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Comparative International Perspectives: The TRC in South Africa — Some tentative observations

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The Truth and Reconciliation Commission of South Africa: Some tentative observations[1] upon the process and its outcome

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In October 1998 the report of South Africa's Truth and Reconciliation Commission (TRC) was published after two years of work. The TRC was established by an act of the new democratically elected parliament.[3] After almost fifty years of apartheid ideology and its corollary political economy, the TRC was a deliberate attempt to deal with apartheid oppression, collective violence to maintain power and violent resistance against the authoritarian state. Reconciliation was the stated ultimate aim of the Commission.

Two assumptions underlie this contribution:

(1) The transition to democracy after an era of oppression and collective violence (whether to strengthen or weaken the ruling regime) is clouded in uncertainty. The outcome of such a transition cannot be established beforehand and deterministic analyses are thus unfeasible. The same applies to the truth and reconciliation process as an internationally accepted *contemporary* method for linking the exposure of the past with community reconciliation. This applies equally to the TRC in South Africa (see endnote 1).

(2) A TRC, in South Africa as elsewhere, is mostly a compromise following a negotiated settlement between the incumbent minority and the contending majority. Instead of enforced and rigid moralistic approaches in addressing the human rights abuses of one - or all - former contenders for political power, a consequentialist social ethic (mostly enforced by real political demands) is followed. This takes place in order to expose the collective violence of the past and facilitate community reconciliation (amongst others by symbolic or real restitution). Reconciliation aims towards social justice and stability in such a case. The ultimate aim of establishing/strengthening a workable and sustainable democracy and 'justice as far as possible' is regulative. In this respect most TRCs are both pragmatic and utilitarian.[4]

This contribution is based on an (as yet) untested hypothesis: that a TRC may be a useful mechanism in the aftermath of authoritarian rule and the concurrent misuse of power (including large-scale human rights abuses), assisting in the establishment of a stable democracy by revealing the past and, as far as possible, providing means for restitution (in whatever format), but that TRCs are not necessarily the only method for doing so.

We are also interested in historical interpretation and recollection, the impact of social identity (or identities) on historical re/deconstruction and the problem of conflicting ideologies (or even the 'clash of civilisations' that the political scientist Samuel Huntington refers to). We are also interested in historiography as a clash of perceptions/knowledge. Any discussion of that, however, would fall outside the parameters of this contribution.

TRCs in context

In order to provide some clarity on and background to a further discussion of the TRC in South Africa, the following contextualisation may be of help.

The South African version of a truth and reconciliation process as embodied in the TRC did not emerge *de novo*. TRCs are contemporary mechanisms, which emerged in the 1980s. Various recent democracies (or recently democratised societies) decided to establish TRCs after their transition from an authoritarian to a democratic government. These democracies include several states that are perceived to be part of the so-called 'third wave of democracy'. Notably, such states include Argentina, Chile, Bolivia, El Salvador and Guatemala. Suriname, a smaller state, also considered a truth and reconciliation process after the harsh rule of Bouterse, an earlier dictator.[5] South Africa was the most recent on the growing list of TRC experiments and probably elicited the most international interest. Some interest groups in Namibia, probably influenced by the South African experiment, have also argued for a Namibian version of a TRC.

The aim of TRCs is to address past oppression and the concomitant large-scale violation of human rights. However, TRCs are not the only way to address the consequences of an era of oppression and violence. Various methods have been used in the course of the last fifty years and more in attempts to 'rectify' the past. A preliminary categorisation could look like this:

(1) Forgive and forget, or 'drawing a line through the past'

This option is sometimes described in pejorative terms as 'amnesia' (a *collective* loss of memory in this case). Since the wave of democratisation started in the 1970s, and before TRCs materialised, this option was exercised by several countries with varying degrees of success. For example, despite large-scale human rights abuses by the former authoritarian government in Greece, the 'amnesia' option was exercised after the fall of the military regime in 1974. Portugal, after the fall of the Caetano regime or so-called *Estado Novo* in 1974, and Spain after the fall of the regime of General Franco between 1975 and 1977 also opted for drawing a line through the past. According to Lopez, 'Spain transformed itself from military dictatorship to one of the most stable parliamentary democracies in Europe',[6] an argument that has been affirmed by Robert Agranoff, an expert on contemporary Spanish government.

