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COVER-UPS AND HALF-LIES
The Rhetoric of Truth in Post Apartheid South Africa
The Case of the Truth and Reconciliation Commission

Within a mere five years South Africa experienced a dramatic transition: after forty years of apartheid and centuries of racial, social and economic antagonism, one of the most coercive, authoritarian, and brutal, states ever known became one of the freest, as it adopted an extremely liberal constitution in 1993, and held its first universal franchise elections in 1994. This was made possible when, almost from the outset, the political protagonists accepted the need for open talks on equal terms, above all the National Party (NP), which had been the sole ruler of the country between 1948 and 1993, and the African National Congress (ANC), the major opposition group, banned between 1960 and 1990. The whole process of negotiation relied on the ideas of goodwill, trust and good faith, all rooted in the acceptance of *truth* as a founding principle of the democratic transition. More precisely, the concept of truth was supposed to do away with the cover-ups and half-lies which had characterized the apartheid regime, and allow the country to move on by laying down the foundations of a fair, common democratic future. Such was the optimistic picture that seems to have prevailed about the early post-apartheid period especially in foreign countries, and even more after the appointment of the Truth and Reconciliation Commission (TRC), which was to investigate into political crimes committed between 1 March 1960 and 9 May 1994, so as to draft a narrative of the apartheid years, and, possibly, to grant amnesty to the "perpetrators."

An important issue in the elaboration of South African democracy is the control of the nation's history and collective memory—"historical truth." What will history books teach? What will be remembered of the apartheid period as "the truth?" Yet the definition of "truth" which emerged out of the three years of hearings, as it appears in the TRC's final *Report*, makes this version of history a most subjective product, far from the expected definitive history of apartheid South Africa. We intend to show how the new orthodoxy about South Africa's past, which was supposed to be shaped through the agency of the TRC, was constrained by various political, cultural and psychological forces.

"Reconciliation Through Truth"

"Reconciliation through truth" became a powerful slogan wielded in the optimistic mood of the immediate post-election period, a panacea to "cure" the "sick body" of South Africa (the medical and Christian metaphors of illness and miracle run through post-apartheid language), to relieve both the victims and the perpetrators of their pain, and to bring the people together as never before. For the first time as a prerequisite to reconciliation, nothing would be kept secret. According to TRC Chairman Tutu, "reconciliation based on falsehood, on not facing up to reality, is not true reconciliation and will not last" [*Report*, I, Foreword 69]. In many ways, the notion of truth belongs to the lexicon developed by the new political rulers to legitimise themselves in the eyes of the people and the international community. Most of these words relate to the nation either directly—"nation-building," "rainbow nation," "new patriotism"—or indirectly—"reconciliation," "truth," "healing" ("There can be no healing without truth") [Tutu, *Report*, I, Foreword 16] and must help bring about national unity. Just as those who had devised and administered apartheid used a specific language to defend their system along the years [see Posel 1983], the new political elite used a visibly different language, equally meant to justify the actions of the now fully legitimate power-bearers and decision-makers of the democratic order, only this time coated in morality.

Reconciliation through truth followed on the 1993 transitional constitution which stipulated that "in order to advance [...] reconciliation and reconstruction, amnesty shall be granted in respect of acts, omissions and offences associated with political objectives and committed in the course of the conflicts of the past" [(Interim) Constitution 1993, s. 15]. The *Promotion of National Unity and Reconciliation Act* which created the TRC after fiery debates in July 1995 defined amnesty in almost identical terms but insisted on the need for *transparent* confessions: amnesty would be granted only "to persons who make *full disclosure* of all the relevant facts relating to acts associated with a political objective committed in the course of the conflicts of the past" (emphasis mine) [PNUR Introduction].

An Ambiguous Definition of Truth: Subjective and Objective Truths

However, the way in which the concept of truth has been finally defined in the *Report* denotes both caution and uncertainty on the part of the Commissioners. Prior to the hearings, truth was an apparently non problematic principle which was to serve as a guiding light for the Commission; it was not explicitly defined and given *per se*. This was to prove a weakness. Fundamentally, for all

its genuinely generous appeal, the TRC's very ambitious blueprint failed to acknowledge its own contradictions about the meaning of "truth," a theoretical confusion reflected by the *Report* which, despite an entire chapter devoted to "Concepts and Principles" [*Report* I, 5], fails to give "truth" a consistent, efficient meaning [Posel in Wilson 37]. As a matter of fact, the whole *Report* lacks conceptual accuracy— notions such as "victims" (which seem to include not just killed, tortured or wounded people but also their relatives and friends), "violations," "reconciliation," are also ill-defined). The definition of truth appearing in the *Report* is indeed no less than fourfold [*Report* I, 5, 29-45].

