclusion they state that "in ecologically valid conditions, recall of eyewitnesses is reasonably accurate" but they also noticed that "no single witness statement can be accepted as certainly correct on the basis of confidence alone" (2006, pp 32-33).

And lastly, it is not always so that a testimony is revealing the (whole) truth. Despite the oath there can be other goals to bring forward an adjusted truth or even a lie. For instance, out of fear for revenge if the perpetrator has still influence. Hamber notices that especially in South Africa, due to the political suppression of the apartheid system, victims were afraid to talk because of repercussions (1998, p 17). Shame for the experienced abuses, as well as the own role in the events, if revealing the truth is not in the interest of the victim or the community, can lead to adjusted truth, or just partly told truth. This adjustment, as noticed above, does not have to be a conscious fabrication and falsification, but can also be subconscious (Lemarchand, 2007).

Nevertheless, as Putnam argues, although truth may be relative, this is no excuse not to seek for it (1981, p 54). Brewer states that "nations need a narrative by which to construct a sense of nationhood - a historical narrative of the past, a sense of the travails and triumphs on the journey to nationhood, a sense of collective identity and solidarity and so on - all of which memories help to supply" (2006, p 216). Therefore searching for the truth in a context, and creating a socially accepted common memory, or a "social memory" (Brewer, 2006) is necessary for building a new society.

Lemarchand underlines the importance of a shared memory by pointing to the risks of individual memories (2007, p 30). As it is difficult to talk about it in the open, victims often tend to stick to their community and talk about their experiences only in inner circles, thereby enhancing the feelings of anger and hatred against the others, likely to result in violence rather than reconciliation. (Allan & Allan, 2000, pp 459-460). Lemarchand emphasizes the need to build a common memory that is "more than one-sided remembrance of 'what happened'; it means coming to terms with the atrocities inflicted by each group upon the other" (2007, p 30).

3.2 The weight of truth telling

"Memory was alive, was being regenerated and throwing light on the truth, that's to say on the many stories of life. History was no longer shut away, prisoner. It was shared by means of testimonies and exchange of experiences. But it was not a simple narration of events. It was also reflection on their meaning and the sense of what had been lived through. It was also reflection on human conduct in extreme times, and the values and principles that sustain it. It was an intense and profound apprenticeship about a past that was setting out to conquer the future as a project of social, community and personal reconstruction".

Edgar Gutiérrez²²

The SA-TRC debated the meaning of the concept of truth, namely "what about truth – and whose truth", by defining four types of truth: 'factual or forensic truth', 'personal or narrative truth', 'social or dialogue truth' and 'healing and restorative' truth (1998, Vol 1, p 110).

Factual truth involves official documents and data from the government, from the police, military or intelligence archives, but also from medical or legal records, that provide crucial facts about what happened. Factual truth complements victims' stories or brings forward information on specific events that have been unclear so far. As a consequence of revealing these facts, the "disinformation about the past that had been accepted as truth by some members of society [lose] much of its credibility" (1998, p 112). Factual truth is regarded as objective and corroborate evidence, however as mentioned in the chapter on the right to truth, not all governments and institutions are helpful in opening their archives. Often documents are destroyed, thereby eradicating evidence and preventing crucial facts to come out.

The other types of truth involve truth telling or are the result of truth telling. Personal or narrative truth is: "subjective, experiential story-telling to restore dignity" (Gready, 2011, p 36). The SA-TRC specifically emphasized that victims were able to tell their own personal stories in their own way (1998, Vol 1, p 112). By telling their personal story victims unloaded some of the weight of their experiences. Gready notices that "many saw themselves as having participated in, and emerged victorious from, a political struggle" (2011, p 163). From victims they could become survivors and started to take their place in society again.

Social or dialogue truth is a process rather than a personal story, and is focused on the whole community. The SA-TRC tried to achieve engagement and dialogue in society by providing a platform for all involved, in which they could participate, and "all possible views could be considered and weighed, one against the other" with the goal of restoring "human dignity and integrity" on the path to democracy (1998, Vol 1, pp 113 - 114). The last type of truth as defined by the SA-TRC is 'healing and restorative' truth. In seeking and revealing truth the commission recognized that the simple facts about what

²² Gutiérrez E., Memory and reconciliation: The story of Guatemala, p 5.

had happened were not sufficient in the process of coming to terms with the past in order to move on. They realized that actual facts are often already known, especially among victims and their communities, and therefore argued that not knowledge, but acknowledgement is important. It was argued that this acknowledgement about what has happened "is thus central to the restoration of the dignity of victims" (SA-TRC, 1998, Vol 1, 114).

All these aspects are related to the social level, but both, individual and social or national level are intertwined. Recalling the experiences is often very painful for the individual victims, as they have to relive their traumas. But ignoring the past does not work, as traumatic experiences do not fade away when time passes by (Hamber, 1998, pp 9-10). On an individual level ignoring what has happened can have psychological as well as physical consequences (Hamber, 1998). Often, as a result of being unable to handle the emotions involved, victims show destructive behavior. To name a few: alcohol and/or drugs abuse, self-destructive or suicidal behavior, depression, but also anger and violent behavior. It is obvious that this also has influence on the social level, as it affects the family, the community and in the end society as a whole.

Beside the pain when reliving the atrocities, shame and fear are strong elements that prevent victims from talking about their experiences. If they talk about it, it is with each other, among kin and in their own community (Allan and Allan, 2000, pp 459-460). This increases the gap between the opposite parties and even encourages feelings of hatred and anger within the community against 'the others' (Allan and Allan, 2000, pp 459-460). As such "a sense of a vengeful justice" (Brewer, 2006, p 216) takes shape, built on a mixture of facts and myths resulting in an ongoing repetition of hostilities and abuses. In order to build a society in which all can live peacefully together it is necessary to stop this "self-perpetuating process" (Allan & Allan, 2000, p 460) and come to terms with the traumatic past (Gibson, 2004, pp 1-8; Hayner, 2011, pp1-2).

Brewer states that there are two topics to deal with in the process, the first one is "finding a balance between the need to know what happened in the past and moving forward" and the second one is "encouraging victims to see the truth from someone else's standpoint (2006, p 220). He notices that when the conflict is over and society is recovering, victims have a strong need to know what has happened, and often victim groups ask for the recovery of truth, as not only their pain will be publicly acknowledged, but also perpetrators and their violent actions will be exposed (2006, p 218). He recognizes four R's' involved in the process: "recognition (of their victim-hood), responsibility (discovering who is to blame) ... retribution (exposing the perpetrators)" (2006, p 218). With regard to the fourth one, reconciliation, he is hesitant as it is not an automatic follow-up in the process. Reliving the horrible experiences and finding out, for instance, what happened to missing loved ones can lead to an increase of the pain and

even encourage the feelings of hatred. Therefore Brewer argues that the process of truth telling should be managed in such a way that victims don't get stuck in their feelings of pain and hatred, but learn to understand the past in order to move on (2006, p 220). Truth telling should be managed with care, as indeed, in fragile transitions it might lead to tension (Hayner, 2011, p 23). Taking care of the feelings of witnesses and overseeing the consequences of the testimonies is an essential responsibility of a TC. Hayner notices how a TC can influence the mindset of a nation, and how the commission can contribute to a shared understanding of the past, towards a new collective memory (2001, p 18). It is obvious that when institutions are weak and other powers are at play, this might lead to the opposite effect.