Closer to home, this option was also followed by Zimbabwe, South Africa's northern neighbour, when Ian Smith's minority regime was brought down after a protracted liberation struggle (*Chimurenga*). Namibia, another of South Africa's neighbours, introduced a SWAPO-dominated multiparty democracy and a liberal constitution after Namibia's semi-military occupation by South Africa was terminated. Interestingly, although TRCs were an accepted option by the early 1990s, Namibia did not make use of this option.[7] This may be because Namibia had not been ruled by an indigenous dictatorship, but was occupied and governed by South Africa - an external power - as a 'fifth province'. Consequently, most of the human rights abuses that took place were perpetrated by the security forces acting as a 'frontier army' for the authoritarian racial oligarchy under National Party rule.

(2) International tribunals

In this category the international community is requested, or takes it upon itself, to institute a legal process based on international law to address collective violence by violent states or their political leaders.

An early example is the International Tribunal that was established when the National Socialist rule of Adolf Hitler came to an end. The Allied-dominated tribunal imposed the death sentence and long-term imprisonment on Nazi war criminals responsible for the mass elimination of mostly Jews

and other 'unwanted' people. The fact that Germany was defeated in the war and millions of people lost their lives in Poland, Russia and elsewhere as a result of the German war aggravated conditions for the accused.[8] A more recent example of an international tribunal is the one that was established in the 1990s after the Serbian-Croatian war.

International courts or tribunals are established when the state responsible for the atrocities and the victims of such atrocities lack the material, administrative and logistical capacity to deal with the human rights abuses. In certain cases - for instance Nazi Germany - there were specific 'winners' and 'losers'. Such a situation allows for the speedy settlement of crimes against humanity and gross human rights violations.

It is perhaps important to note that such tribunals only came into being in the middle of this century. No such tribunals were conceived of when colonial states embarked on genocide - deliberate or unintentional - in their colonies. Some examples include the Turkish escapades in Armenia (under Mustafa Kemal), the German colonial action against the Herero people in the then Deutsch West Afrika (now Namibia), the British action against rebellious Boers (then viewed as freedom fighters) in the South African Boer Republics at the turn of the century (1900-1901) and American military activities against civilians in Vietnam.

(3) Government-appointed commissions of inquiry into the misuse of power by the state or the abuse of human rights by agents of the ruling state

Government-appointed commissions are probably the most common phenomenon. They are usually appointed by a government that remains in power after the misuse of power resulting in human rights abuses. These commissions should be distinguished from TRCs which are discussed in more detail below. One pertinent example of such a government-appointed commission is the commission appointed by President Mugabe of Zimbabwe after the Matabeleland debacle. Shortly after Mugabe's government came to power, an estimated 1 000 people (possibly more) lost their lives as a result of security force action against alleged adversaries of the Zimbabwean government; the notorious 5th Korean Brigade was implicated in this action. The fact that the report and its findings were never published still elicits criticism from families of the victims, non-government organisations, Amnesty International (a well-known human rights organisation), families of victims and churches.

The commission of inquiry into state violence in Uganda (1974), the parliamentary commission in Israel that investigated the death of Palestinians in Sabra and Chatila after irregular security force action between 1982 and 1983, and the 1992 parliamentary commissions in Romania and Togo are further examples. A very recent example is the commission appointed by President Nujoma to investigate the possibility of intimidation and violence in Namibia after rumours of irregular security force action in the Caprivi strip in 1998/1999.

South African examples include the McNelly and Goldstone commissions that were appointed by the National Party under former president FW de Klerk. The Goldstone Commission was appointed to investigate collective violence and murder by an alleged third force (read: 'covert force') after revelations by the independent newspapers *Vrye Weekblad* and *Weekly Mail*. The ANC has also appointed commissions of this sort, such as the Motsunyane and Skweyiya commissions that were formed to investigate the death and mistreatment of prisoners (alleged informants or *impimpi*) in ANC camps. The ANC thus became one of only a few liberation movements that has appointed such a commission into its own doings. Probably this was facilitated by the fact that the ANC was expecting to take over power at the time.[9] More cynically put – the

commissions may have been intended to act as a public relations exercise for a government in waiting.