1. Factual or forensic truth: "The familiar legal or scientific notion of bringing to light factual, corroborated evidence, of obtaining accurate information through reliable (impartial, objective) procedures." Such truth was essentially the product of the inquiry team working for the TRC's Committee on Human Rights Violations.

2. Personal and narrative truth: as defined by examples and a quotation by Desmond Tutu, it is the content of the oral statements, the "storytelling" of events by witnesses, victims and perpetrators during the hearings and their reports by the media. Narrative truth has also been hailed as relying on African oral tradition which is familiar to the South African public.

3. Social truth or dialogue truth. "Dialogue truth" (...) is social truth, the truth of experience that is established through interaction, discussion and debate" [Judge Albie Sachs I, 5, 40]. It recognises the importance of "participation and transparency" and invites all actors involved in the process to come forward and make a contribution in order to affirm "the dignity of human beings" [I, 5, 42].

4. Healing and restorative truth. Truth-telling helps to recognize the pain of victims, to heal their wounds, or finally come out of mourning. Listening to the details of a crime, such as learning where a body was dug or hidden, which was supposed to bring comfort to the victim's relatives and help them with their mourning, resulted more often than not in even deeper distress, especially as they were left to themselves outside the courtroom after the hearings.

In fact, for all the desire to account for nuances, these four perspectives can be arranged into only two broad categories: objective (1) and subjective (2, 3, 4) truths. Only the first one is of direct use in legal jurisdiction as the establishment of hard facts, "forensic truth," can lead to the determination of a crime pattern, of the perpetrator's *modus operandi* and his motive.

As time went by the hearings showed the incredible density and complexity of the process of truth-telling so that the TRC had to back down on its ambitions. In the *Report*, the concept of truth appears as an intellectual recons-

truction made *after* the hearings. It emphasised the idea that truth needs time to appear (it must “dazzle gradually,” it must “emerge,” a verb used five times in the Chairman’s Foreword only), that it is complex (there are “many nuances and unspoken truths encapsulated in the evidence that came before us” which form “a jigsaw puzzle” [I, Foreword, 16, 17]). Most revealingly, the plural form “truths” is often used. Unsurprisingly, the experience of the complexity of truth-telling led Desmond Tutu to acknowledge that the *Report* “is not and cannot be the whole story,” that it can only provide “a *perspective* on the truth [emphasis mine]” [I, Foreword, 5], a subjective account, and that in a way the TRC could only fail to uncover “the” truth.

Historical Truth

By the act which founded it, the TRC was supposed “to provide for the investigation and the *establishment of as complete a picture as possible* of the nature, causes and extent of gross violations of human rights committed during the period from 1 March 1960 to 10 May 1994 [emphasis mine]” [PNUR Introduction]. The commissioners “were supposed to draw up nothing less than an official version of the national history acceptable to all and free of bias, to establish a reliable contemporary account. Such a mission was assimilated to *uncovering the truth*, which had been carefully hidden from the public gaze during the apartheid years, and to acting under the aegis of “transparency” and “openness,” two prerequisites of the new democratic order. The TRC’s role as history-maker therefore became crucial. The elaboration of a common history was a daunting challenge to all those with a say in the control of power in the early years of the infant democracy as one of the main attributes of a nation is its history, a continuous narrative that includes the deeds and acts of bravery of heroes, a sequential story which all citizens are supposed to adhere to and identify with. It generally tells the story of a unitary state since the nation cannot allow centrifugal forces to blow its “singleness” to pieces. But in a culturally fragmented context such as South Africa there is no single view of history, no more than in any other country in the world for that matter, except that the degree of consensus over what national history is may be much lower at the southern tip of Africa.