3.3 Truth and reconciliation

One of the most basic principles for making and keeping peace within and between nations. . . is that in political, military, moral, and spiritual confrontations, there should be an honest attempt at the reconciliation of differences before resorting to combat.

Jimmy Carter²³

In restoring peace and finding a balance between the oppressed and the oppressors, between those being victim and those having profited from the suppressive regime, and between the myths and the facts of what happened, truth seeking and truth telling are essential, and "as important as demobilization, disarmament, or the holding of post-war elections" (Mendeloff, 2004, p 355). It is necessary that existing feelings of mistrust and hatred are taken away in order to peacefully work and live together.

Over time, truth, as in revealing the truth about the dark past, became closely linked with reconciliation (Borer, 2004, p 23). Reconciliation is a concept that is much debated upon, but despite an extensive literature on transitional justice and TCs, no consensus is found on a definition (Borer, 2004, p 23/p 26; Bloomfield et.al. 2003, p 122). Bloomfield (2003, p 12) argues that this is because of the dualistic character of reconciliation, as it is both a goal (you want a result) and a process (the way to reach that goal). But most scholars agree that reconciliation is "more a process than an achievable objective" (Freeman and Hayner in: Bloomfield et.al. 2003, p 122).

In chapter 2. 2 truth seeking is defined as a mechanism to '*examine the crimes of the past, learn about the myths and the facts, understand what lies underneath and come to terms with it*'. Bloomfield on the other hand argues that reconciliation is the process 'par excellence' for people "to examine and address their previous relationship and their violent past" (2003, p 11). Where truth seeking and truth telling are important instruments for gathering the necessary knowledge about the past, and thus essential in the process of reconciliation (Hayner, 2011, p 182), reconciliation is mostly associated

²³ 39th President of the United States

with coming to terms with the past and forgiveness towards each other. Borer refers to the report of the SA-TRC in which reconciliation is associated with "healing, dignity, forgiveness, apology, restitution, and the rebuilding of relationships" (2004, p 30).

Reconciliation takes place on both, the individual as the societal level. In discussing the difference between individual and national levels, Borer recognizes two types of reconciliation. '*Thin reconciliation*' is what she defines as '*national unity and reconciliation*' (NUR), where peaceful coexistence is the purpose (Borer 2004, pp 25-26). The other type '*thick reconciliation*', often referred to as '*individual reconciliation*' (IR), works on the individual level and happens between a couple of people and sometimes even within a person (Borer 2004, pp 23-26).

TCs focus on reconciliation on a national, or political level, as their main goal is to clear the path for the new democracy (Hayner 2011, p 183). On the national level, reconciliation does not have to imply that former enemies agree with each other, as long as they can cooperate and live alongside each other (Borer 2004, p 25). On the individual level it is far more complex to come to reconciliation (Hayner, 2011, p 183). Gutiérrez, in describing his experiences in Guatemala, notices that "often it was more understandable to offer forgiveness to a stranger, to someone from outside the community who attacked anonymous people, people they didn't know, because they had been given an order by a superior" (p 5).

It is hopeful in this perspective to read Gutiérrez description of the process of reconciliation that took place after communities told their stories to the team of the REHMI: "they united their voices and little by little wove together their stories. They identified the causes of their division and discovered that even during the times of greatest cruelty, there was room for compassion" (p 5).

Chapter 4: Truth Commissions

4.1 Truth Commissions

"Will a Commission be sensitive to the word 'truth'? If its interest in truth is linked only to amnesty and compensation, then it will have chosen not truth, but justice. If it sees truth as the widest possible compilation of people's perception, stories, myths and experiences, it will have chosen to restore memory and to foster a new humanity, and perhaps that is justice in its deepest sense".

Antjie Krog, 1998²⁴

It is almost forty years since the first truth commission was established. It was not yet called so, nor will it be remembered for its achievements, but the 'Commission of Inquiry into the Disappearance of people' investigated the atrocities of the state forces under the Amin regime in 1974 in Uganda. The establishment of the commission was a result of public pressure, but the report was never published and it did not prevent Idi Amin from continuing his suppressive and violent regime²⁵.

Despite the lack of results by this first commission, TCs have taken a flight. Priscilla Hayner describes forty commissions that have operated since 1974, of which twenty-one since the start of the twenty-first century (2011, pp 256-262). New commissions are even contemplated. According to a recent message on the website of the ICTJ, Colombia is working, with the help of ICTJ, on the establishment of an official truth commission²⁶. In April 2013 a group of officials from Burundi visited South Africa. The aim of their visit was to learn from the South African experience and "to think out a more appropriate law to promote the establishment of a TC that is efficient and which complies with international standards, while taking into account Burundi's realities"²⁷.

Bringing forward the truth is a powerful process. With the experience of almost four decades of TCs there is general belief that truth telling is the key to healing, but Hayner argues that 'this notion of healing might be overstated' (2011, p 5). There is some scientific evidence for the healing effect, but she argues that other aspects might also influence the process of reconciliation (Hayner, 2011, pp 4-5). Healing usually requires ongoing professional support and TCs therefore are only a starter to the process (Hamber, 1998, p12). The SA-TRC, having set the goal on reconciliation knew that truth telling would not per se lead to reconciliation, but they stated that reconciliation could not be achieved without truth (Gready, 2011, p 159).

Expectations on what TCs can achieve are often too high and therefore might lead to disappointments (Hayner 2011, pp 5-6). Hayner points to the complexity and difficulties commissions often have to deal with. For instance when large groups of victims are willing to testify while on the other hand, perpetrators and governments do

²⁴ Krog A., 1998, Country of my Skull, p 23.

²⁵ Source: website of USIP: <http://www.usip.org/publications/truth-commission-uganda-74>

²⁶ Source: website of ICTJ: <http://ictj.org/news/colombia-prepares-truth-commission>

²⁷ Source website of the ICTJ: <http://ictj.org/news/burundi-mps-seek-transitional-justice-tips-sa>

not participate. Or when political institutions are very instable and those responsible for the atrocities still in power. In the case of Colombia for instance the ICTJ notices that the country "has not yet been able to guarantee citizens' right to the truth..."²⁸. Such a threat is likely to withhold people from telling the (whole) truth.

