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The difference between the Nuremberg Trials and the TRC: A lesson to be learnt?

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The use of terminology in the Truth and Reconciliation Commission is an interesting one. The shifts in meaning and the redefinition of terms such as murder, torture and kidnapping for example are central to the whole concept whereby justice was sacrificed in the service of truth. Truth therefore became the central theme through which reconciliation was to be achieved. *The truth shall set you free.* Ironic but also accurate. How much of the truth- is another matter. Many were allowed the stock phrases- 'I cannot recall', 'I never ordered it', 'The words do not truly mean what they say', and 'My commands were misinterpreted'.

The Truth and Reconciliation Commission (TRC) came into being, in order to allow for truth to be revealed. The use of a legal mechanism, namely amnesty, whereby the perpetrators of criminal, illegal, unjust acts as well as the violation of human rights were granted immunity from prosecution in exchange for their testimony, was one of the central powers of the TRC.

The basic premise of the TRC thus was that in exchange for truth, reconciliation and healing would be granted to the families of the victims of apartheid. Indeed, that reconciliation would be granted not only to the victims of apartheid, but to the perpetrators as well. The Christian premise namely forgiveness thus came full circle and was invoked when the TRC Chairperson Archbishop Desmond Tutu was called upon to head it.

Knowledge, Truth and History.

The Truth and Reconciliation Commission (TRC) is an interesting phenomenon in South Africa's history in that it not only serves as the basis of knowledge for what we know about atrocities committed during the apartheid years, but it also has become the sources for truth and the making of history. The saying that History is the property of the victors will be sorely tested in this instance. Three years onward it will be interesting to note how much of the TRC findings will find their way into official textbooks and become *the truth*.

The interest of this paper lies in the use of Knowledge, Truth and History in the making of official narratives. To what extent will the TRC influence what will be taught to children in schools 5-10 years from now? Will it be the truth, or a glossed up version in the interests of reconciliation and political expediency? How indeed can the truth be verified, as it is in most instances the testimony of people recorded long after the events and in most instances relies upon the memory of the people. How much of this testimony has been dimmed, distorted or tarnished by changed circumstances or the passage of time? To what extent has hindsight given a different interpretation or twist to the events?

The TRC undoubtedly has and will continue to have a great influence upon South African society. The question is, to what purpose? What should be learnt from the discoveries of the TRC? Certainly its aim was to find the truth and to reveal it to the public. It also intended to provide a forum for catharsis and the exorcism of anger, hatred, sorrow and bitterness for both the victims and perpetrators of apartheid. Yet, one of the central

questions, which remains is, how much of the truth was actually revealed? And to what extent did justice suffer in the service of truth?

The TRC used some of the ideas of the Nuremberg Trials as a basis for its own deliberations, which took place in Germany after the Second World War. The Trials were a forum for punishing the atrocities committed during WW II, whereas the TRC wanted to learn the truth.

The purpose of the comparison between Nuremberg and the TRC is to highlight the different focuses the two forums had. At Nuremberg justice was sought and used as a means of punishment, while the TRC sought truth and used it to heal and as a means of nation building.

The main focus of this paper will be a comparison between the Nuremberg Trails by means of an analysis of the speech of the Chief Prosecutor for the United States of America, Justice Robert Jackson, and the speech of Archbishop Desmond Tutu as well as some of the laws which governed the TRC.

The violations of human rights have become a central feature of many conflicts in the 20th century. From Nazi Germany, Vietnam, Cambodia, Rwanda, Yugoslavia. Not only the violation of human rights links all these countries, but also the central feature is that of ethnic cleansing- the total eradication of a people. South Africa, China and Burma are other cases in point where human rights have been violated. Indeed, one of the ironies of the post-apartheid era is that South Africa the one-time violator of human rights now has a representative at the International Human Rights Court.

What can be learnt from Nuremberg?