(4) Truth and reconciliation commissions

Traditionally truth commissions have been very broadly defined. Priscilla Hayner (1994) and Daan Bronkhorst (1995), two international experts in this field, both use fairly generic definitions that imply the inclusion of commissions of inquiry into transgressions by government security forces. Generally, such definitions do not take cognisance of the distinctions that are made in this paper.

In our research on the topic of TRCs we finally decided on the following minimalist working definition of a TRC:

> Truth Commissions are relatively contemporary phenomena as attempts by which recently democratised societies choose to unburden their past through public acknowledgement coupled with restitution and in search of justice. (Liebenberg & Zegeye, 1998: 542)[10]

The definition clearly distinguishes between TRCs and the variety of other methods that have been applied by young(er) democratic states to deal responsibly with the systematic abuse of human rights over a long period. Significantly, TRCs to date have proceeded in two phases. The first is the publicising of a violent past, and the second is the justice phase that deals with retribution and/or restitution (the latter aimed at the victims). In both phases civil society plays a leading role. The principle of 'never again' is implicitly linked to a TRC and in most cases steps are taken to prevent a repetition of wide-ranging human rights abuses. These may include steps to reform the justice process, align the state's human rights culture with international treaties and agreements, incorporate human rights into the constitution, appoint ombudsmen or institutions, and change civil-security relations.[11] Adapting or reforming civil-military relations (or more broadly: civil-security relations) implies the institutionalisation of civil control and continuous supervision of the security branches of the state, including its information and intelligence services.

TRCs have thus far been instituted in Bolivia (1982), Chile (1992), Argentina (1984), Uruguay (1985) and South Africa (1995; report released in 1998).

(5) Mixed approaches

A variety of approaches may also be used systematically or on an *ad hoc* basis to deal with the past. Both the systematic and *ad hoc* approach sometimes have unpredictable and/or unintended consequences (Popper and Giddens both refer to the latter[12]).

The following examples of mixed approaches illustrate how the method has been used in the past (the unintended consequences we leave to the audience's own mental gymnastics for the time being): After the Second World War, the Netherlands took a variety of steps to deal with the so-called 'faulty' Dutch (in Dutch: *foute Nederlanders*), that is, those who supported or were members of the Dutch National Socialist (Nazi) Movement. About 150 000 people (around 1.5% of the population at the time) were immediately arrested. Of these, 60 000 were prosecuted, but of the 152 death sentences passed, only 40 people were executed. Two years later, in 1947, a public opinion survey showed that 63% of the Dutch population felt that 'shooting them now' was an option, while 22% felt that exemption from prosecution was in order. The 'faulty' Dutch were separated from their children, who were sent to state schools for 'corrective education'. A turn-about in policy came when it was felt that this approach was counter-productive.

In Norway, 48 000 people were prosecuted for collaboration, with 37 eventually being executed. In Denmark, 34 000 people were arrested, 14 000 sentenced and 46 executed. In Belgium, 100 000 people were prosecuted, 2 940 death sentences were passed, and 212 of these were carried out. In France, 767 people were executed for war crimes and Nazi collaboration.[13] Although Portugal may be classified as a 'forgive-and-forget' case, about 20 000 people were discharged from their jobs for being overly sympathetic towards the military regime. Normality only returned in 1977.

Another case of a mixed approach being employed is Greece. In the year after the institution of a democratic government and the attempt at *dejuntafication*, 108 000 public servants were discharged, transferred or otherwise disciplined, and prosecutions were instituted against 400 members of the military who were involved in the maltreatment of prisoners. These actions were later terminated without any of the guilty being punished.

In Italy, after the Second World War and the execution of Mussolini, a supreme commission against Fascism was formed. Its task was to collect information and take steps against former Fascists. In 1946, after the prosecution of thousands of accused was initiated, amnesty was granted. The twin methods of the execution of Mussolini and the granting of amnesty (*drawing a line through the past*) were thus successfully combined.