Truth commissions have dealt with this threat in different ways. In order to protect their witnesses the TC of Guatemala chose to have private hearings, where only the witness and the interviewer were present. In contrast the SA-TRC, with the goal of making it a shared process, held public hearings that were even broadcasted on public television. Tomuschat, former chairman of the Guatemalan Commission for Historical Clarification (CEH), refers to the contrast with South Africa, noticing that "whereas [...] the white apartheid regime had already lost its power bases, in Guatemala there still existed widespread fears that the former power wielders [...] would take revenge measures" (p 2001, p 247). The TRC in Canada, confronted not so much with fear for violent revenge but rather with shame and humiliation, found the middle ground. By organizing public hearings in so called 'sharing circles', they showed respect for the culture and tradition of the indigenous people while at the same time they promoted a shared healing process. Next to that, for victims not able to testify in public, they provided private talks.

4.2 Truth seeking and truth telling, a success story?

"If human dignity is to be respected and advanced in a meaningful way, it will need a society in which human freedom can be expressed within a broader framework of common practices and institutions"

Theo Brinkel²⁹

Hayner is critical on the achievement of TCs. Where she warned for too high expectations, she also notices that some have failed, while others had only limited results (2011, p 6). But in the end she keeps her faith in this powerful instrument, stating that "if done well, however, and if given the necessary resources and support, a truth commission can change how a country understands and accepts its past, and through that, if it is lucky, help to fundamentally shape its future" (Hayner, 2011, p 233).

While studying the mechanisms of truth seeking and truth telling the question raises what is meant by "done well". According to Bosire "Truth-seeking mechanisms attempt to fulfill victims' right to truth and give the community as complete a version of history as possible" (2006, p 13). In previous sections the difficulties related to the right to truth and the objectivity of truth were examined, as indeed truth can be very subjective and versions of truth can be very diverse. Mendeloff notices the dangers involved with manipulated truth. In line with Said's argument "there is, after all, a

²⁸ Source: website of ICTJ: <http://ictj.org/news/colombia-prepares-truth-commission>

²⁹ In Nation Building and Pluralism, 2006, p 73

profound difference between the will to understand for purposes of co-existence and enlargement of horizons, and the will to dominate for the purposes of control" (2003, xiv). Especially with an imbalance of power in society, truth and identities based on a manipulated common history can be very dangerous and a source for inequality and violence (Mendeloff, 2004, pp 370-371).

With the warning of Mendeloff in mind it is obvious that for successful truth seeking and truth telling victims should feel safe to tell the truth as they see it. Additional sources, like archives, documents and data should be accessible to confirm the narratives and add to the truth finding. Therefore, the power balance in society should be secured. As noticed in section 2.2, the international community can play a supportive role in this process. But never without taking into account the local perspectives.

The process has to be done from inside, and for securing the power balance in society, as pointed by Bosire, "strong moral leadership" is an important aspect, thereby referring to "uncompromised and trust-inspiring leaders like Archbishop Desmond Tutu and President Nelson Mandela" (2006, p 27). But she is aware that strong leadership is not always present, especially in a destroyed society.

There is another cause for failure. As mentioned in section 2.2, the everyday life struggle can be so hard that people are not willing and not able to get involved in transitional processes. Nation building and a common identity are important on a social and national level, but without a perspective to a better future, on the individual level, people will stick to themselves. To overcome this fear and resistance people need proper institutions and a stable government to provide security and support during the process but also a perspective afterwards. There is evidence for a positive link between truth telling and reparations programs. According to Hayner, reparations, material as well as symbolic, lead to better response by the victims (2011, p 166). The UN (2006b) recognizes the right of victims to remedy and reparation.

In order to clear the path to democracy and establish a stable and just society there is, as Gready points, "the need to combine truth-telling with other initiatives seeking to ground reconciliation in everyday life, socio-economic improvement and hopes for the future rather than the tragedies of the past" (2011, p 189).

Chapter 5: The South African Process

5.1 The SA-TRC

"Here in South Africa, you achieved something that few countries have ever done. You proved that it doesn't take an all-out civil war to bridge the divide between people who grew up learning to hate one another. You showed that the rights of minorities can be protected even in places where the majority spent decades and decades living in oppression. You reminded the world that the way forward is not revenge, but truth and reconciliation."

Hillary Clinton³⁰

South Africa's past is dark. With the arrival of the first Dutch colonists in the 17th century, a rule of segregation began, in which the white Europeans dominated the original black population. The domination of the indigenous population by the white minority escalated between 1948 and 1994, when the National Party (NP) was in power. During this period the black population suffered under severe violent suppression. This dark period in South African history is called apartheid.

In 1990, due to increasing pressure from inside as well as from outside the country, the NP officially started negotiations with the African National Congress (ANC). With the unbanning of the ANC and the release of Nelson Mandela the first steps towards a new South Africa were taken. The interim Constitution, as established in 1993, cleared the path for the first democratic elections in 1994, resulting on the 10th of May 1994, in the inauguration of Mandela as the first black president.

A new era had begun, but South Africa was well aware that it was necessary to come to terms with the past in order to built a democratic society. This, as Gibson (2004, p 1) called it "gargantuan" task, was laid in the hands of the SA-TRC. The country was strongly divided and the wounds among the black population were deep. Hayner refers to the "massacres, killings, torture, lengthy imprisonment of activists, and severe economic and social discrimination against its majority non-white population" (2011, p 27).

The establishment of the commission was well prepared by consulting various advisers and exploring other transitional justice policies (Hayner, 2011, p 27). This resulted in 'the Promotion of National Unity and Reconciliation Act' in 1995, which empowered the commission to "grant individualized amnesty, search premises and seize evidence, subpoena witnesses, and run a sophisticated witness-protection program" (Hayner, 2011, pp 27-28). To enable the commission to realize its mandate, it was provided a huge budget³¹ as well as additional facilities, like a large staff and some offices (Hayner, 2011, p 28). The selection process for the commissioners was open to

³⁰ United States' Secretary of State Hillary Clinton, on August 8, 2012 at the University of the Western Cape in Cape Town, South Africa.

³¹ About 45 million dollar for the first two and a half year (Hayner, 2011, p 28).

public, as everybody could nominate candidates. It was President Mandela who made the definite choice out of a short list of approved people³².

Between 1996 and 1998 the SA-TRC heard over 21,000 victims in public as well as in closed hearings, held hearings to recover the role of social institutions and business and allotted specific individuals in order to clarify their part in the events. By October 1998 the commission presented their report to President Mandela. In the days before the release, there was upheaval around the report as both, former NP-president F.W. de Klerk and the ANC protested against the conclusions on their role in the past events. In the report both the former government and the ANC were condemned for violent actions.

The SA-TRC is widely recognized for their contribution to a peaceful transition in South Africa. Hayner (2011, p 27) lists the SA-TRC among the five strongest TCs. But there have been many criticisms too. One of the major criticisms on the SA-TRC is that they were too much focused on the personal narratives and events. By defining victims and perpetrators as individuals, and only focussing on harm done to political activists by state agents, the SA-TRC neglected the impact of the apartheid system on society as a whole, by which they "excluded entire victimized communities" (Bosire, 2006, p 20).

