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National Reconciliation in Ghana: Prospects and Challenges

by

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■ The Virtues of Truth and Reconciliation Commissions

In recent years, many countries have welcomed reconciliation as a means of confronting the fractious legacies of the past. The purpose of these Commissions is to unify people and move them forward to democratic development. Nations as diverse as Guatemala and El Salvador in Latin America, East Timor in Asia and South Africa and Nigeria in Africa have embraced reconciliation programs. These programs have been an effective means of coming to terms with their painful pasts of repressive state policies and the negative legacies of sharp political divisions and deep conflicts. They are seen therefore as instruments for the democratization of non-democratic political systems. Thus, reconciliation processes have increasingly become a central part of the transition agenda in emerging but politically fractured democracies.

These commissions provide avenues to investigate and establish the truth about past human rights violations by allowing both perpetrators and victims to confront each other. Such confrontation with the ugly past is widely regarded as the beginning of the process of real individual and national healing and forgiveness. The truth-telling component helps to unburden those who are weighed down by past state atrocities, either as victims or perpetrators. In this sense, truth-telling helps to promote genuine reconciliation.

The commissions also help in the clarification and documentation of the nation's historical records. They help to bring out and promote the truth, ensure accountability and transparency in the exercise of state power, and discourage the development of a "culture of impunity." Moreover, by bringing the past into focus, commissions facilitate the process of recognition and restoration (by the state and society) for those who have been wronged, abused and victimized unjustifiably by past regimes.

Indeed, national reconciliation performs an important democratic function. After all, national consensus is difficult,

if not impossible, to achieve and national cohesiveness suffers where significant sections of society feel aggrieved and unable to forgive past abuses. Thus, national reconciliation enhances democratic consolidation and expansion by helping to build national consensus and cohesion and by instilling the values of respect for individual freedom and justice.

Furthermore, the reconciliation process provides a rare opportunity for transitional democracies to critically evaluate governmental systems, reforming them to better protect citizens' freedom and ensure good democratic governance.

■ Dangers Associated with Reconciliation Projects

Despite the many ways societies may benefit there are dangers associated with such a process. Commissions set up to foster reconciliation may raise unrealistic expectations among victims of abuse who may believe that perpetrators will definitely be punished or that they will receive full compensation for the wrongs done to them. There is therefore, the risk that the public may feel cheated or angry if expectations are not met.

The prospects of a national reconciliation commission may be enormously threatening to perpetrators of past abuses, who may fear exposure and punishment. Where such perpetrators retain political, economic or military power, they may sabotage the reconciliation process and destabilize the country by refusing to testify when called or threatening those called upon to testify.

In addition, a reconciliation commission that does a sloppy job may simply fizzle out, waste scarce national resources, and become a disappointment to all.

■ Necessary conditions for successful reconciliation

For national reconciliation to achieve the desired objective of uniting nations, certain factors must be present:

- *Political Will:* Raking past atrocities and abuses is an

excruciating exercise. Badly managed, the exercise could backfire and further widen the chasm in an already politically fractured nation. Indeed, this fear has often deterred the introduction of reconciliation processes. Hence, the political will to promote genuine reconciliation is paramount. Governments demonstrate *political will* when they initiate a reconciliation process, set up a clear-cut agenda for a nonpartisan and truly independent reconciliation commission, and involve all stakeholders throughout the process.

