

Victims' Perspectives about the Human Rights Violations Hearings

by

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Research report written for the Centre for the Study of Violence and Reconciliation, February 2005.

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Introduction

While outside of South Africa the Truth and Reconciliation Commission (TRC) was widely perceived as a model process for dealing with a legacy of violence and human rights violations, within the country substantial criticism has been voiced as to how "just" the TRC really was and on which level shortcomings and failures - either of a fundamental nature, rooted in the concept of the TRC, or as an artefact of how an "initially good idea" was carried out - may be located.¹

The end of the Apartheid regime and the unexpectedly peaceful transition frame the perception of the TRC as a constructive tool to deal with the past. Yet the implementation of the TRC raises fundamental questions: What is justice? Is it something absolute that thus requires absolute and unconditional pursuit? Does a state have the right to deprive individuals of their right to pursue justice (within a legal framework) and to trade it off for a societal "greater good"? How much truth can a society bear and afford? How much lack of truth can a society bear and afford? Can the TRC be regarded as successful in promoting reconciliation and may it thus serve as a role model for countries with a similarly violent legacy? Specifically, the question arises whether the TRC process found the appropriate balance between individual needs and rights and the expected societal benefits.

The research reported here seeks to contribute to answering this question by evaluating the public Human Rights Violations (HRV) hearings. It was conducted collaboratively by the Centre for the Study of Violence and Reconciliation (CSVr), Khulumani Support Group and the KwaZulu Natal Programme for Survivors of Violence (PSV) with the support of the American Association for the Advancement of Science (AAAS).² The aim of this study was to explore the experience of victims³ who testified at the public hearings of the Human Rights Violations Committee, their evaluation of their participation and its longer-term impact on their lives. It seeks to engage both immediate reactions at the time of the hearing with reflections on how deponents view the experience within the broader context of interaction with the TRC.

Objectives and organisation of the HRV hearings

The HRV hearings were held between April 1996 and June 1997 in 65 locations in South Africa.⁴ They fell under the responsibility of the TRC's Human Rights Violations

Committee and comprised three types of hearings: General HRV hearings, event hearings and institutional hearings.⁵ The [Promotion of National Unity and Reconciliation Act](#)⁶ provides the basis for the HRV Committee. It defined the following tasks for the Human Rights Violations Committee: "To investigate human rights abuses that took place between 1960 and 1994" and to establish "the identity of the victims, their fate or present whereabouts, and the nature and extent of the harm they have suffered".⁷ Based on the findings of the HRV committee, the TRC determined who would be declared "victim of gross violations of human rights".⁸

In addition, the Act required the Commission to "restoring the human and civil dignity of such victims by granting them an opportunity to relate their own accounts of the violations of which they are victims, and by recommending reparation measures in respect of them".⁹ The Act also defined guiding principles for the Commission when dealing with victims. Among these were to treat victims "with compassion and respect for their dignity", to treat them "equally and without discrimination of any kind", to take appropriate measures to "minimise inconvenience to victims" and to "ensure their safety". Finally, it required the Commission to apply "informal mechanisms for the resolution of disputes" including mediation and arbitration to "facilitate reconciliation and redress" for the victims.

The Human Rights Violations hearings constituted an essential part of the TRC's activities. Their core element was to provide victims the opportunity to "tell their story in public"; thus the hearings were broadly advertised and open to the public. Comprehensive media coverage was fostered. The chairman of the TRC, Desmond Tutu, describes the goals as follows:

We had decided that the first public proceedings of the Commission would be victim hearings to underline the fact that those who for so long had been consigned to the edges of society as voiceless and anonymous could now emerge from the shadows and occupy, for a while during the lifetime of the Commission, centre stage. We hoped this would help in the process of restoring their civic and human dignity. (Tutu, 1999, p.87)

Secondly, through this process, the Commission sought to contribute to "the healing of a traumatised and wounded people ... and in this manner to promote national unity and reconciliation". Thirdly, the Commission aimed to confront the public and thus to correct the perception and understanding of the Apartheid era: "No one in South Africa would ever again be able to say, 'I did not know' and hope to be believed" (Tutu, 1999, p.91)

While about 22.000 statements regarding gross violations of human rights were taken by the TRC staff during its mandate, only a fraction (about 8%) of these cases were selected for the public HRV hearings. The amount of recorded violations of human rights exceeded by far the possibilities to cover them all in public hearings. The HRV Committee thus had to limit the number of public testimonies. The Commission sought to select deponents representing "the broadest political spectrum ... so that the process could be seen to be broadly representative" (Tutu, 1999, p.87). In general, victims were approached by the TRC and asked whether they wanted to tell their story in one of the public hearings.

Aims of the focus group project

Much of the materials available on the TRC are based on the perspectives of people taken at the time that they were participating in the TRC – i.e. their views during the process. This project is unique in that it sought to capture people's perspectives a few years after participating in the public process in order to evaluate the impact of the experience. Its research objectives included the following:

- To evaluate the TRC process from the perspective of victims who testified at the public hearings of the Human Rights Violations Committee
- To inform current and future truth commissions, and
- To gain an understanding of victims' views of reconciliation, justice and forgiveness, and how their involvement with the TRC impacted their lives.

Research methodology

A qualitative method was chosen for its exploratory power and capacity to contribute to understanding complex social and psychological processes. Focus groups allow insight into collective constructions of meanings (Mayring, 1996) and the exploration of differences between groups according to specific criteria, although the nuances of individual experiences may be lost to the group perspective. The group setting was expected to facilitate a more relaxed and secure atmosphere, as individual participants may choose their level of "visibility" during the data collection process. This security was thought to be of particular salience to victims of gross human rights violations.