The Nuremberg Trials were a military tribunal held by the Allies (Britain, France, Russia, and the United States of America) after the end of the Second World War to bring to account those believed to be responsible for the war and the atrocities committed during that period. The importance of Nuremberg lies in the fact that at the cessation of hostilities the victors felt a need to hold some party accountable for the destruction and the human suffering. Here the phrase 'crimes against humanity' was coined. Here too militarism was equated with evil and a trial was held 'for crimes against the peace of the world'.

Nuremberg held the Nazi leadership to account for the Second World War and pardoned or absolved ordinary Germans from any responsibility. Although, Daniel, J. Goldhagen in his book, *Hitler's Willing Executioners*[1], argues that many ordinary Germans knew and willingly participated in the atrocities committed by the *Third Reich*.

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[1] Goldhagen, D. J. *Hitler's Willing Executioners*, New York: Alfred E. Knopf, 1996.

Nuremberg was important in that it was one of the first trials held after a war which attempted to apportion blame to individuals and held them accountable for acts committed during war. The participants in the trial had a sense that they were in a different realm and that History would judge them. As a result of this the laws invoked at the Nuremberg Trials were not confined to Germany's but were an amalgamation of the jurisprudence of several countries. In this way it seems that trust was placed in the law and that by using all available laws justice might prevail. The Allies would not be accused of an act of vengeance; thus Nuremberg was not a hunt for a scapegoat, but the search for truth and justice.

The American prosecutor, Chief Justice Robert Jackson stressed this aspect of the Nuremberg Trials. He was allowed to open the proceedings (after the Russian prosecutor declined because of a fictitious malaria ailment which miraculously disappeared two days later) on the 20th November 1945, and he meticulously outlined the intentions of the trails and the methods and laws invoked. He also attempted to establish the parameters of the trails and who were to be held accountable as well as how these conclusions were reached. Indeed, he makes it clear that the Nazis had in essence provided the evidence with which they were convicted- masses of archival material which included written documents, notes, film and photographs which chronicled the activities of the *Third Reich.* While not all the material could be used, since it would require translation first, a fair quantity of the documents had already been translated and was used at the tribunal.

The Allies needed to hold someone accountable, especially once news of the Nazi concentration camps began to emerge. The Allies wanted revenge initially, but could not be seen to kill people out of hand without first giving them a chance to defend themselves. One could argue that a result of Nuremberg was the development of the geo-political post war dispensation. Indeed, one of the consequences of Nuremberg was that the division of Germany could be explained as a means of preventing a Third World War, instead of appearing to be the spoils that were carved up among the Allies. Chief Justice Jackson believed that the allies could not lose the moral high ground they had assumed upon the conclusion of the war. The argument presented was that if retaliation was to be prevented and a re-occurrence of the Nazi actions, than justice should prevail.

At Nuremberg, the prominent Nazis, 24 people, which included Goring, Rosenberg and Hess, were placed on trial and they each had to have a case presented against them. The ordinary Germans were exonerated, but the organisations such as the SS and Gestapo, along with the leaders were placed on trial.

Nuremberg was a Tribunal presided over by the Allies, in essence four foreign powers, who used punishment as a means of resolving conflict. In South Africa the TRC is a body which was established to resolve an internal conflict. If the conflict is internal (unlike Germany where the conflict had been on a world wide scale) does this mean that the solution is different?

The TRC and Nuremberg.

The Truth and Reconciliation Commission's guiding principle was to promote nation building through reconciliation. The price required in exchange for this is justice. Anthony Holiday argues that the TRC had two main functions. One was to act as a forum for public confession and that the other was to grant amnesty. He argues that the TRC granted "symbols of reconciliation in the form of indemnities to those whose crimes were the substance of the historical truths it sought to expose".[2] Holiday points out that as remorse is a private matter, it cannot be expressed in a public forum such as the TRC. He notes that while the TRC had to bring about reconciliation, forgiveness was not within its parameters, as it required remorse. He argues that because the TRC was essentially a product of a political compromise it could not be expected to operate without having been flawed or tainted by its method of creation.