Another critic is that the commission was too much focussed on reconciliation: it sometimes sacrificed truth and neglected justice (Gready, 2011, p 43; Hayner, 2011, p 28). Many other critics are given, like the gender bias towards women, focussing on sexual violence rather than on the female role in the political activities (Gready, 2011, p 80). Also communication was an issue, related to both, misinterpretation of translations as well as misinterpretation of attitude and behaviour while testifying (Gready, 2011, p 79).

One of the most discussed issues however is the '*amnesty for truth*' sanction. Several reasons are given for including this option in 'the Promotion of National Unity and Reconciliation Act'. Firstly the commission was aware that the truth about what had happened to the dead and disappeared would not come out if perpetrators would not tell their stories. Secondly, as described in section 1.2, the commission was highly based on the South African juridical tradition and the philosophy of Ubuntu. The focus therefore was on restoring broken relationships and reconciliation, rather than on revenge and punishment. Tutu was aware of the dilemmas involved in the work of the SA-TRC, but he argued that it was "the only alternative to Nuremberg on the one hand, and amnesia on the other"³³. Gready argues, in line with the SA-TRC, that conditional amnesty could be

³² "The nominations from the public were centralized with a committee that short-listed them, followed by public hearings of the people on the short list, to sort out people whose record relating to human rights is either neutral or worse."; Alex Boraine as quoted in Bosire, 2006 p 13.

³³ December 1996 in a letter to the South African Sunday Times.

"a form of justice" (2011, p 94). He quotes Ronald Slye³⁴ to explain this statement "(1) that amnesty reflects the sovereign will of the people in making difficult choices, (2) that it contributes to truth and acknowledgement, and (3) that it contains a measure of accountability" (2011, p 94).

To obtain amnesty some conditions should be met. The first condition was 'full disclosure', implying that the perpetrator should fully confess and bring forward all the relevant information. Political motivation was the second condition, with the additional condition that the violence should not have been out of proportion. Also a time-frame was included, as the act had to be committed between March 1960 and December 5, 1993³⁵.

It was clear, when the deadline for application had passed, that most former leaders of the apartheid regime and high army officers had not applied for amnesty (Hayner, 2011, p 29). In total 7112 applications were received by the commission, of which 849 were granted³⁶. So far the SA-TRC is the only commission that has included amnesty in its mandate.

5.2 Reconciliation

"This thing called reconciliation.... If I am understanding it correctly ... if it means this perpetrator, this man who has killed Christopher Piet, if it means he becomes human again, this man, so that I, so that all of us, get our humanity backthen I agree, then I support it all"

Cynthia Ngewu, mother of one of the Guguletu Seven³⁷

For the SA-TRC, the goal of reconciliation was so important that they included it in their name: South African Truth and Reconciliation Commission. They demonstrated this link everywhere. Both Hayner (2011, p 183) and Gready (2011, p 159) refer to the posters and banners that promoted '*Truth, the Road to Reconciliation*' and '*Reconciliation through Truth*'. With the strong influence of the SA-TRC, it has become common use to include both terms '*Truth and Reconciliation*' in the name of a truth commission and because of the frequent use of these terms together "it has achieved the status of a truism" (Borer, 2004, p 21).

In 2000-2001 Gibson conducted a vast study in South Africa. He empirically tested the assumption that "the truth and reconciliation process has contributed to a more reconciled South Africa" (2004, p 19). One of the first requirements for a proper analysis was a clear concept of reconciliation. Gibson acknowledged the many definitions

³⁴ Professor Slye was a visiting professor at the Community Law Centre at the University of the Western Cape in South Africa from 1996-97 and, while there, served as legal consultant to the Truth and Reconciliation Commission. Source: <http://www.law.seattleu.edu/faculty/faculty-profiles/ronald-c-slye>

³⁵ On December 5, 1993 the interim constitution came into effect.

³⁶ Source: <http://www.justice.gov.za/trc/amntrans/index.htm>

³⁷ Quote as cited by Antjie Krog in '*Country of my Skull*' (p 164) of the mother of Christopher Piet, one of the Guguletu Seven. This name refers to seven young men, living in the township of Guguletu near Cape Town, who in 1986, after being trapped, were killed by the South African Security police.

and the broad (mis)use of the term, but he stated that it does not have to be difficult and complicated (2004, pp 12-13). For his study he used four subdivisions of reconciliation: *interracial reconciliation, political tolerance, support for the principles of human rights, legitimacy* (Gibson 2004, p 4). He held on to the view of the SA-TRC's final report that related reconciliation to relationships between "individuals with themselves, between victims, between survivors and perpetrators, within families, between neighbors, between communities, within different institutions, between different generations, between racial and ethnic groups, between workers and management, and [...] between the beneficiaries of apartheid and those who have been disadvantaged by it" (SA-TRC report as cited in Gibson, 2004, p 13). Gibson concludes "with some important caveats [...] that the process did indeed contribute to reconciliation ..." (2004, pxii).

Gready is critical on the conclusions of Gibson and states that the findings are "at best modest success", and he points to Gibson putting a "more positive slant over his findings" (2011, p 70). At a closer look Gibson does find "a substantial positive relationship" in his analysis of '*the truth → reconciliation hypothesis*' among whites, Colored and Asian-origin South Africans, but he does not find that relationship among Black South Africans (2004, pp 156-166). Considering that Black South Africans form almost 80 percent of the population,³⁸ the critical note of Gready is indeed relevant.

Gready also focuses on relationships, and he concludes that for reconciliation two things are necessary, "public truth telling and the (re)creation of relationships" (2011, p 223). But forgiveness and the restoration of destroyed relationships take time. In a society dealing with the legacy of the suppressive apartheid regime, it is difficult to expect trust and understanding. This counts especially for interracial relationships, which is not surprising as the black population was the main victim of the apartheid regime. Gibson remains positive as he finds evidence in his research on post-apartheid South Africa that when people of different race interact, they are more willing to understand and trust each other (2004, p 166). Assuming it is a matter of time he calls for more, and especially longitudinal analysis in order to answer the question "does truth leads to reconciliation" (2004, pp 166-167). As Hayner points "forgiveness, healing and reconciliation are deeply personal processes, and each person's needs and reactions to peacemaking and truth-telling may be different" (2011, p 183). She argues, in line with Gibson, that time is an important element, suggesting that it might even take decades and is irrational to expect immediate results (Hayner, 2011, p 190).

It was Said, who in the 2003-preface of his famous book *Orientalism*, referred to the aspect of time in relation to peaceful coexistence: "we need to concentrate on the

³⁸ The population of South Africa was estimated to be 50.6 million in mid-2011. Africans constituted the majority at 40.2 million (79.5%), followed by whites at 4.6 million (9.0%). The coloured population followed at 4.5 million (8.9%), while the Indian population was just under 1.3 million (2.5%). Source: South African Survey 2010-2011-demographics.

slow working together of cultures that overlap, borrow from each other, and live together in far more interesting ways than any abridged or inauthentic mode of understanding can allow. But for that kind of wider perception we need time, patient and sceptical enquiry, supported by faith in communities of interpretation that are difficult to sustain in a world demanding instant action and reaction" (2003, xxii).