- *Civil Society Participation:* A successful reconciliation exercise requires the involvement of civil society and the public at large. A process aimed at uniting people must necessarily involve people. Inadequate citizen participation and consultation diminishes the elements of openness and national ownership that are necessary for success. Civil society involvement helps to mobilize the public's participation, and generate support and interest in the process.
- *Consensus Building:* It is essential to achieve widespread agreement on all aspects of national reconciliation. The process must be devoid of partisanship, with those favoring and opposing a formal reconciliation process exhibiting political tolerance. Consensus and legitimacy of the outcome of the national reconciliation exercise will be enhanced where the government, human rights organizations, and other interest groups work together to develop the framework and other key aspects of the reconciliation program.
- *Truth-telling:* True reconciliation cannot occur when the truths about past wrongs are not told. Truth-telling encourages the verification of past repressive actions and incidents committed by individuals and government. It may also challenge stories widely but inaccurately circulated in the public domain. Knowledge of the truth helps to set record straight and creates an environment where forgiveness may happen. In this sense, remembrance is the beginning of reconciliation. Any type of reconciliation that does not seek to discover the truth is bound to damage the desirable goals of forgiveness and unity. However, truth-telling can also be painful for victims and provoke paranoia among perpetrators.
- *Sufficient Resources:* One factor that has hindered the progress and success of reconciliation programs is funding. Reconciliation exercises are expensive ventures. Apart from the funds needed by the commission to operate, reconciliation must also have a social and economic face. Words on their own are never enough. They must be accompanied by actions such as restitution and compensation. Most commissions have cited insufficient resources as the main cause of failure.

■ **The Ghanaian experience**

In Ghana, the attempt to embark on a formal national

reconciliation exercise dates back to the early 1990s when the then Head of State Jerry Rawlings made his famously back-handed apology for all past mistakes, in the fugitive setting of a pentecostal convention, at the Trade Fair Site in 1992. In addition, as part of the arrangements for the transition to democratic rule in the early 1990s, some political and other prisoners were amnestied and exiles were allowed to return home, albeit in a largely opaque manner, and the National Commission for Civic Education (NCCE) proposed a National Reconciliation Forum in 1999. It is instructive to note that the latter proposal failed to attract the support of a critical mass of Ghanaians and the Rawlings-National Democratic Congress (NDC) government. In fact, that government appeared to prefer an opaque reconciliation agenda that included selective de-confiscation of properties illegally confiscated in the previous Rawlings-led regimes.

Notwithstanding these anaemic attempts, many Ghanaians appear to consider national reconciliation as highly desirable. They see it as necessary for healing the wounds of injustice and advancing the cause of national unity and development. Indeed, the former leading opposition party- the National Patriotic Party (NPP) - included it in its manifesto and made it a campaign issue in the December 2000 polls. It is not surprising, therefore, that President John A. Kufuor mentioned national reconciliation as one of the key goals of his incoming administration in his inaugural address and subsequently introduced a bill in Parliament.

The National Reconciliation Commission Bill was eventually passed in Parliament, in late 2001, albeit controversially, and signed into law in early 2002 as the National Reconciliation Act (2002) Act 611. The Act establishes the periods of military rule - 24th February 1966 to 21st August 1969; 13th January 1972 to 23rd September 1979; and 31st December 1981 to 6th January 1993 - as the time period to be covered by the commission's investigations. However, the Act also allows the Commission the discretion to investigate incidents occurring "in respect of any other period between 6th March 1957 and 6th January 1993." The members of the Commission were named in April 2002, and was inaugurated in early May of the same year, paving the way for it to commence its work. The members of the Commission are: Justice Amuah-Sekyi, retired Supreme Court judge (Chairman); Maulvi Wahab Adam, head of the Ahmadiyya Muslim Mission in Ghana; Professor Florence Dolphyne, former Pro-Vice Chancellor of the University of Ghana; Professor Henrietta Mensa-Bonsu, Associate Professor in the law faculty of the University of Ghana, a criminal law and alternative dispute resolution specialist; Bishop Palmer Buckle, an outspoken and human rights-minded Catholic clergyman; Mrs. Sylvia Boye, former Registrar of the West African Examination Council; Mr. Christian Appiagyei, former head of the Trades Union Congress; General E. Erskine, former UNIFIL commander and presidential candidate in 1992; Uberr Dalafu Label II an electrical engineer and Paramount Chief of Sangulu in northern Ghana. Dr. Ken Agyeman Attafuah of CHRAJ

is the Executive Secretary to the Commission.