But the TRC is also a mechanism of reconciliation. Accepting the compromise was a means of avoiding the civil war which was threatened at the time. The political compromise leading up to the election was very fragile. This was shown in the death of Chris Hani in April 1993, the AWB's drive through the World Trade Centre and the uncertainty of Buthelezi's participation in the 1994 elections. It was a time of great uncertainty and anxiety. Did this mean that justice had to be sacrificed?

Since the TRC in essence offered amnesty in many cases in exchange for truth, it might be argued that justice had to be set aside in order for this to occur. Indeed, the perpetrators for example, could not be asked to incriminate themselves by testifying against themselves. Holiday goes further in arguing that the TRC operated within an amoral paradigm and that the "proceedings were wholly uninformed by any religious conception of justice whatsoever".[3] This seems to suggest that justice must be linked to religion and more specifically, Christianity. But justice has not always been linked to any specific religion and indeed, the courts operate in a secular and not religious sphere.

Holiday's argument is that justice is one dimensional and that it is linked to a religious interpretation. Yet, the success of the TRC lies in the fact that it showed that justice was multi-faceted;. that there is not simply one interpretation of justice, but that it is flexible. It might even be said that different religions have different emphases placed on justice. A Judaic interpretation of justice with its credo of 'an eye for an eye' for example, might be viewed as too harsh in the context of the TRC.

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[2] Holiday, A. *Forgiving and Forgetting: the Truth and Reconciliation Commission*, in *Negotiating the Past: The Making of Memory in South Africa*, Nuttall, S. & Coetzee, C. (eds.), Cape Town, UK: Oxford University Press, 1998, pp. 46.

[3] Holiday, A. *Forgiving and Forgetting: the Truth and Reconciliation Commission*, in *Negotiating the Past: The Making of Memory in South Africa*, Nuttall, S. & Coetzee, C. (eds.), Cape Town, UK: Oxford University Press, 1998, pp. 55.

It must be remembered that the TRC was expected to facilitate healing. The concept of justice must be evaluated within the basic nation building precept. It may be that many people would have seen healing as occurring when the perpetrators have been made to pay. But obviously an application of this principle would not fulfil the nation building criterion and would inevitably create more conflict and deepen racial divisions. Now we might ask what is meant by healing? Are people expected to suppress their anger, bitterness and maybe need for the judicial process to take its course? Does this mean that the Silent Revolution was suppressing people's voices?

The nation building brief was a problematic one because, as 'the truth' was being revealed, the hurt, pain and anger was once more brought to the surface. But, it was more sharply focused because in many instances the revelations confirmed what had in some instances only been suspected before. To have it confirmed and the brutality revealed served to bring about a sense of disillusionment because then many people felt that those responsible for such acts must be prosecuted. It was no longer enough to have victims, surviving family members and perpetrators to face each other they had to also pay. The expectations of the TRC that healing would proceed after the truth was known were not always fulfilled. Several people left the TRC hearings either reconciled, further embittered or far from forgiveness.

Ingrid de Kok in her paper argues that the TRC is influenced by three issues, amnesiac rhetoric, 'national catharsis', and 'reckoning'.[4] She explains them as follows, The first is a desire on the part of the TRC to allow the process to take its course, then to set it aside and forget. The second is a public confession for the perpetrators and a reliving and purging for the victims. While the third involves a demand for restitution in terms of seeing the perpetrators face criminal charges for their deeds. De Kok notes that, while the TRC followed the first two, the third aspect was suppressed. Indeed, she interprets the call for 'reckoning' as a call for 'justice'.[5]