Until recently, a white man’s history had prevailed, and to some extent it still does. Because of overwhelming military and economic strength, the Afrikaner and English-speaking minorities were able to monopolise power, which includes the control of the dominant cultural output, almost entirely from the time the settlers landed in South Africa until the 1990s. In spite of a common past riddled with grief (the two Anglo-Boer wars among other pain-

ful episodes), both communities were forced into an objective alliance to control the country and its wealth; in so doing, they also controlled the historical word, and their version of history became that of South Africa as a whole. First, in the nineteenth century, British authors offered a one-sided colonial justification to white rule (superiority of civilisation), until a more moral, and imperialist, viewpoint was added in the first years of the twentieth century. At the end of the nineteenth century, the Afrikaner community was mature enough to produce its own historians who also wrote a history where the Boer, not the Brit, was the hero of many a wonderful deed (the Great Trek, the Battle of Blood River) in a hostile land, leading to the crystallisation of such hardy myths as the Chosen People (the Afrikaners as reincarnations of the Hebrews). A Christian-Nationalist view was imposed when the nationalists reached power in 1948 and it prevailed in history classes until recently. "Revisionist" historians, mostly liberals, sometimes Marxist, scholars, had started to reassess the imperialist-cum-nationalist accounts in a more critical light as early as the 1930s, but in spite of a new interest in economy and even race relations, the black man largely remained a minor character in an essentially white story, and his culture was seen as inferior and static. In the 1970s, after decolonisation, a new awareness emerged in Western universities as well as in the university of the Witwatersrand in Johannesburg which dared to challenge the official Afrikaner version of history, although by and large it remained in the hands of white scholars. In spite of this reaction, many of the myths imposed by the Afrikaner history still die hard [see Barbier, 2001].

Thus the TRC represented a new way of "making history" by drawing up an impartial picture of the apartheid period. The hearings and the *Report* can be viewed as trying to bring about this new "truth" meant to erase the former dominant, white, version (or versions) of South African history so as to "transcend the divisions and strife of the past" [1993 Constitution, 5] and allow the nation to look to the future confidently. "The Commission sought to recover parts of the national memory that had hitherto been officially ignored" [I, 5, 37]. Concretely, this history was to arise out of the testimonies of the perpetrators of "gross violations of human rights" who were to come out and confess their crimes, and of witnesses, victims or victims' relatives. If the TRC acknowledged the political motivation behind the actions, it could grant amnesty to the perpetrator who could walk away with no risk of criminal or civil prosecution, and relief to the victims, mainly in the form of damages and symbolic recognition of the pain suffered.

A duty of memory is attached to the process of truth-telling as the narratives were believed to ensure that such crimes would never happen again: "make the findings known in order to prevent a repetition of such acts in fu-

ture" [PNUR, Preamble]. The logic of the TRC was not to serve any one party but the country at large. It did not presume to carry the burden of forty years of injustice but merely to invite people to speak out the truth and make it part of a common heritage. The law provided the TRC with extensive investigating powers and with a powerful legitimacy because it was the product of the new democratic institutions devised collectively by the enemies of yore; consequently, the establishment of "as complete a picture" as possible of political violence, which covers pretty much the whole of South Africa's recent history, meant that the *Report* would be considered as a story to be read by all as a truthful, reliable account, not as manipulated by one side or the other. What the new orthodoxy would be was an important bone of contention. Hence the need for political parties to put pressure on the TRC because whoever managed to control at least partially the content of the hearings, and as a consequence of the *Report*, stood a good chance of protecting the record of his party.

Historical Truth and Party Politics

The many controversies which arose during the investigations and hearings underline the desire of the opposing protagonists to control the emergence of the new history: a mechanism to investigate into the crimes of the past had been decided by all parties, except the Inkatha Freedom Party (IFP), during the multipartite negotiations (CODESA I in 1991, CODESA II in 1992), but the ANC and the NP agreed in a Cabinet discussion that amnesty hearings should be held behind closed doors, as if South African history was a family matter to be discussed in private. It was only when news of such restraint transpired and an intense campaign by human rights and civic organisations pressing for full disclosure ensued that the principle of open hearings was accepted. Almost all hearings were public and recorded on video and extensive media coverage was provided, with hearings broadcast live on the radio and television.

However, the suspicion that the ANC and the NP were not really ready to play the game with the cards on the table lingered. The National Party saw an opportunity to ease the transition by securing amnesty for those of its members or supporters who had committed crimes, ensuring protection for itself as a political organisation and for the white population in what had become a black-ruled country. It also publicized the idea that it was its generous and lucid realisation that had brought about the downfall of apartheid. In a sense, both major protagonists wanted to come out as winners of the fifty year long confrontation and as key actors of the new democratic order. The ANC was broadly committed to a truth commission in the clear hope of denouncing

apartheid altogether and appearing as a rightful prosecutor. It presented itself as the champion of democracy and human rights and as the only possible option for a bright future as it endeavoured to reap the political fruit of so many years in waiting. Other parties, in particular the Pan-Africanist Congress (PAC) and the Zulu-based IFP, also tried to secure an influential place in the new dispensation, striving to come out of the investigations unscathed and protect their activists from possible prosecution for crimes committed during the apartheid era for fear they might compromise their leaders.