5.3 Critical examples

To illustrate the problems that arose during the workings of the SA-TRC some examples are collected. These stories are not typical for the hearings, nor are they illustrative for the total process. These stories are illustrative examples of some specific topics related to the SA-TRC, like the question of objectivity, the issue of amnesty, and the focus on reconciliation.

- Objectivity has gone

"The ability of truth commissions to meet their goals (one of which is often reconciliation) is vested as much in the process of truth-seeking as in the final report. For this reason, commissions must be seen to be moral, just, representative, consultative, credible, and open to public scrutiny. This pertains to all aspects of the commission's work and at all stages, including drafting legislation, choosing commissioners and staff, and handing over the final report"

Lydia Bosire³⁹

In section 4.1, the tasks of the SA-TRC were described by Hayner as complex, and expectations were often too high. The commission had to deal with many and diverse obstacles. For instance, the acceptance of the personal narratives as truth. As elaborated in chapter 3, truth has many sides and therefore is not objective.

Another aspect mentioned is the relation of truth to power. The commission had to deal with the new leaders of the country, formed by those that had been on 'the other side'. This was not without problems: Krog mentions Tutu's emotional outburst "if the oppressed has become the oppressor I will fight them⁴⁰", and she notices that he "will never be forgiven" for this (1998, p 429). One event during the existence of the SA-TRC clearly shows all these elements.

On the night before New Year's eve 1993, when Mandela was already released, apartheid defeated (although not officially ended), and the country in search for a new direction, the Heidelberg Tavern in Cape Town was attacked by the Azanian People's Liberation Army (APLA)⁴¹. In this attack, 4 people were killed and 7 were wounded. Three members of the APLA applied for amnesty for their participation in the attack.

³⁹ Bosire L.K., 2006, p 13.

⁴⁰ When the SA-TRC report was finished a delegation from the ANC went to court in an attempt to prevent publication of the report. Bishop Tutu was reacting to it.

⁴¹ An armed wing of the PAC, a black political party that had split from the ANC.

Before the amnesty hearing rumors started, encouraged by a newspaper, that one commission member was involved. This member, Dumisa Ntsebeza as a young man had been active in the struggle against apartheid. He had spent time in prison where he managed to get his law degree. It was obvious that "every commissioner has a past – most of them a political past " (Krog, 1998, p 343). In previous amnesty hearings, another commission member temporarily recused himself⁴². Ntsebeza decided not to, which led to an increasing tension, within the commission as well as outside. As Ntsebeza was a representative of the black community, tensions were built on the issue of race, questioning the impartiality of the commission.

A witness came forward, affirming the accusations. Bennet Sibaya, a gardener, told the commission that he saw some men, those later involved in the attack, filling up the trunk of a white Audi with all kind of firearms. He remembered the license number which appeared to be Ntsebeza's. In the course of the hearing the situation became even more tense when Sibaya was questioned by the lawyer of Ntsebeza in a way that was unknown to the SA-TRC and had not even been done to perpetrators. Krog noted that the SA-TRC acted according the principles "trust the victim, believe the poorest of the poor, treat the simple and illiterate with the tenderest of respect", but that now all these principles and respect seemed to have vanished (1999, p 351). All that had been built up so carefully during the existence and operation of the SA-TRC seemed destroyed (Krog, 1999, p 352). Objectivity was gone, as the white people believed that Ntsebeza was guilty and the commission was protecting him, while the black people believed that he was trapped. Another consequence was that all focus is on the commissioner and the SA-TRC instead of on the family of the victims.

The finale became even more dramatic, showing how much race and power were involved. During the hearings Tutu was abroad, but he had to come back because the situation was getting out of hand. His appearance changed something in the attitude of the gardener, who confessed to Tutu that he had been caught by the police, tortured, and thereafter forced to lie about Ntsebeza's involvement. Although he had decided to tell the truth at the hearing, he kept on to the lie, when he discovered that he was surrounded by whites, missing the so familiar figure of Tutu.

To bring out the whole truth President Mandela ordered an investigation on the case which showed that indeed, Ntsebeza was not involved at all. And the three men that applied for amnesty? They said during the amnesty hearing that they were just following orders; amnesty was granted.

When it comes to reconciliation it is cold on both sides. Letlapa Mphahlele, director of the APLA operations told the commission that the APLA did not regret its activities and

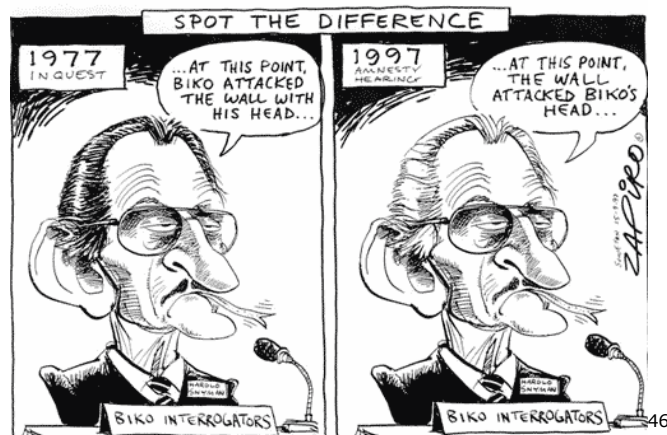
⁴² Krog A., 1999, country of my skull, P. 341 refers to commission member Chris de Jager, who twice recused because of his involvement in an amnesty case.

therefore did not see the need to apologize⁴³. Quentin Cornelius, one of the victims, disabled because of the shooting affirmed "I am not prepared and cannot find it in my heart to forgive them at this point in time. I do not believe that any murderers should be granted amnesty and set free to roam the streets that we are supposed to live in"⁴⁴.

- Injustice done

*You can blow out a candle
But you can't blow out a fire
Once the flames begin to catch
The wind will blow it higher*

Peter Gabriel⁴⁵



The amnesty hearings of the murderers of Steve Biko were seen as a high-profile case for the SA-TRC. Biko, being the 'father'⁴⁷ of the black consciousness movement, is a personal hero for many black South Africans. His gruesome death got a lot of international attention, making him a symbol for the fight against apartheid. It was for many countries the incentive to put sanctions on South Africa.