I would argue that amnesia is not simply a process of forgetting, but it is also a symptom of trauma. People do not willingly forget, but because they have been traumatised they have been forced to forget because to remember is unbearable. This means that people do want an end to it. In effect, de Kok argues that everybody should be denied a 'grand concluding narrative'.[6] But, maybe, vindication by the TRC is enough for some - to be able to have the wrongs acknowledged which the former Government ignored or refuted. To be able to say: 'I was right, I have power now'- is a tangible symbol of participation and recognition in South Africa, far different from the previous enforced silence of the

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[4] De Kok, I. *Cracked Heirlooms: Memory on Exhibition*, in *Negotiating the Past: The Making of Memory in South Africa*, Nuttall, S. & Coetzee, C. (eds.), Cape Town, UK: Oxford University Press, 1998.
[5] De Kok, I. *Cracked Heirlooms: Memory on Exhibition*, in *Negotiating the Past: The Making of Memory in South Africa*, Nuttall, S. & Coetzee, C. (eds.), Cape Town, UK: Oxford University Press, 1998, pp. 59-60.
[6] De Kok, I. *Cracked Heirlooms: Memory on Exhibition*, in *Negotiating the Past: The Making of Memory in South Africa*, Nuttall, S. & Coetzee, C. (eds.), Cape Town, UK: Oxford University Press, 1998, pp. 61.

past.

De Kok also looks at the issue of language and how much power it possesses. She argues that if language can be said to have inherent faculty the official apartheid discourse by means of its "language conferred power by naming, ranking, and classifying by race, gender and class".[7] Because language is such a powerful medium and carries within its meaning the power to control, suppress, repress and elevate, de Kok suggests that a new 'civic language' is necessary. Indeed, the power inherent in language is shown when people still think of themselves as 'Coloured', 'Indian', Zulu, Xhosa or Tswana before they think of themselves as South African. The reference is there, the picture has been given a meaning and in our visual conscious society it is difficult to either erase or forget. How does the TRC address questions of language and different forms of expression? Does the TRC give expression to the voices of the ordinary people?

The TRC does have a multi-lingual nature. Does this mean that it contributes towards the creation of a new language? The images on television gave us the sense that people were not forced to render their accounts in English or Afrikaans only and were not restricted by legal language and ritual. The TRC allowed people to use the language they were most comfortable in, thus bringing the former 'silent' languages to the fore. But, there is not necessarily a need for a new language, one must be aware of how language was used to create identity before. This was particularly made clear during the 1999 election campaigns where many of the parties still used the old constructed identities to identify their potential supporters. The electorates are identified as the 'Coloured vote', the 'Indian vote' or the 'Afrikaner vote'- thus undercutting the aim of the TRC, namely, nation building, by emphasising the racial divisions, when class divisions are probably more relevant. Thus, it seems, that the TRC did not succeed in breaking down the old racial categories. The Report of the TRC went against the bottom up approach of the Commission itself by intervening, mediating and interpreting the evidence.

Both Holiday and de Kok address the issue of memory and forgiveness. Forgiveness for Holiday is linked to remorse, something he feels a public forum such as the TRC cannot accomplish because it is a private act. De Kok looks at memory in more concrete terms, arguing that material objects are a tangible and visible 'memory'. But I think that there are limits to this definition of memory, since only those who had any connection to the objects can appreciate their significance, but more can attach a story to them. People who have no connection, can only appreciate a small part of it. The question arises of whether people are able to 'reassemble' their lives, as de Kok points out is the intention of the community in District Six. The District Six Museum "is overtly a museum of a diaspora community intent on reassembling, and asserting, its public memory".[8]

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[7] De Kok, I. *Cracked Heirlooms: Memory on Exhibition*, in *Negotiating the Past: The Making of Memory in South Africa*, Nuttall, S. & Coetzee, C. (eds.), Cape Town, UK: Oxford University Press, 1998, pp. 68.
[8] De Kok, I. *Cracked Heirlooms: Memory on Exhibition*, in *Negotiating the Past: The Making of Memory in South Africa*, Nuttall, S. & Coetzee, C. (eds.), Cape Town, UK: Oxford University Press, 1998, pp. 63.