In Romania the former head of state, Nicolai Ceaucescu, was summarily executed after his totalitarian communist regime was brought down and a parliamentary commission of inquiry was appointed (1992). Two reports with recommendations were published. In the former Soviet Union (currently Russia) the Yeltsin government publicised the abuse of power by the former regime, held media debates and transferred 'sensitive' state bureaucrats. (The same government, however, still rules by decree and on occasion has attacked its own parliament with tanks and artillery.)

Earlier, when the Bolshevist faction of the Communist Party came to power in the Soviet Union after Kerensky's rule (1917) the Tsar and his family were 'administratively' executed and the security forces started with summary and brutal purification actions against their adversaries. Stalin's consecutive party purges that led to the death of hundreds of thousands of people eventually turned against him. The film '*Burnt by the Sun*' illustrates how the paranoia of this period impacted on people. The more recent film '*Stalin*', shown on e-TV with a fair measure of poetic licence around the figure of Stalin, provides insight into the inhuman consequences of absolute power and unwavering paranoia.

After the fall of the Shah of Persia (currently Iran) in *circa* 1977 the Shah and his family together with senior supporters were banned. However, security action was also taken against internal collaborators. More human rights abuses were committed in this process.

There are several examples of mixed approaches in Africa. After the fall of President Habre and his associates in Chad, a report on human rights abuses was compiled by the new government (1991-1992). The report dealt with the deaths of about 40 000 people, with 4 000 cases being described in detail. The names of transgressors were published and in this way civil society was informed about them.[14]

In Uganda a government report of about 1 000 pages dealt with the large-scale disappearance of civilians. No details on individual cases were documented, and hardly any corrective action was taken. According to Hayner, the Ugandan dictator, El Hadji Idi Amin (Dada) himself initiated a

report on security force abuses, but terminated work on it because he disagreed with the content. No report was thus published. Needless to say, under Milton Obote and Amin little was done in the way of improving the poor human rights tradition in Uganda, a tradition which was co-determined by colonialists in earlier years.[15]

What complicates the 'mixed approach' is that it can include any of the other three approaches (mostly, but not always, excluding TRCs) and thus has greater fluidity. The Netherlands, for instance, moved back from category 5 to a 'forgive-and-forget' option (category 1), while Suriname's TRC (category 4) apparently included category 3 (a government-appointed commission). During the recent dispute on the extradition of General Pinochet, the former Chilean military strongman, from Britain, Chile seemed to utilise both category 4 (a TRC) and category 5 (the mixed approach). Thus generic classification has both its advantages and disadvantages.

Although definitive categories are lacking,[16] the exposition above could serve as a tentative guideline for this paper and for future discussions.

The South African TRC: the result of internal negotiations and international debate

From the exposition above it is clear that the TRC in South Africa falls within the parameters of category 4. It forms part of an internationally accepted method to deal with a past of collective violence and oppression by an authoritarian government, with the possibility of seeing justice done as far as is (humanly) possible.[17]

In contrast to the Latin American military who became involved in the maintenance of power of their own accord, the South African military became involved in the maintenance of power through the political leadership (elsewhere this is referred to as 'praetorianism of a special type'[18]). As a consequence of para-ideological concepts such as 'total onslaught' (by subversives/communists) and 'reform' (by specialists/technocrats) the military was gradually drawn into the maintenance of a modernised form of racial domination. The end result was more or less just as bloody as in other countries that eventually decided on TRCs.

As a result of the deliberate destabilisation of neighbouring countries, hundreds of thousands of people died, with Angola, Namibia and Mozambique suffering the most. Inside the country, about 100 people officially died in detention (although severe underreporting is suspected), while 16 000 people died as a result of so-called faction fighting, mostly orchestrated by covert (popularly known as 'third force') action. An unconfirmed number of people disappeared after security police action. (The above-mentioned figures exclude the 500 or more people who died in the Soweto uprising and those who died in Sharpeville and later in Langa, Mamelodi and Boipatong.)[19] No reference to forced resettlements will be detailed here.