The TRC's promising though idealistic brief was thus offset by the much more pragmatic agenda of parties, caught between short-term political needs and long-term democratic demands represented by the population's desire to live a free life at last. The Commission was to deal with two fundamentally clashing time frames: on the one hand, the "intermediate time" ("le temps moyen") or "social time" ("le temps social," to use Fernand Braudel's 1969 model)—after 450 years of unending "conflicting multiculturalism," and forty years of direct confrontation, the time had come to move on towards "fraternal multiculturalism," and recognize only one history; on the other hand, the "short-term time" ("le temps court") or "individual time" ("le temps individuel"), immediate interests, partisan controversies, politicking and economic needs blurring the message of truth and reconciliation. The admirable wish to protect rights and establish truth became quickly entangled in the down-to-earth urge for each participant to secure a share of the negotiation product: political power. The 1990-1994 transition period and its symbols were actually confiscated by political leaders.

This may explain why the credibility of the TRC, an important point to be raised if it is to be reckoned as a trustworthy truth-teller, was so often questioned. Its impartiality was doubted both in the population and in the political sphere right from the moment its members were appointed. There were political as well as racial fears as is apparent from a June 1998 opinion poll: a majority of people in the minority white, coloured and Indian communities did not consider the TRC to be fair and unbiased at all while more than a third of blacks felt the same. Nearly a fifth of all South Africans believed the TRC favoured the ANC above its political rivals. Among whites, the perception of bias in favour of the ANC was nearly 60% [*Financial Mail*, 19 June 1998]. This sceptical view partly stemmed from the rough ride which the political class, left and right, gave the TRC.

To start with, the TRC was very logically accused of being yet another ANC mouthpiece. According to the Promotion of National Unity and Reconciliation Act, "The commissioners shall be fit and proper persons who are impartial and who do not have a high political profile" [7, 2 a]. Their appoint-

ment followed a long, transparent procedure which brought down the number of candidates from almost 300 to 17, chosen by President Mandela from a 25-name shortlist after recommendations from various organisations and parties. But there is no denying that many of its members were recognised anti-apartheid, human rights activists, often with clear ANC links, sometimes as fellow travellers, Desmond Tutu, its chairman, for one. Only two commissioners represented the Afrikaner community. Most of the ANC's political opponents feared that the TRC would be a toothless lion that would end up writing an ANC version of history where the violations perpetrated in the name of the liberation struggle would be exonerated. F. W. De Klerk would have liked the TRC to be shaped after the Chilean truth commission which "comprised an equal number of representatives from the old and new orders. As a result, its report represented a shared truth that was broadly acceptable to most sections of the Chilean political spectrum and its findings could make a genuine contribution to national reconciliation" [De Klerk 371].

As most commissioners had "liberal" if not overtly ANC credentials, there was also a fear among the ruling party's opponents that vengeance not reconciliation was the goal of the TRC, a mere puppet in the hands of the ANC. According to the IFP, "equality before the law has been replaced by partisan witch-hunts [the McCarthyite reference was very openly used] which brings the process of national reconciliation in doubt" [*Financial Mail*, 10 November 1995]. IFP leader Mangosuthu Buthelezi, an overt enemy of Desmond Tutu for over twenty years, asked his supporters not to answer TRC summons (whereas anyone refusing to appear was subject to prosecution) and threatened to sue for defamation anybody accusing him in person. De Klerk insisted that "the [amnesty] process must be even-handed. There cannot be one set of rules for former insurgents and another set of rules for members of the former security forces and government [...]. Selective prosecutions are totally unacceptable." In answer to its critics, the TRC insisted that most of its members were seasoned professionals, doctors, churchmen, social workers or lawyers with spotless moral credentials which made them acceptable to all. The example of the lawyers sitting on the Amnesty Committee, which ultimately awarded amnesty, was brought up: all were experienced practitioners (among others six High Court judges, eight advocates and five attorneys) "accustomed to weighing up evidence." Truth was in safe hands.