But it is impossible to reassemble your life. No matter how much people wish to return to their former lives, to a time before the forced removals, they cannot. Because places such as Sophiatown and District Six had been lost to the residents during the forced removals, their memories of the places took on a halcyon and romanticised vision of what it was like. People remember them as places where there were no divisions and all people lived together in harmony. The reality that there were gangs, that it was a slum and that there was tension between landlords and tenants for example, are all forgotten in the romantic vision of what once was, and was lost.

Lest we forget?

What can be learnt from the TRC and Nuremberg is that the use of self-righteousness and moral posturing at the expense of other people upon whom blame is cast, is not only counter-productive, but serves to divide people and tends to build up resentments. At the end of the Nuremberg trials, although the Nazi leaders were found guilty, subsequent Germans were held accountable as well and were forced to feel ashamed of being German. It was not simply that certain Germans were to blame for the holocaust, instead the German people as a whole had to pay, even children not born during WW II. Despite the fact that the Allies made it clear they had "no purpose to incriminate the whole German people".[9]

The TRC's central aim according to Archbishop Tutu, "is helping our land and people to achieve genuine, real and not cheap spurious reconciliation".[10] Whereas at Nuremberg, the ordinary German people were absolved of all culpability and the Nazi leaders and organisations held accountable, the TRC asked for "liturgies of corporate confession and absolution".[11] The TRC operates from the belief that dealing with the past will allow people to not only forgive and heal, but will also foster stability and certainty. The Commission is to assist the land and the people "to come to terms with our dark past once and for all".[12] The TRC worked from the premise that forgiveness can only be achieved after full disclosure has been made. Forgiveness comes from knowledge, whereas at Nuremberg, conviction was the result of disclosure.

The TRC believed that healing could come only from full disclosure and that forgiveness would bring about healing. At Nuremberg the belief was that punishing the perpetrators responsible for atrocities committed during the war, would ensure that it does not happen again. Indeed, that by dismantling Germany's armaments industry, it would be prevented

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[9] Jackson, R. *Speech made at the beginning of the Nuremberg Military Tribunal*, Nuremberg Trial Transcripts, 20-21 November 1945, pp. 4.

[10] *Archbishop Desmond Tutu's Address to the First Gathering of the Truth and Reconciliation Commission*, 16 December, 1995, pp. 1.

[11] *Archbishop Desmond Tutu's Address to the First Gathering of the Truth and Reconciliation Commission*, 16 December, 1995, pp. 2.

[12] *Archbishop Desmond Tutu's Address to the First Gathering of the Truth and Reconciliation Commission*, 16 December, 1995.

from the temptation to start another war. Jackson argued that the Nazis had 'excited the German ambition to be a "master race", which of course implies serfdom for others'.[13] The Nuremberg tribunal worked from the premise that aggression was a German trait, which had to be checked.

For the TRC to carry out its mandate it had to be an independent body, with no obvious ties to any political party, person or group. *The Promotion of National Unity and Reconciliation Act* emphasises the Commissions impartiality. The Act made no moral distinction. The criterion used which judge who would qualify for the granting of amnesty is the only measure used to gauge who qualifies or not. The criteria are did the offence take place in the specified time frame, that is March 1960 to December 1993, was it politically motivated and consonant with the policies of either the then State or a liberation movement and has a full disclosure been made?

Robert Jackson's Speech.