As a student, Biko became involved in politics, resulting in the foundation of the South African Students' Organisation (SASO). In 1970 he wrote in the SASO newsletter: "what is necessary as a prelude to anything else that may come is a very strong grass-roots build-up of black consciousness" (Biko, 1978, p 22). His political activism resulted in many conflicts with the apartheid security police and on 12 September 1977 he died, after being tortured, in a prison cell. Where the government first denied any involvement, declaring that his death was the result of a hunger-strike, later on it became clear that Biko had died of brain damage caused by torture. The security police however

⁴³ <http://sabctrc.saha.org.za/reports/volume6/section3/chapter4/subsection13.htm>

⁴⁴ <http://www.justice.gov.za/trc/media/1997/9710/s971031e.htm>

⁴⁵ Biko is a song by Peter Gabriel. A protest against the killing of Steve Biko and the apartheid in South Africa (1980).

⁴⁶ This cartoon by Zapiro illustrates the issues in this example. © 1997 - 2012 Zapiro (All Rights Reserved) Printed/Used with permission from www.zapiro.com

⁴⁷ As mentioned in the introduction (p 2) of 'I write what I like'

claimed that this was due to an accident during a struggle. In one of the hearings, Mrs. Gobodo-Madikizela talks about the "double violence" that has been done to Biko. Not only the physical abuse of torture, but also the "verbal abuse when, following his death, Kruger⁴⁸ declared that he was not moved, his death left him cold⁴⁹"

It was with the option of the SA-TRC to apply for amnesty that five policemen came forward, confessing, after twenty years of denying involvement, that they had killed Steve Biko. Now the truth would be revealed about what had happened. But this truth came along with an unbearable consequence, as the killers could be granted amnesty due to confessing a political crime. The family of Biko wanted justice and for them amnesty was not. They therefore took the SA-TRC to court in an attempt to prevent the amnesty hearings. The constitutional court did not grant their demand and amnesty hearings were held. The five men however were not granted amnesty because the commission was convinced that they had not told the whole truth. The men did not admit to have committed a crime as it was part of their job, but they were also not able to prove that it was a politically motivated action⁵⁰.

In the end the family, although pleased that amnesty was not granted, did not find out what had really happened to their loved-one. In fact, the policemen gained most. Although not granted amnesty, in 2003 their prosecution was cancelled because of the time-span between murder and trial and because of the lack of evidence. No justice, no reconciliation. Leaving all empty handed?

- Wrong time – wrong place.

*"The most important vehicle of reconciliation is open and honest dialogue...we are here to reconcile a human life which was taken without an opportunity for dialogue.
When we are finished with this process we must move forward with linked arms."*

Peter Biehl⁵¹

The aim of the SA-TRC was on "healing the breaches, the redressing of imbalances, the restoration of broken relationships" (Tutu as quoted in Bloomfield et.al. 2003, p 106). One of the remarkable things, in line with this principle, was that victims of both sides, blacks and whites, were treated the same way. As Krog notes "by treating pain and grief identically, the TRC exploded the myth that whites and blacks experience grief in a less or greater manner" (1998, pp 439-440).

Most often the difference was between blacks being killed by the system, and whites being part of the system. "The mother whose child was killed by the apartheid state sat next to and wept with the mother whose child was killed defending apartheid"

⁴⁸ The Minister of Justice.

⁴⁹ Pumla Gobodo-Madikizela worked as a psychologist for the SA-TRC; Source of quote: <http://www.justice.gov.za/trc/special/health/health01.htm>

⁵⁰ source: <http://www.justice.gov.za/trc/media/pr/1999/p990216a.htm>

⁵¹ Amy's father at the amnesty hearings; he thereby quoted from an article written by Amy for the Cape Times.

(Krog, 1998, p 439). But this case was different, this white victim had not been defending apartheid. In fact, this exchange student was determined to contribute to a democratic and non-racial South Africa.

The signs for a change were there, Nelson Mandela was released, the ban on the ANC was taken off and democratic elections were in the planning. Amy Biehl, a young American student, was even helping with the voter registration. On the evening of August 25, 1993, Amy drove three black colleagues home to Guguletu⁵². The situation in the township was tense as a week before the police had killed several youngsters. Amy came at the wrong time in the wrong place. The car was forced to stop and although her colleagues tried to reason the angry attackers, Amy was taken out and killed.

Four young men were caught and sentenced to jail. With the start of the SA-TRC they applied for amnesty, arguing that the murder was part of the war against apartheid. Gibson notes that many black people regarded this struggle a 'just war' for which it was necessary to act "unjust and inhumane" (2004, p 162). In their report the SA-TRC reflected on this, stating that "both the ANC and PAC fought a 'just war', but they made a definite distinction between a 'just war' and 'unjust means'" (Krog, 1998, p 433).

Amy Biehl's parents were present at the amnesty hearings. They agreed upon amnesty, as they were aware that it was the legacy of apartheid that caused their daughter's death. One of the young men later said "I was very confused. They seemed to understand that the youth of the townships had carried this crisis – this fight for liberation – on their shoulders"⁵³. In 1998 amnesty was granted and the four young men were released from prison.

This is not the end of this story. The parents of Amy wanted to continue their daughter's work in South Africa and therefore founded the Amy Biehl Foundation⁵⁴. In setting up the foundation they came in contact again with the four young. This contact resulted that two of them, Easy Nofemela and Ntobeko Peni, nowadays⁵⁵ are working for the foundation.

⁵² Township near Cape Town.

⁵³ Source: <http://theforgivenessproject.com/stories/linda-biehl-easy-nofemela-south-africa/>

⁵⁴ Mission of the foundation: "To provide a safe environment in challenged and vulnerable communities where we develop emotionally well rounded Children and Youth who make positive life choices and become contributing members of society"; source: <http://www.amybiehl.co.za/>

⁵⁵ Source: <http://theforgivenessproject.com/stories/linda-biehl-easy-nofemela-south-africa/>

Chapter 6: Towards a new balance in society

6.1 Peaceful coexistence in South Africa?

"South Africans evince a strong sense of national identity, at least in terms of association with the geographic and State entity. However, the diversity of society in terms of race, class and nationality/language does manifest a strong presence in the social consciousness".

A Nation in the Making⁵⁶, 2006, p 97

For centuries South Africa has been an unjust society, where human rights and social justice were not obvious for all citizens and where the minority of whites gained power and wealth at the cost of the black majority. It is therefore not a matter of restoring the balance in society, as South Africa has never known a balanced society with equal rights for all. In South Africa, as worded in the governmental report '*A Nation in the Making*', it is all about "the introduction of a new culture based on respect for human rights and co-operation with the public" (2006, p 10).

Brinkel describes transition as: "a process of establishing new structures and of creating new loyalties" (2006, p 16). South Africa, almost twenty years after the first democratic elections, is still in the middle of this process. The wish to succeed in building a strong national identity is noticeable in the above quote. But it also illustrates that the government is aware of the existing diversity and the difficulties related to that. In the same report they raise the question: "do these multiple identities fuse in a melting pot of national identity? Do they co-exist in a variety of multiple combinations, with an overarching common identity emerging in the course of social integration, nation formation and nation-building?" (2006, p 85).