South Africa's TRC can be compared with that of Argentina and Chile. In Argentina about 9 000 people 'disappeared' during the 'national reorganisation' carried out by the military junta (although Ramon Torres, a civil rights law person, estimates the number at closer to 20 000). In their struggle against so-called subversion the military engaged in a 'dirty war' (*guerra sucia*). In 1983 the military regime toppled following their defeat in the Falklands/Malvinas war against Britain. Under President Alfonsin, who became the first freely elected president of the Argentine democracy in 1983, a TRC was established. The Sabato commission's report ultimately led to reforms in the legal system. At the same time the criminal prosecution of 1 300 military staff was terminated after internal hearings on their human rights abuses. Indeed, even the military staff who in the final days

of the regime had granted themselves amnesty (*Documento Final*) were excused by the new democratic government. Despite its many inadequacies, the Argentinean TRC is seen by many people as an example of a relatively successful TRC. Although it fell short in the justice phase, it achieved success in the revelation phase.

In the aftermath of the military rule of General Pinochet in Chile the *Comision Nacional para la Veridad y Reconciliation* (also known as the Rettig Commission) was convened. It comprised eight civilians who were appointed after the first democratic government was elected in 1990. They investigated the disappearance of 3 400 people, 2 920 of whose disappearances were eventually reported on. A report of 1 350 pages (two volumes) was published. The commission was thus apparently successful in the revelation phase, but also recommended comprehensive reforms as part of corrective action. This included aligning Chilean human rights safeguards with international requirements, granting independence to the judiciary, training the security forces in human rights ('reprofessionalisation of the military'[20]), and instituting a permanent ombudsman to protect civilians against the abuse of human rights.

André du Toit, a South African social theorist and expert on ethics, judges the Chilean attempt as follows:

> Compared to the failed Argentina efforts to achieve both justice and truth and the counter-productive Uruguay attempts tacitly to avoid dealing with the past, the Chilean case proved considerably more successful. In part this was because some valuable lessons had been learned from comparative experiences.[21]

South Africa emerged from apartheid (1948 to circa 1970) and modernised racial domination (1972 to 1989) in a period in which TRCs were emerging as a logical and acceptable international option. The South African TRC also fits the Zalaquett framework for a potential TRC in that the country did not proceed to civil war. A negotiated settlement (under great internal and international pressure) ultimately led to power sharing. At the beginning of the 1990s the liberation movements as well as the incumbent regime had to acknowledge the practical realities emanating from relationships of power. The demands of the political situation made a rigid moralistic settlement of the past violence impossible.[22]

Given the above explanation, the TRC in South Africa was both a logical and an inevitable choice. Logical, because in terms of international standards it was the 'obvious' means to effecting a transition from a violent past to a democratic order, and inevitable because at that point none of the gladiators in the South African political arena would be indisputably victorious in the foreseeable future. The relationships of power that characterised the political settlement would also materialise in the approach to the past and the corrective action that was to follow.

A purist ideological choice may still have been possible while the former holder of power and the contender were locked in power politics. The conviction that power had to be maintained at all costs encouraged a rigid moralistic approach among those who still held onto power, while the 'pure' revolution of the challengers to that power also prescribed rigid moralism. However, the settlement negotiated within a framework of mutual power dependence (read: '*real-politik*') softened such seemingly unavoidable rigid moralism.

Indeed, negotiated settlements (or negotiated revolutions) place social 'reality' within the ambit of consequentialist social ethics (planned or unplanned - to quote Giddens once more). If we move away from an ideological analysis[23] of the historical conflict in South Africa and approach it as a

clash of (radically) different civilisations, and within the framework of mutual power dependence that Samuel Huntington refers to, more or less the same applies.