Chief Justice Robert Jackson opened the proceedings, by reading out the indictment in full. This was an attempt to set out plainly the intentions of the Nuremberg Tribunal. He used words, such as crimes against humanity, crimes against Civilisation, personal capacity for evil. He describes the 24 men indicted as "living symbols of racial hatred, of terrorism and violence, and of the arrogance of and cruelty of power. They are symbols of fierce nationalisms and militarism, of intrigue and war-making which have embroiled Europe generation after generation, crushing its manhood, destroying its homes, and impoverishing its life".[14] (NB de Kok's argument about power)

At Nuremberg Jackson described the prisoners as broken men, whose fate as individuals is of little consequence. The question arises, if their fate is inconsequential, then why put them on trial? Jackson argues that the trials are necessary because "these prisoners represent sinister influences that will lurk in the world long after their bodies have returned to dust".[15] It is uncanny how prescient his prediction was, the ideas of the Nazis continue to influence some people in the form of neo-Nazism.

The speech by Robert Jackson raises several issues which the tribunal had to deal with. These include questions of who has the authority? What are the relationships between legal processes and the idea of 'legalism'? What constitutes adequate treatment, morality and humanity? While it was understood that the tribunal had to judge the perpetrators at Nuremberg, the tribunal also had to formulate under what laws the process would operate. The tribunal therefore questioned the long held ideas of what is allowable during times of

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[13] Jackson, R. *Speech made at the beginning of the Nuremberg Military Tribunal*, Nuremberg Trial Transcripts, 20-21 November 1945, pp. 2.
[14] Jackson, R. *Speech made at the beginning of the Nuremberg Military Tribunal*, Nuremberg Trial transcripts, 20-21 November 1945, pp. 1.
[15] Jackson, R. *Speech made at the beginning of the Nuremberg Military Tribunal*, Nuremberg Trial transcripts, 20-21 November 1945, pp. 1.

war. How then should the Allies, victors in the same conflict for which the Nazis are tried, proceed? Jackson acknowledges this dilemma and makes it clear that they are not condemned for ordinary human weakness, but "their abnormal and inhuman conduct which brings them to this bar".[16]

Jackson set out the crimes for which the prisoners were accused. These were not merely ordinary crimes for which it could be argued that the Allies could also be held accountable for, no they were more. The crimes were set out as 'Crimes against Peace, War Crimes, and Crimes against Humanity'.[17] The count of Crimes against Humanity include crimes committed against ordinary Germans, which include the working class, trade unions, churches and especially crimes against the Jews.

Both Nuremberg and the TRC took place in the full glare of the media. And in essence documents, photographs, and films were used as evidence in the Nuremberg proceedings. At the TRC the main evidence used was oral testimony. The reason for this was that the documents were either not available, incomplete or unreliable. In a sense the TRC was gathering the evidence which was lacking. While at Nuremberg there was a proliferation of evidence.

Brent Harris argues using Derrida's *Archive Fever*, that 'the TRC's function of assembling an archive, the TRC becomes a mechanism for the fixing of knowledge and the ending the instability of the meanings attached to the past'.[18] The TRC does offer a sense of completion to some of the events of the past, which were not known, but the knowledge cannot be said to be 'fixed' as meaning is continually created. Indeed, the mere fact that both victims and perpetrators were allowed a say during the TRC proceedings illustrates the fact that knowledge can de added to, thus it is not a constant.

Harris argues that the TRC's work 'is self-referential'.[19] True it can serve such a function because the proceedings are on tape, video and transcribed, but it is also more. It is a record of peoples' lives, those who have passed on and those who survived. It is the history, the 'hidden history' if you will of a people who were denied a full share in South Africa. It is a record of what can happen when the laws of a country are usurped and manipulated, twisted beyond recognition. The proceedings of the TRC are a visual, spoken account of the victimhood of both perpetrators and victims.

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[16] Jackson, R. *Speech made at the beginning of the Nuremberg Military Tribunal*, Nuremberg Trial transcripts, 20-21 November 1945, pp. 4.
[17] Jackson, R. *Speech made at the beginning of the Nuremberg Military Tribunal*, Nuremberg Trial transcripts, 20-21 November 1945, pp. 6.
[18] Harris, B. *The Archive, Public History and the Essential Truth: The TRC Reading of the Past*, University of the Western Cape, pp. 3.
[19] Harris, B. *The Archive, Public History and the Essential Truth: The TRC Reading of the Past*, University of the Western Cape, pp. 4.