Collective Amnesia

The TRC's relationship to political parties was fundamentally ambiguous. All the more so as, according to the law, the Commission was to investigate, into "the identity of all persons, authorities, institutions and organisations involved in [...] violations (and) the question whether such violations were the result of deliberate planning on the part of the State or a former state or any of their organs, or of any political organisation, liberation movement or other group or individual" [PNUR 4 (a) iii, iv]. It could therefore very well conclude that a party was responsible for violations as a *collective* body; but at the same time, amnesty could only be granted to *individuals*. Groups, organisations, political parties, could not be held accountable for political crimes and granted collective "blanket amnesty." The fact that amnesty could only be sought by individuals for specific actions is said to have prevented the emergence of the truth: since parties and organisations had no interest in coming forward to seek amnesty, they only participated reluctantly in the uncovering of the truth. This is obviously a problem in a country where a single party monopolised the executive, judicial and legislative powers, as well as the coercion forces, for more than forty years.

It is no surprise therefore that all parties chose to dismiss such crimes by blaming the individuals who had gone overboard by their own decision, not on order of the party hierarchy. NP leaders rejected any responsibility in the criminal acts of the police and armed forces, explaining either that they themselves were not in power between the 1960s and the 1980s, or that they had never ordered anyone to kill or torture opponents, so that in any case they could not be held responsible and had nothing to confess. F. W. De Klerk candidly explained that his trust as well as that of his government had been betrayed and orders ignored. "I still do not know the full truth about all these charges, or who within the security forces authorized these gross violations of human rights. Certainly they were never discussed at any meeting of any body that I ever attended" [De Klerk 122]. As the law indicates, only those who were physically on the crime scenes should be questioned. The only acts De Klerk condescended to recognize were raids on ANC and SWAPO bases in Angola and Namibia justified by security reasons. Such deviations from truth, such euphemistic strategies, were used extensively when the TRC expected strong mindedness on the part of the NP about the crimes committed by the army and the police, its unofficial dogs of war.

Such insistence on individual responsibility also somewhat precluded the TRC from showing that the apartheid regime had a systematic agenda of crime. It brushed upon the issue when it discovered the "purging of official memory" systematically engineered by apartheid bureaucrats. A most pre-

cious historical method is the discovery and examination of documents, while a most efficient method ensuring that no one will ever go back to check embarrassing episodes and practices is to destroy the documents reporting them. "Sensitive records" dealing with security matters were regularly destroyed by government agencies from the 1970s onwards within the ambit of the *Archives Act*, but the practice turned to mass destruction after 1989 and continued until 1994 on government instructions, when talks of truth and reconciliation were already rife. The National Intelligence Service and the Security Branch of the South African Police, two of the main bodies responsible for apartheid crimes, were extremely active in purging the memory of an already paranoid regime steeped in a "claustrophobic culture of secrecy" [*Report I*, 8, 26]. Most laws dealing with security contained secrecy clauses which severely limited the diffusion of official information. The Security Branch

has removed from our heritage what may arguably have been the country's richest accumulation of records documenting the struggle against apartheid. Clearly, the work of the Commission suffered as a result. Numerous investigations of gross human rights violations were hampered by the absence of documentation [*Report I*, 8, 105-106].

The annihilation of truth by the apartheid agencies somehow backfired when Colonel Eugene De Kock, a police officer and state hitman, decided to let the cat out of the bag—to speak the truth. He and his men belonged to a clandestine unit named Vlakplaas which was given a licence by the authorities in the 1980s and 1990s to fight the ANC insurgency in the name of the preservation of the white race, and they are said to be accountable for more than 400 crimes. He was arrested in 1994, tried and condemned to two life sentences in 1996. But when his former employers refused to acknowledge their responsibility, he refused to be a scapegoat and asked to be heard by the TRC to obtain political amnesty. De Kock denounced a whole range of high-ranking police and army officers as well as top flight politicians, including former Prime Minister and president P. W. Botha. All of them, he said, knew perfectly about his activities and gave him his orders. One of the unexpected outcomes of his decision to testify was that a number of police officers asked to be heard by the TRC before De Kock as they would have been subject to prosecution had he revealed some compromising facts about them. Yet few rank-and-file soldiers spoke out, often for fear of being judged by blacks and exposed in their community. Even fewer high-ranking officers, whether in the police or the army, came forward to seek amnesty and avoid criminal prosecution [Davenport 695]. Most of the high-ranking officers who testified consistently used a pretty dishonest line of defence by stating that they never gave orders for "enemies of the state" to be killed. The TRC was unimpressed and "of the

firm opinion that the euphemisms used amounted to instructions to kill" [Davenport 696]. Only General Constand Viljoen, the leader of the right-wing political party Freedom Front accepted responsibility for criminal acts committed under his command.