What are the prospects and challenges for the Commission, which is currently preparing to hold hearings in the latter part of the year?

■ **Prospects of national reconciliation in Ghana**

By design or default, the process of developing a framework and legislation for national reconciliation in Ghana has been fairly open, consultative, and participatory. It featured an international conference on national reconciliation, civil society involvement, and widespread public discussion of the key issues as well as robust deliberation and outreach programs by Parliament, civil society and government on the idea of reconciliation and the bill.

Second, the process has secured legislative backing, with the promulgation of the National Reconciliation Commission Act (2002) Act 611. Thus, Ghana's National Reconciliation Commission rests on a firmer legal foundation than that of Nigeria and Cote d'Ivoire, though it is not constitutionally entrenched as was the South African Truth and Reconciliation Commission.

Third, the project of national reconciliation in Ghana appears to enjoy significant popular backing. About 90% of respondents in a nationwide survey conducted by CDD in May 2001 expressed support for some form of national reconciliation.

Fourth, a pool of expertise and talent on national reconciliation issues is available, locally and internationally. Locally, for example, expertise is available within the Civil Society Coalition on National Reconciliation, chaired by Justice VCRAC Crabbe (former Supreme Court judge, former Electoral Commissioner of Ghana and former law professor at the University of West Indies). Its other members include prominent figures such as Rev. Dr. Mensah Otabil (Head Pastor of the International Central Gospel Church), Rev. Dr. Aboagye Mensah (General Secretary of the Christian Council), Rev. Dr. Ben Gabra (Head of the Moral Rearmament Group), Maulvi Wahab Adam (Head of the Ahmadiyya Muslim Mission), Prof. Miranda Greenstreet (Retired Professor of Adult Education) Mrs. Chris Dadzie (Commission on Human Rights and Administrative Justice), Mrs. Fanny Kumah (National Commission on Civic Education), Nana Addo Dankwa (the Okuapehene), Ms. Sena Gabianu (retired public servant), Mr. K B Asante (retired diplomat and public servant), and Justice G. E. K Aikins (former Attorney General and former Supreme Court judge). It is noteworthy that members of this Coalition have been meeting to deliberate on the national reconciliation process since March 2001. In the meantime, two young Ghanaian professionals (Felix Odartey Wellington and Franklin Oduro) are developing expertise on transitional justice in a six-month fellowship in South Africa sponsored by the International Center for Transitional Justice. Ghana's national reconciliation project and the Commission could tap into this pool of experienced people and trained talent. And finally, the prospect of international support for the national

reconciliation process and the Commission are good, especially if the process stays open and credible. The Dakar-based Open Society Initiative for West Africa (a George Soros Foundation supported agency) and the New York-based International Center for Justice (ICTJ) have provided critical technical and financial support to Ghana's national reconciliation project.

■ **Daunting challenges**

Though the prospects for Ghana's reconciliation are promising, the country's program still faces daunting challenges.

Not the least among these challenges is continued anxiety among supporters of Jerry Rawlings and his erstwhile regimes (Armed Forces Revolutionary Council – AFRC, Provisional National Defense Council – PNDC and the National Democratic Congress -NDC). They appear to believe that the exercise is targeted at them, and that it is deliberately aimed at harming them collectively and individually. The difficulty of assuaging their concerns was reflected in the acrimony that dogged the debate on the national reconciliation program in and outside of Parliament and over the passage of the bill, particularly the time frame for investigation. Thus, while the National Reconciliation Commission Act substantially addresses many of the concerns of the main opposition party, strident and vociferous arguments have been made over whether the concessions over the time period covered by the investigations represent a “door” or a “window”. This could provide a hint of the future.