The comparison between Nuremberg and the TRC shows how in both instances, while faced with different events, both struggled with issues of authority, morality and humanity. The TRC made its highest quest the resolution of the 'gross violation of human rights', which encompassed, torture, kidnapping, disappearances, and murder for example. It also struggled with formulating what laws should be invoked. This was one of the major departures between Nuremberg and the TRC. While Nuremberg sought justice and would punish those found guilty of proven crimes, the TRC sought truth and would grant amnesty to those who revealed it.

Nuremberg and the TRC worked on two premises, one was individual responsibility and the other was joint organisational responsibility. The 24 Nazi leaders accused were charged as individuals and the organisations, The SS, Gestapo were held accountable as well. The TRC also allowed for individuals to put their case before the Commission as well as organisations. While at Nuremberg, the leaders were held accountable, at the TRC the leaders are allowed to make submissions. It must be emphasised that the TRC was not a court of law, but a forum at which both victims and perpetrators could tell their stories- it was a chance to have unfinished, unknown or hidden stories revealed. This was seen as giving all who participated or simply read, saw on television or listened on the radio, a sense of closure and healing.

Indeed, it is laudable for the TRC to say that once the past has been dealt with, a dark chapter in our history can be closed and we can now move into the future. But then can people move along, if they feel that justice has not been served? Where should the line be drawn between vengeance and forgiveness? Can the truth set us free?

Conclusion.

The TRC acknowledges that nation building requires of the people of South Africa that they "transcend the divisions and strife of the past, which generated gross violations of human rights, the transgression of humanitarian principles in violent conflicts and a legacy of hatred, fear, guilt and revenge".[20] This could be accomplished through understanding, reparation and ubunthu. By having a conciliatory approach a spirit of revenge could be avoided. In many cases it may have succeeded.

At Nuremberg, the matter could be concluded once those held responsible were charged, found guilty and or acquitted. Here a legal concept of justice was applied and carried out. Did this assist Germany in putting their past behind them? Did it allow the people to move along? In a sense yes, but there still remained a belief that many more Nazis got away.

The flaw in the TRC process is its Report. It is a record of memory without emotion. The TRC succeeded in its brief of uncovering the secrets of the past as well as bridging the

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[20] Omar, D. *The Promotion of National Unity and Reconciliation Act*, 1995, pp. 1.

divisions of the past But, the questions remain: have "we, the people of South Africa, open[ed] a new chapter in the history of our country[?].[21] Has or will the truth set us free?

[21] Omar, D. *The Promotion of National Unity and Reconciliation Act*, 1995, pp. 1.

Bibliography.

Archbishop Desmond Tutu's Address to the First Gathering of the Truth and Reconciliation Commission, 16 December, 1995.

De Kok, I. *Cracked Heirlooms: Memory on Exhibition*, in *Negotiating the Past: The Making of Memory in South Africa*, Nuttall, S. & Coetzee, C. (eds.), Cape Town, UK: Oxford University Press, 1998.

Goldhagen, D. J. *Hitler's Willing Executioners*, New York: Alfred E. Knopf, 1996.

Harris, B. *The Archive, Public History and the Essential Truth: The TRC Reading of the Past*, University of the Western Cape.

Holiday, A. *Forgiving and Forgetting: the Truth and Reconciliation Commission*, in *Negotiating the Past: The Making of Memory in South Africa*, Nuttall, S. & Coetzee, C. (eds.), Cape Town, UK: Oxford University Press, 1998.

Jackson, R. *Speech made at the beginning of the Nuremberg Military Tribunal*, Nuremberg Trial Transcripts, 20-21 November 1945.

Omar, D. *The Promotion of National Unity and Reconciliation Act*, 1995.