A key section of the founding act allowing specifically for investigations into rights abuses on *all* sides prompted the TRC to ask the ANC and the PAC to come forward and make submissions to justify or apologise for violations committed by their own activists, notably by their armed branches MK and Poqo, and reveal the full truth about their activities, especially the bombings which killed civilians during the 1980s. The ANC was not spared when the proceedings started but it was split and insecure over the issue. It first submitted a list of thirty-seven prominent members, including then Vice-President Thabo Mbeki and Minister of Justice Dullah Omar—whose attributions, most disturbingly, included supervision of the TRC—to obtain a blanket amnesty which was awarded by the TRC. But the Cape High Court, following an action at law by the NP, dismissed the decision on the grounds that the act specified explicitly that amnesty could only be awarded to individuals.

Much to the distress of the Commission, the majority party then adopted the same defensive attitude as the NP quite in contradiction with its early declarations that it would cooperate, blaming individual excesses for the violations committed in its camps in Angola and Tanzania. Like other parties, it rushed with glee into the loophole of "individual responsibility," refusing to acknowledge the revelations of those who had served it and endorse full responsibility as an organisation for the crimes revealed by its members and denounced by victims. Desmond Tutu threatened to quit as chairman if the government party refused to play the game of truth and acknowledge its responsibilities, especially about the crimes committed by MK.

Those who rejected the amnesty principle altogether argued that the crimes committed in the name of apartheid could never be put on a par with actions perpetrated in the name of the liberation struggle, a "spurious argument" which "equates the monstrosity of apartheid with the efforts to topple it. This [...] is like saying that the slave who manages to get his own whip and then lashes back as ferociously at his heartless slave driver is also guilty of assault" [Jon Qwelane, quoted in *Financial Mail*, 10 November 1995]. To the ANC, implying that actions committed in its name during the "struggle" were violations of human rights was equal to justifying apartheid and siding with the tyrants. Historical parallels equating the NP and apartheid to the Nazi party and its racist, extremist policies were regularly drawn by left-wing activists: it was a war, a fair war, assassinations and bombings were justified and could not lead to prosecution. The argument was simply rejected by the

TRC—nothing can justify killings. “The commission drew a distinction between a “just war” and “just means” and has found that, in terms of international conventions, both the ANC, its organs the National Executive Council (NEC), the National Working Committee (NWC), the Revolutionary Council (RC), the secretariat and its armed wing Umkhonto weSizwe (MK), and the PAC and its armed formations Poqo and the Azanian People’s Liberation Army (APLA), committed gross violations of human rights in the course of their political activities and armed struggles, acts for which they are morally and politically accountable” [*Report II*, 4, 210].

The ANC’s indignant reaction to the TRC’s conclusion that it was directly responsible for the atrocities committed in the 1980s in its camps is symptomatic of a liberation movement struggling to come to terms with its troubled past, just when it needed to assess its credentials on becoming a government party. It is impossible for such a movement to shed willingly and unequivocally its romantic image and renounce the aura of the heroic freedom fighters which attracted so much support both at home and abroad. This moral hierarchy of crime was intended to protect the image of freedom martyrs and secure the ANC an immaculate place in history—historical truth is subjective.

The liberal press was adamant. “It is doubtful whether the ANC really wants the full truth of past events to emerge, its insistence on establishing the truth commission notwithstanding. The biblical promise that “the truth shall set you free” may apply in a moral sense. But in the hard world of political realities the past is probably best left to historians to unravel in their own scholarly way over decades” [*Financial Mail*, 10 November 1995]. The ANC even tried to prevent the publication of the *Report* because it was not allowed to check it beforehand but it came out nonetheless as such and has since been made available to the whole world on the Internet.