Within the mindset of rigid moralism (time and again prescribed subconsciously by the concept of power maintenance and/or power expansion), conflict almost invariably ends in violence. As Ehrenberg (1968) puts it, 'the simple will for self-preservation and the nebulous ideas (about the war) crystallised into the fundamental conflict between freedom or slavery or despotism, and that conflict was identified with the contrast between the Greeks [us/the civilised/the cultivated] and the barbarians [the other/the enemy/the unskilled/instigators - our insertions]'.[24] If the spirit of the times acknowledges that 'the other' is a contending civilisation, the issue becomes at once simple and highly complex - which also applies to conflict.

So far we have dealt with the issue of dealing with post-collective violence as a real-political choice by political leaders and their followers. By implication, we argued that realpolitik brought about a swing from moralism to consequentialist approaches by the contenders because national reconciliation was at stake. But what about the role of the individual? The individual that lived through all this and still lives in the aftermath of all this? (Especially if one assumes that Giddens was right in stating that even relatively disempowered individuals can consciously live as historical agents).

In South Africa the TRC exercise was an attempt to avert collective rigid moralism by means of a social ethic enforced by realpolitik. However, the meta-text is stable democracy and social justice inclusive of equality (versus mere equivalence). The maintenance of such a reconciliation will depend in the long term on whether the current system builders enforce systems (read: 'orders') at all costs (*Plato as Totalitarian*) or allow room for others to question the construction. Naturally the Socratic anti-pole (or cornerstone) is endlessly mediated (and repudiated) by centuries of injustice and the continued clash of civilisations.

Individuals as historical (real-life) agents can play an important role. One could allude to Dietrich Bonhoeffer in Germany, Martin Luther King in the USA, or Beyers Naude and Albert Luthuli in South Africa – or perhaps the original questioning person, Socrates. Ehrenberg (1968, p.383) was probably correct in his assessment of Socrates as the presenter of critical questions:

> We reach the conclusion [or are forced to acknowledge through ordinary history] that Socrates was not a teacher nor a philosopher in the ordinary sense of the words. He was neither a poet and theoretical thinker like Plato [or a Platonic system builder], nor a man of practical life like Xenophon. He was unique, yet a product of his age, an intellectual ... above all a humanist before humanism ... Socrates who finally broke through the wall of tradition, prejudice, and superficiality. (our insertions).

Is there anything more to say?

Decision

In this contribution it was argued that TRCs are only one among several options which could be used in dealing with a history of violence (and counter violence) within the context of oppression. It was further argued that South Africa settled for the TRC option after engaging in an ideological power struggle (a clash of civilisations) aimed at imposing collective rigid moralism on the opponent. In a (brief?) moment of clarity South Africans and their political leadership were forced

by the recognition of mutual power dependence to read the democratic parameters of the text of a responsible participating system, without either ignoring the pages of the past or canonising them. In addition (maybe as a logical trick) the authors redirected attention from collective responsibility to individual responsibility and argued that the individual should question the social system and accept the system builders as teachers without swallowing the totalitarian pill.

Endnotes

1. It should be clear why 'tentative observations' instead of 'tentative conclusions' are addressed here. Further clarification could however be useful. The transition to democracy is preceded and accompanied by profound uncertainty, a characteristic of democratic transitions worldwide. This implies that regime transition occurs in uncertainty, regression to (forms of) authoritarian government remains a possibility for an indefinite period, and deterministic models in the political sciences and/or sociology fail to ensure satisfactory outcomes. The same applies for South Africa as a recent transition from authoritarian control to democracy. Also note that, according to Arthur MacEwan, modern 'transition theory' gives priority to 'political democratic rules and procedures without serious attention to social and economic inequalities that face these countries' (MacEwan as cited by Chilcote, p.8). In other words, rules and procedures (for instance election politics) are frequently seen as the *ultima ratio* of a democracy instead of social transformation to equality and social justice. This approach, however, impacts negatively on young democracies and results in instability.

2. Liebenberg is a senior researcher in the Group: Democracy and Governance, Human Sciences Research Council, and a research associate, Institute for Security Studies (ISS); and Zegeye is a chief research specialist/visiting professor to the HSRC. Earlier articles that serve as background to this paper on the TRC in South Africa can be found in the list of sources..

3. Promotion of National Unity and Reconciliation Act, No. 34 of 1995.

4. The issue is more complex, however. For the purpose of this contribution we subscribe to the consequentialist element in the argument. One could argue that it is less utilitarian.