Brinkel refers to an "adventure" when describing the democratic transition that takes place in South Africa, noticing the tension between the governmental goal of unity and the existing diversity in culture and identities (2006, p 16). People with different backgrounds, languages, traditions and histories have lived and worked together for ages all over the world. Therefore Mendeloff argues that "no logical reason exists that peace requires a shared identity" (2004, p 371). According to Walzer the keyword in this is tolerance as "groups have to tolerate one another and work out among themselves the lessons of their co-existence" (1997, p 169). But the aim should be beyond toleration as people need to tolerate and respect each other, but they also need to be tolerated and respected themselves (Walzer, 2004, pp 175-176). Brinkel, in line with these arguments, states that diversity does not have to be a problem but even can become "a source of strength if respect for diversity is part of the underlying principles of national unity" (2006, p 17).

⁵⁶ Report by the South African Government on macro-social analyses

Pluralism does not have to hinder nation building (Brinkel, 2006, p 246). Democracy is not only about the voice of the majority, as the rights of minorities have to be respected. Nor is democracy related to speaking in one voice. Gibson mentions that "democracies thrive on conflict" (2004, p 345). Gibson, similar to Brinkel, connects democracy to loyalty, referring to the importance to recognize "the legitimate authority of the institution to act and decide even with the recognition that the actions and policies may not be entirely to one's liking" (2004, p 300).

According to the latest presidential report (2011-2012): "nation building and social cohesion are of fundamental importance to the country's future. The Constitution enjoins all who live here to transform the country into a united, non-racial, non-sexist, democratic and prosperous society" (p 21). If the changes bring forward mutual tolerance and respect towards different opinions and pluralism, with the Bill of Rights⁵⁷ ensuring freedom of expression⁵⁸, the process of democracy will progress (Gibson, 2004, p 345; Brinkel, 2006, pp 256-260).

6.2 Reflection on the current situation in SA

"In time, we shall be in a position to bestow on South Africa the greatest possible gift - a more human face"⁵⁹.

Steve Biko

In the introduction of the book *'after the TRC, reflections on truth and reconciliation in South Africa'*, the editors used the metaphor of Lazarus, representing the ghosts of apartheid hovering through the present. The metaphor stands for the memories and narratives brought forward by the work of the commission that are influencing present society. But the editors argue that South Africa should not be stuck in the past. The process of healing and reconciliation, initiated by the SA-TRC, should be used to head forward and turn to the future. But the authors also recognize three obstacles on that path: poverty, under-education and HIV-AIDS (James, W. & vd Vijver L., 2000, p 4).

The book was first published in 2000, only 6 years after the first democratic elections, and just two after the presentation of the SA-TRC-report⁶⁰. The ghosts were still very alive. The question is if Lazarus still walks around in 2013? Or did South Africa manage to expel the ghosts of the past and take away the obstacles on the "path to justice, truth and, ultimately, peace"⁶¹.

⁵⁷ The Bill of Rights in the South African Constitution is described as "a cornerstone of democracy" confirming "the democratic values of human dignity, equality and freedom" for all South Africans (ch. 2, sect. 7) <http://www.info.gov.za/documents/constitution/1996/96cons2.htm#7>

⁵⁸ Chapter 2, section 16

⁵⁹ In *I Write What I Like, a selection of the writings of Biko*. p 156.

⁶⁰ On October 28, 1998 the report was presented

⁶¹ Tutu in Bloomfield et.al. 2003, foreword; as quoted in section 4.1

While on exchange at Stellenbosch University during the second half of 2012, I could notice that poverty, under-education and HIV-AIDS are still very persistent among the black population. The 2011-2012 presidential report recognizes that the problems can not be seen separately but are intertwined. It notices that: "the interplay between social, economic, cultural and other factors continues to present challenges and, as progress is made in one area, new problems arise in other areas" (p 21). A large part of the black population is trapped in the spiral of poverty, moving them downwards instead of upwards, which, according to the Presidency report "poses challenges to the stability of South African society" (p 22).

The inability of the government to improve the situation of the majority of poor and un-educated people, despite measures to turn the deterioration, has given rise to dissatisfaction and frustration. Especially poor and un-educated youngsters in the townships, seeing the high expectations of the new democratic South Africa fade away, are becoming increasingly frustrated. They express this frustration in aggressive behaviour, like throwing stones to cars on the highways. Also criminality, violence and drug abuse are high, which increases the downward spiral. Gready points to the mixed message that was given, when "the apartheid assassin is granted amnesty, while the car hijacker is portrayed as the new nation's nemesis" (2011, p 117).

A recent article in the Economist (2012) blames the ANC, noticing that "the party's incompetence and outright corruption are the main causes of South Africa's sad decline". This article is not the only one accusing the current rulers of power play and corruption. In 2010, Cosatu⁶² published a paper in which it pointed to "corruption and nepotism, abusing positions of power for the accumulation of wealth, and distribution of patronage" (p 3). Their goal was to start a debate on the problems, but they did not find solutions yet how to turn the situation.

The Economist argued that it is necessary to have more political parties, because at the moment there is hardly any competition⁶³, which contributes to the corruptions and patronage. Mamphela Ramphele, a leading South African woman, in an attempt to reduce the power of the ANC, announced in February 2013 the start an own political party. In her recent book *'Conversations with My Sons and Daughters'* she encourages young South Africans to take responsibility in arguing: "the games that the political actors play to position themselves for power and patronage are dangerous games that must be resisted before they engulf us in an inferno of hatred and conflict" (2012, p 99).

When the new democracy started in 1994, it had been able to create proper institutions, a modern constitution, and, inspired by leaders such as Mandela and Tutu, the will to built a non-racial democracy. By using the metaphor of a rainbow, they

⁶² The Congress of South African Trade Unions

⁶³ ANC has almost one-party power, as the black majority votes out of solidarity for ANC.

described the diversity of the people, united in one nation. Is this spirit gone and is indeed South Africa moving down like the pessimists predict? Or do we have to realize that South Africa has never been governed properly and that the people have never shared a common history and identity before. Plaut and Holden refer to the history of the nation built on colonialism, violence and greed (2012, p 267). The road to a new and democratic South Africa is indeed "a long and painful journey" (Tutu in: Bloomfield et.al. 2003, foreword), which will take time and might not be a straight one, but one with setbacks and revivals.

In their conclusion Plaut and Holden take a positive stand when they describe the power of the South African society, noticing that, because of their history, South Africans have developed "the will to fight for their rights, to question authority and to shape their own destinies" (2012, p 355). These arguments are underlined by a South African friend of mine, who highlighted on FaceBook some of the things he loved about his country. At number one he wrote: "our vibrant young democracy (we have different views about the country and we are heading and we are passionate about it)". Another point subscribes the argument of Plaut and Holden: "our struggle that shaped our collective identity".

This argument could be one of the answers to the question on how TCs can contribute to the building of a new democracy. The people of South Africa got a voice and a listening ear. The stories were told and the stories were heard. They encouraged a process of healing and mutual understanding, a process of building a common memory and shaping a collective identity.