The pillars of the apartheid state, i.e. churches, justice, the health sector, the business community, prisons and the media all offered similar resistance to truth-telling, reluctantly agreeing to submit very limited accounts of their role in the apartheid era, in an attempt to let government endorse full responsibility for the troubled past (although the law did not provide for “institutional hearings,” the TRC saw them as a necessity to understand how “people who considered themselves ordinary, decent and God-fearing found themselves turning a blind eye to a system which impoverished, oppressed and violated the lives and very existence of so many of their fellow citizens,” [*Report IV*, 1, 1]. To them too, the behaviour of their representatives was constrained by a network of obligations, laws and pressures which made it impossible for individuals to act in any other way; their respective histories, they argue, is

one of powerlessness abounding with examples of good people trying to shake off their legal and moral shackles, eventually crushed by the state's callous omnipotence. Liberal journalists and lawyers were among the main "victims," while the example of judges and doctors illustrates the classic dilemma about the responsibility of members of administrations and institutions dominated by authoritarian state apparatuses and forced to apply whatever limited rules were available to them. This reveals the difficulty of these organizations in scanning the darkest alleys of their own histories and the limited means the TRC had at its disposal to investigate thoroughly and efficiently the role of such key institutions.

Personal Truth in the Way of History

Historical truth was further impeded by the psychological obstacles raised by "subjective truth" which has obvious drawbacks in a legal (or paralegal) context such as the TRC's. First, a fundamental ambiguity lies in the wish to accommodate two apparently contradictory conceptions of truth and its function: providing "restorative," not punitive, justice while trying to stick to the highest standards of proof acceptable in law. The latter principle was almost impossible to sustain, for despite the powers it had been endowed with, the legal-like procedure lacked the rigour expected in law. Thus the principle of *audi alteram partem* (the right for both parties to be heard) was not always respected. Victims and witnesses for the prosecution were only rarely cross-examined as is the rule. For its defence, the TRC said that the proceedings had already taken up too much time and that the victims should not be "victimized again" by ruthless lawyers. All this worked against "the emergence of the truth."

In addition, is it really possible to distinguish between acts committed in the name of a political cause and simple crimes to be dealt with under general law? To this, the TRC replied that more than half the submissions it received were rejected because the political motivation was simply not apparent. Minister of Justice Dullah Omar insisted that the TRC was not a court of justice and that it was not to interfere with the normal proceedings of ongoing inquiries [Davenport 691] as some of the crimes examined by the TRC were also being scrutinized by regular courts. Also, confessions had to be voluntary so that their number was limited: less than 22,000 submissions were made when up to 150,000 had been expected, so that it can hardly be claimed that they in any way form "as complete a picture as possible" of the situation.

The three forms of subjective truth which appeared in the hearings served other goals than the mere clearing of a case, either individual goals (such as psychological relief of victims and restoration of dignity), or collective and political goals (such as nation-building, exposition of direct political party implication in the crimes, forgiveness). Truth is an eminently moral value that could not be conceived in purely material terms in such a heavily symbolical procedure as the TRC hearings. Among Desmond Tutu's deepest regrets was the small number of whites who came forward, and for those who did the lack of truthfulness in their attitude. "White South Africans should not apologise about the injustices suffered by black people in the apartheid era if they were going to do so *grudgingly*" [*East London Daily Dispatch*, 27 October 2000]. Truth must also come in earnest from the heart.

Other problems stood in the way of truth. Since amnesty derived from voluntary confession, how was the TRC to be sure that people actually told the truth? Even though both amnesty seekers and witnesses spoke under oath and could face prosecution for perjury, one can lie unintentionally, especially when decades have elapsed or atrocious deeds were committed under your eyes. Testimonies relating to the Sharpeville and Langa massacres (1960) grossly inflated the number of victims. Some witnesses stated that they saw policemen finishing off some of the wounded with knives when all historical evidence proved that only guns were used. Truth might be distorted by poor memory, personal bitterness or ideological bias, and the accuracy of the final picture is therefore undermined. By allowing subjectivity to dominate, the TRC let emotions take over, something which has been judged as blurring the process of truth-making. "Whatever its cathartic value, incipient hysteria is not conducive to finding the truth; whatever its therapeutic deficiencies, the dispassionate approach of a judicial commission is a more reliable means of attaining that end" [*Financial Mail*, 3 May 1996].

As opinion polls showed, the principle of restorative justice was hard to accept for the vast majority of the people who would have simply preferred a straightforward approach to the past, with perpetrators sued and tried for their crimes (a vast majority of South Africans support the death penalty). The trading of amnesty for truth was seen as totally unfair and lacking respect for the victims because it overlooked the desire for natural justice more in tune with the psychological comfort sought by victims. It was difficult for them to renounce such a right and accept that abstract national reconciliation should take precedence over their personal grief. Not everyone, it was said, has a saint in himself and a capacity to forsake his own pain for the benefit of nation-building and truth. Several families, such as Steve Biko's, rejected this principle and asked the Supreme Court to declare the *Promotion of National*

Unity and Reconciliation Act unconstitutional because it violated each citizen's right to legal redress guaranteed by the Constitution, while justifying "impunity" (their definition of amnesty).