5. See Iwan Brave's article. The Organisatie voor Gerechtigheid en Vrede (OGV) and Amnesty International were expected to become involved in the planning of such a commission. The pertinent issues were 'alle schendinge van mensenrechten vanaf 1980' (the beginning of the military regime up to 1991 when the transition to democracy started).

6. F.A. Lopez, 'Bourgeois state and the rise of social democracy in Spain' in Chilcote et al., pp.17-72. For a more thorough analysis of the transition in Portugal, see D. Nataf and E. Sammis, 'Classes, hegemony, and Portuguese democratization', pp.73-130. The transition in Greece is well described by S. Hadjiyanis, 'Democratization and the Greek state' in Chilcote, pp.131-188.

7. For more information see Cliffe, 1994.

8. More information about the time before and after this can be found in P. Steinbach, 1994: 44-49.

9. The choice to institute internal commissions of enquiry into human rights abuses by the ANC as the larger liberation movement with the greatest support at that stage was apparently more informed by real political choices and the necessity for the ANC to project responsibility and accountability than by moral considerations. Moral pressure on the ANC leadership by religious leaders, ANC members, families and victims may also have played a role. The ANC was after all the only

liberation movement known to have signed the Geneva Convention in respect of war conduct in the 1980s. This implies that human rights abuses against prisoners (technically speaking prisoners of war) required action to deal with the past since the ANC was (potentially) a government in waiting.

10. Louis Liebenberg deserves mention in that his work on a very different topic directed us towards a more exact definition of TRCs. In *The art of tracking: the origin of science* (Cape Town: David Philip, 1990) he distinguishes between direct tracking and indirect tracking ('interpretative tracking'). Liebenberg distinguishes between interpretative tracking and hermeneutics as scientific discipline because the tracker does not interpret non-existent signs, but existing albeit hidden signs.

11. Another aspect that points to the strong as well as the weak point of TRCs and is seldom discussed is the fact that TRCs are based on a liberal and rational ethos - the values and norms that are applied in open conversation and rational discussion are assumed to be known and objective. A further issue is the fact that in most cases TRCs use the Christian ethos as basis. In Latin America the Catholic Church has played a significant role, and in South Africa clergy across the board played an important role. Rocky Williams (1996) argues that 'TRCs are immanently Christian in character'. Uncritically accepting specific ethical approaches to mass violence and historical injustice and applying them at a level where the impact of social and political dynamics cannot be predicted, may cause problems in the long term. The fact that such dialogue occurs in a society where 30% of the population do not live by the Christian ethos further complicates the philosophical and practical implications.

12. 'Sociologists draw an important distinction between the purposes of our behaviour - what we intend to do - and the unintended consequences which it brings about.' Giddens (1993) continues: 'Most of the major changes in history are probably unintended.' Another insight is also pertinent: 'Both continuity and change in social life has to be understood in terms of a "mix" of intended and unintended consequences of people's actions'. One example will suffice: The bombs rained down upon Baghdad to force Saddam Hussein to dismantle installations that could produce chemical weapons created unforeseen solidarity among Arab militants. As an unintended consequence, Kenyan and Tanzanian civilians were killed when such militants bombed US embassies in Africa.

13. Bronkhorst, ibid.: 48. Also see Romijn (n.d.; 1995).

14. Both Hayner (explicitly) and Bronkhorst (implicitly) regard the Chad report on the crimes of Habre and associates as a truth commission. In our opinion, it does not qualify as a truth commission. The report was initiated by the new government which was hardly more democratic than the Habre regime. Moreover, the report did not focus noticeably on restitution, but primarily discredited former opponents. Hayner's minimalist definition of TRCs falls short at this point: 'Bodies set up to investigate a past history of violations of human rights in a particular country - which can include violations by the military, or other government forces or by armed opposition forces' (Hayner cited by Liebenberg, 1996, p.130).