But this process will go slow as changes take time. It takes generations to replace old ideas by new ones. In a recent qualitative study among young South-Africans, so called 'born free'⁶⁴, one of the conclusions was that this generation was not at all 'free' from the apartheid legacy. It were especially "the voices of the generations before them" that bring forward the old feelings (Welschen, 2012, p 251).

In current South Africa with a growing black middle class the interaction between the black and white population is increasing in all fields. This is particularly promising as Gibson found some evidence for a better trust and understanding among each other if people of different race interact (2004, p 166). This taken together with his conclusion that the SA-TRC taught the white South Africans something about their history which made them more open to their black compatriots, is a promise for the future. This might not be so dark as some want us to believe.

Plaut and Holden state that civil society has well developed institutions, like newspapers, unions, universities and independent courts (2012, p 355). Also Brinkel concludes: "the real strength of South Africa is the presence and vitality of its civil

⁶⁴ Welschen, 2012, p 13: Children born at the end of apartheid that grew up in in a free and democratic South Africa.

society" (2006, p 260). It's the growing black middle class that is taking its responsibility of good citizenship (Plaut and Holden, 2012, p 355). Ramphele addresses them when she asks: "are you ready to use your knowledge, skills and youthful energy to be the leaders you have been waiting for?" (2012, p 211).

Chapter 7: Conclusion

When a society is ready to move on after conflict it faces many challenges. Besides having to physically rebuild the destroyed country there is a mental recovery to handle. Ignoring what has happened is a bad strategy in this, as the ghosts of the past will keep on haunting. They can contribute to the maintenance of hatred and mistrust among groups which eventually leads to a repetition of the violence.

The last decades a new approach became popular on how to deal with these ghosts of the past. The mechanisms of truth seeking, truth telling and the establishment of TCs have been used in several transitional societies. South Africans impressed the world by the way they are rebuilding their society after the dark apartheid era. Reconciliation seemed to be the magic word and the SA-TRC is highly praised for its achievements.

With the experiences of almost 4 decades of TCs and almost 2 decades after the end of apartheid, the questions remain if these praises are valid and if indeed truth seeking and truth telling contribute to the restoration or creation of some balance in a transitional society. Most scholars answer this question positively, but they all have reservations. Truth seeking and telling are powerful instruments but they can only be powerful if some conditions are taken into account.

Summarizing, not only truth should be told, but also has to be acknowledged. All, victims, but also the perpetrators, should be able to tell their truth. For telling the truth a safe and secure environment is necessary. It is important to have stable institutions that are willing to support the truth seeking process and translate the findings into measures, regulations and reparation programs. By implementing the required measurements and reparation programs, social, economic and cultural improvements will occur. Thereby victims can become survivors, which will contribute to the recovery of society.

Seeking the truth is more than telling, as it also includes truth finding through other sources, like documents and field research, which can confirm and even strengthen the narratives. But it has an other important effect. Because justice is done in a democratic way, where the people have a voice and authority is cooperating, this will strengthen the path to democracy.

However, most scholars agree that this is a process without prescription for usage. Every individual and every community reacts differently. The example of the South African transition, as used throughout this thesis, is proof. Changes will go slowly. Education and economical improvements will empower the young, and interaction with the former 'others' will encourage mutual trust and respect. This will contribute to swipe out the myths and the lies about the past. New generations over time will adapt a shared identity based on a common memory without the old feelings of hatred and mistrust.

Without truth seeking and truth telling, however painful and difficult it may be, this change can not occur, as lies will persist and old feelings will be given on from one generation to the next, thereby consolidating the source for conflict and violence.

The international community can play a role in the succeeding of the transition by supporting the establishment of the necessary safe and secure environment and the stable institutions. But the process has to be of the country itself, in line with local needs and tradition(s). If these conditions are met, truth seeking and truth telling can add to a success full transition.

Appendices

1: A note on the concept of race

For my exchange to Stellenbosch University I had to fill in a couple of application forms, and for the first time I was confronted with racial classifications. I not only had to fill in my name, my gender, date and place of birth, but I was also asked to answer the question: "what is your race?". To be honest, I did not know what to answer to that question, as it is a concept not known in the Netherlands, where, also to me, the concept of race is directly linked to the negative sentiments of racism and discrimination.

While in South Africa, I learned that in this country these racial classifications are a common concept, not only for research and demographic analyses, but also in every day life. Gibson quotes James and Lever to describe that "the use of these categories is unavoidable given the fixity that they have come to acquire both in popular consciousness and official business" (2004, p 24). A South African friend proudly advertises that his firm is "100% black owned and operated"⁶⁵.

A Nation in the Making, the presidency report on macro-social analyses, refers to the complex identity of the South Africans, primarily formed by race and nationality alongside language, class and religion (2006, p 85). The report explicitly mentions that "the history of South Africa since the advent of colonialism has been shaped by race as a critical determinant of social relations within and among classes" (2006, p 25).

In apartheid era there was an official division into four groups: the natives, the Whites, the Coloured and the Asians. The Black Consciousness movement in the late sixties, early seventies of the last Century, used the nomination of 'Blacks' for all Africans being not 'white', so including Coloured and Asian people. Relevant references in the paper were based on the classification of the population made in the Presidency report: Black, Coloured, Indian/Asian and White.

⁶⁵ Source: <http://www.siyakhana.co.za/>

2: Abbreviations

| | |
|----------|---|
| ANC | African National Congress. In 1912 founded as the South African Native National Congress (SANNC) to improve the rights and conditions of the black population, the ANC is now South Africa's governing political party. |
| APLA | The Azanian People's Liberation Army is the military wing of the PAC |
| CaTRC | Canadian Truth and Reconciliation Commission |
| CC | Constitutional Court |
| CEC | Central Executive Committee (of COSATU) |
| CEH | Guatemalan Commission for Historical Clarification |
| COSATU | The Congress of South African Trade unions |
| CSVR | Centre for the Study of Violence and Reconciliation |
| HIV-AIDS | Virus that causes progressive failure of the human immune system. |
| ICJ | The International Court of Justice --> commonly referred to as the World Court or ICJ |
| ICTJ | International Center for Transitional Justice |
| IDEA | International Institute for democracy and electoral assistance |
| IR | Individual Reconciliation |
| NUR | National Unity and Reconciliation |
| OHCHR | the Office of the United Nations High Commissioner for Human Rights |
| PAC | Pan Africanist Congress. A black political party that split from the ANC |
| PCAS | Policy Coordination and Advisory Services |
| REMHI | Project for the Recovery of Historical Memory (Recuperacion de la Memoria Historia) |
| SA | South Africa |
| SASO | South African Students' Organisation |
| SA-TRC | South African Truth and Reconciliation Commission |
| TC | Truth Commission |
| TRC | Truth and Reconciliation Commission |
| UN | United Nations |
| USIP | United States Institute of Peace |
| WW II | World War 2 |

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