The quality of the work of the Commission and the legitimacy of its outcomes would largely depend on the calibre of the Commissioners. Indeed, after the NRC Act was put in place, the focus of attention naturally shifted to the process of selecting the membership of the Commission. However, in the prevailing atmosphere of deep political, ethnic, and other divisions, constituting a credible and balanced NRC was bound to be highly challenging. Even though, on the whole, the membership of the Commission is high calibre and reflects good balance and credibility, it is instructive that not all the Commissioners have escaped adverse commentary, especially among NDC opposition party members. An editorial in the April 15-17 edition of the *Ghanaian Voice* summed up the views of those who are skeptical of the Commission and the national reconciliation process. It declared some of the members of the Commission “unsuitable” for membership of the Commission and demanded that they voluntarily withdraw from it. It also sweepingly accused the government of “railroading” the national reconciliation process. The issues raised in the editorial were not necessarily meritorious, and no questions were raised about the integrity or competence of any of the members of the Commission. However, the editorial highlights the enormity of the task the Commission faces in ensuring that the concerns of all Ghanaians are assuaged.

Resourcing the NRC adequately in technocratic, material, and financial terms is also bound to be exceedingly

challenging in the parlous conditions of our national exchequer. The Commission will need sharp investigators, analysts, and recorders. It will also need to be backed with strong logistics such as hearing rooms, recording equipment, and secretarial support. The provisions in the Act for funding the administrative expenses of the Commission (from funds provided by “Parliament from the Consolidated Fund and any other public fund, donations, and grants”) are rather vague. It is important to remember that other regular national agencies and commissions such as the Commission on Human Rights and Administrative Justice and the National Commission on Civic Education have been starved of the same resources.

Expectations of restoration, restitution and compensation are understandably high among victims of past human rights abuses and their sympathizers. But resources for implementing recommendations of the Commission and undertaking institutional reforms to prevent a reoccurrence will be hard to find. Again, it is noteworthy that the Act is completely silent on how the implementation of the recommendations of Commission would be funded. The government, the private sector and civil society have to think of how to address this challenge creatively. Moreover, expectations of genuine national healing and reconciliation as the ultimate outcome of the work of the NRC are equally high. Managing such expectations will be extremely difficult.

It is sobering indeed to note that the record of implementation of recommendations of truth commissions in Africa has been highly mixed. In Burkina Faso, for instance, the government rejected the report of an independent inquiry into the controversial death of journalist Norbert Zongo. The Cote d’Ivoire’s National Reconciliation Forum ended with grand recommendations that organizers believed could lead to healing wounds and guaranteeing national unity. However, serious doubts remain over the implementation of the recommendations, particularly the one dealing with the nationality of Mr. Ouattara. It is noteworthy that the Forum deferred making any decision on Ouattara’s nationality to the same courts whose earlier ruling sparked the conflict. In South Africa, the promise to pay compensation to victims has yet to be fulfilled. And although the Oputa Panel in Nigeria has been hailed for the volume of information compiled about past events, there are well-founded concerns about the enforceability of the Panel’s decisions.

Ensuring that the media cover the NRC proceedings informatively, accurately, and sensitively will be extremely challenging. Media coverage of the proceedings of the erstwhile “fast-track” courts and other judicial enquiries has been anything but proficient. Unprofessional and sensational reporting of the NRC can only aggravate the pain of victims, arouse paranoia among alleged perpetrators and undermine social learning that should flow from such a process. The Ghana Journalists Association and the CDD-Civil Society Coalition on National Reconciliation have collaborated to help prepare the media to cover the proceedings of the Commission.

Finally, the possibility of landing in a legal quagmire cannot be ruled out, especially if the courts refuse to rely on

better developed international standards of transitional justice, post-regime accountability and crimes against humanity. In reflecting on the possibility of a legal quagmire, note should be taken of experiences in other jurisdictions. In South Africa deep controversies have raged over amnesties and some alleged perpetrators who voluntarily declined to request amnesty have been granted pardons by the government. In Nigeria, the Oputa Panel’s efforts to gain cooperation from important “suspects” landed in legal entanglements, with some influential and powerful past military leaders simply declining requests to appear before the Panel. ■■■

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