15. Not that Amin could plead innocence. The International Declaration on Human Rights (1948) had been in effect for quite some time, and Amin was a member of the British military force until late in the 1950s. Human rights in a one-party state was always a discussion point and the African Charter had already been published as a regulative norm for human rights. This issue was addressed in several states. See International Commission of Jurists (1978). In addition, information on the international seminar on human rights in one-party states was already available in 1976. Furthermore, Amin must have taken note of Muammar Al Quadaffi's thinking and his well-known slogan, 'To view the minority as a political and economic substrata is dictatorial and unjust' (Quadaffi, 1980, p.95.)

16. Definitive categories do not even appear in the best comparative study on TRCs, namely E. Skaar's *Human rights violations and the paradox of democratic transition: A study of Chile and Argentina* (1994).

17. In Spanish, *justice en lo possible* or justice as far a possible. This has been derived from the so-called Zalaquett principle. Zalaquett was a member of the Chilean National Commission for Truth and Reconciliation who is known for devising a framework for making choices on options for dealing with the past. Such options are available in the following scenarios: where few real political constraints exist, for instance where there is a winner and a loser; where the defeated party loses political legitimacy but retains significant military power; and where military rulers agree to a civilian government after a negotiated settlement on the military's terms. In 1994 South Africa fell between the second and the third options of the Zalaquett framework. In such cases the truth is sought in an officially sanctioned way, victims are heard and the chosen policy of retribution/ restitution does not contradict international norms regarding human rights. However, 'fulfilling the maximalist demands of victims and human rights organizations for punishment and even revenge may not be worth the risk of a military coup, which may result in a return to repression' (Weissbrodt & Fraser, 1992, pp.601-622). The South African debate around a possible TRC originated from this framework.

18. 'Praetorianism' derives from a trend among military commanders in the old Roman Empire to influence the political decision making of the senate to their own advantage.

19. Two useful texts on blacks' experiences of apartheid are *Over vijf jaar in Johannesburg ... Generaties van verzet* (Rudi Boon, Amsterdam: Uitgeverij Jan Metz, 1986) and *Onze Vrijheid moet bevochten worden* (Oliver Thambo, Houten: Pax Christi/Kairos, 1989). Support for the TRC in South Africa, although not well argued, is illustrated in *Reconciliation through truth: A reckoning of apartheid's criminal governance* (Kader Asmal, Louise Asmal and Ronald Suresh Roberts, Cape Town: David Philip Publishers/Mayibuyi Books, 1996). Works by Eddie Roux, Mokgethi Motlhabi, Tom Lodge, Neville Alexander, Francis Meli, Ata Skosana, Baruch Hirson, Andre Odendaal, Liebenberg *et al* are also relevant.

20. Although originally part of the research field of civil-military relations, the reprofessionalisation of the military has become a field of study in its own right.

21. Virginia Gamba, a researcher at the Institute for Security Studies, disagrees. As activist during the Junta rule in Chile and observer of the process she argues that the process left many Chileans dissatisfied, an argument which is apparently confirmed by current attempts of Chilean victims and families to get the aged General Pinochet extradited for a hearing on his human rights violations.

22. Two political scientists, Bachrach and Baratz, make much of the mutual dependence of political opponents in a situation where there is no clear winner or loser. Political (and also military) checkmate is placed in the framework of so-called 'power dependence'. South African political analysts concur with this. Two proponents (although from drastically different backgrounds) are the philosopher Johan Degenaar and liberal political scientist Pierre du Toit. The power dependence relation between South African opponents was noted much earlier by Pixley ka Isaka Seme and thereafter by Albert Luthuli, ANC leader in the 1940s and 50s.

23. On the historical level - even at times by means of the metatext - this type of analysis is also conducted by Harrison Wright (1977) and Christopher Saunders. This ideology also penetrated - and even saturated - the world of anthropology. A thorough contemporary work is that of W.D. Hammond-Tooke.

24. Victor Ehrenberg, (1968, p.182). Although Ehrenberg refers here to the Greek civilization and their liberation wars (*circa* the time of Pindar), it may have contemporary relevance. Indeed, the same problems occurred in the early African civilizations. See I. Hrbek (1992), in particular Chapters 1-4, 7 & 8.

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