The courtroom, the TRC replied, may not always be an adequate means to an end. When twenty former high ranking defence and security force officials, including former Defence Minister General Magnus Malan, were acquitted of all charges of murder by a judge, Chairman Desmond Tutu and Vice-Chairman Alex Boraine claimed that the TRC stood a better chance of "uncovering the truth than a trial court" [*Financial Mail*, 18 October 1996], for no one could believe that the army's upper echelons had no responsibility in the crimes. The absence of the adversarial logic of courts put the Commission "in a better position in trying to establish what happened," Boraine contended, because an applicant can only expect amnesty if he agrees to "full disclosure" of events, a rule not always followed in a court of justice. He added: "How many court cases can South Africa have? Courts are most unfriendly places, while the commission can act compassionately and receive people with dignity."

Conclusion

The elaboration by top-level political agents of a new civil mythology, a new national truth, in which human rights are a panacea to cure centuries of ill-justice and discrimination and restore health to a sick, fragmented social body is perfectly exemplified by the fate of the notion of truth in the TRC proceedings and *Report*. The TRC emerged as both a psychologist (or psychiatrist) and an historian, two functions which appear largely incompatible as they relate to two antithetic facets of truth. Although both are in search of "the truth," the psychiatrist encourages traumatised victims to talk freely of their feelings to help them achieve catharsis. Objective truth is less important than subjective truth. Hence victims must be encouraged to narrate their experiences of the past in the name of truth. An historian—the same can be said of a lawyer—has a distinct function as he tries to trim off emotions which might blur the picture rather than clarify it and to discern the objective core of the victim's testimony so as to be able to integrate it in a much wider perspective. "This record will form a part of the national memory for generations yet to come" the *Report* proudly asserts [I, 5, 38], but can anyone say that "personal stories" or a sum of "personal stories," even backed up by inquiries, are akin to history, and story-telling to truth-telling? Many doubted that the role of a commission was to teach history lessons, even less to "cure" the country for that matter. Eventually, a paradox seemed to emerge: the *Report* laid bare a version

of the nation's history, a truth, which most could only accept piece by piece, but which no one could accept entirely.

For lack of time and means, the truth which was revealed was partial and selective, and hardly conducive to national reconciliation. It is said that the example must come from the top, but in the long run, all senior political leaders (except two former NP ministers) escaped testifying. Talking about the Nationalists, Tutu admitted this but it did not mean that they had not been punished: "Yes, they escaped [...] but they did not escape themselves; they did not escape God. This is a moral universe" [*East London Daily Dispatch*, 27 October 2000]. In fact, by asking political parties to recognize their responsibility in past crimes, the TRC put obstacles in the way of long-term reconciliation, since none of them was ready to surrender its own version of "the truth." To be fair, the TRC's objectives were not to reconcile the nation but only "to promote national unity and reconciliation" [PNUR s. 2, 3 (1)].

Nevertheless, it cannot be argued that the TRC was useless. Its blind, relentless desire to shed light on all the violations, including those committed against the apartheid state is definitely one of its merits. The sheer number of testimonies also made it impossible for the parties to simply brush off the allegations. They established for a fact that a chemical and biological warfare programme was intended to kill thousands of blacks, that the state did give the police and army a licence to manipulate homeland forces, provide IFP militias with weapons, and torture suspected "terrorists," "and that suspected collaborators of the apartheid regime were tortured in ANC camps, thus confirming facts either fully disclosed or hinted at by the Skweyiya and Motsue nyane Commissions in 1992 and 1993. "Disinformation about the past that had been accepted as truth by some members of society lost much of its credibility" [*Report I*, 5, 34]. Despite the denial by the two parties that they held any responsibility, these aspects of the South African past have acquired a historical dimension and become part of the common, though grim, legacy of the nation.

Finally, a side effect of the settlement chosen was to leave the population at large out the process. Political agents eager either not to let go their power without a fight or to get a bite at the government pie at long last failed to ensure the adhesion of the population at large, especially the black communities, who merely identified politicking gesticulations of individuals and parties trying to secure a bigger slice of power. There the South African public may have discovered an ugly side to their political class struggling to come to terms with liberal democracy. Only time will tell if the legacy of the TRC had any impact on the life of democratic South Africa.

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