Seven focus groups were conducted with persons who testified as victims in the HRV hearings of the TRC. The focus groups were held in Cape Town, Durban and Johannesburg between May 2001 and November 2001. The researchers recruited participants by contacting victims whose names appear on the TRC web site and through locally based organisations, which provided contacts to victim communities. Through their previous advocacy work, they were hoped to facilitate a safer psychosocial atmosphere with follow-up support. The research co-operation with Khulumani and PSV was vital for this study as they participated in the joint development of the research design, organised and facilitated some of the focus groups and provided expertise on many issues.

In order to get a range of perspectives, reduce translation problems and create more psychological security, participants were grouped on the basis of race (black African, white, coloured, Indian), gender, and political affiliation (African National Congress, Inkatha Freedom Party).

The research team encountered significant difficulties in finding people willing to participate. These difficulties included the unavailability of contact details of deponents, the general reluctance to participate in research and the specific reluctance to participate in a group based on racial homogeneity. The study was thus limited by its lack of inclusion of IFP members, the absence of Indian participants and the small number of white participants.

The focus groups included three groups in the Cape Town area, two groups in the Durban area and two groups in Johannesburg. The focus groups had an average number of seven

participants with the lowest number of two in the group with white participants.

Table 1: Composition of focus groups

Focus group	Location	Race/Ethnicity	Gender	Participants
CT1	Cape Town	African	female	6
CT2	Cape Town	coloured	female	6
CT3	Cape Town	coloured	male	4
DB4	Durban	African	female and male	11
DB5	Durban	African	female	8
JB6	Johannesburg	African	female and male	11
JB7	Johannesburg	white	female and male	2

The groups followed a semi-structured guideline. They focussed on 1) participants' reasons and expectations for testifying in public, 2) their experiences with testifying, 3) perceived effects, 4) deponents' evaluation of the outcomes, 5) their views about truth, reconciliation, amnesty and the justice of the TRC and 6) recommendations for other countries considering to set-up truth commissions. Participants were guaranteed confidentiality and received a small stipend. Discussions were tape-recorded, translated into English¹⁰ and transcribed.

While the study was developed and carried out by a research team, solely the author conducted the data analysis. To analyse the data I used Mayring's qualitative content analysis (Mayring, 1997) This method is based on the systematic collection of content-bearing statements, which are paraphrased and generalised to a more abstract level to eventually construct inductive categories.

Various factors complicated the analytical process, as the groups were heterogeneous on many accounts: Participants differed greatly in their socio-demographic background with differing abilities to express themselves. Also, they differed in regard to the human rights violations they suffered, which included among others: torture and killing by the security forces, bomb attacks by ANC members, a mob killing, and an attack by IFP members on an ANC community. While some participants were active in the liberation movement, others were bystanders or lost someone they loved. Some participants had been involved in both the HRV hearings and in the Amnesty Hearings. This double involvement complicated data interpretation, as it was often unclear which hearing participants referred to when relating their experiences. Some facilitators guided the discussions more in-depth than others did. The need to translate discussions in the groups may have caused loss of information, e.g. when dealing with culturally rooted concepts or connotations. Results do not claim a comprehensive or representative grasp of victims' experiences.

Results: What Victims Have to Say about the TRC and the Public Hearings

The South African Truth and Reconciliation Commission started out as ambitious endeavour to provide South Africans with a tool to come to terms with the past of their

nation. Past violence and human rights abuse runs through all layers of society and cuts through simplistic perceptions. The complexity and entanglement of the conflicts that characterise the violence of the apartheid era is reflected in the results of this study: Victims and survivors who participated in the public HRV hearings approached the TRC with ambiguous expectations and motivations. Their experiences with the hearings differ, as do their evaluations of the outcomes of testifying. No group was uniformly positive or negative about the hearing, its effects on their lives or of the TRC in general. Participants' feelings can best be described as a complex mixture of satisfaction and disappointment, hope and resignation, magnanimity and anger. Especially in regard to reconciliation participants differed: While some expressed their readiness to reconcile, others voiced ongoing anger and refusal.

There were few differences among the seven groups when analysed by region, gender or race. The group with the white participants differed most clearly from the others: For example, the issue of monetary reparations played a considerably less significant role - perhaps as an effect of economic stability. White participants differed also in how they perceived the role of the media: Both expressed high ease and deliberately used the publicity. Other than that, some groups accentuated some aspects more than others but still displayed a high level of inter-group variety (e.g., CT3 - a group with more politically active participants - discussed issues under a strong political viewpoint).

The results reported here only cover a sub-set of the themes that were discussed. Because participants related their experiences with the HRV hearings in the broader context of their interaction with the TRC, this analysis includes both actual proceedings of the hearings as well as some of the TRC's achievements and failures on a more general level. Results are organised by way of three main sections: 1) drawbacks and shortcomings 2) perceived benefits and 3) recommendations that can be derived for other truth commissions.

Drawbacks and shortcomings of testifying

Seven main issues of critique were identified. The issue that framed most discussions was "reparations": At the time when the focus groups were held - several years after the hearings - the commitment of the South African government to pay reparations was still unclear. This lack of clarity overshadowed the discussions, although participants' initial expectations about the hearings had centred clearly on truth, public acknowledgement and justice.

Reparations - "The TRC broke its promises"

The issue of reparations - mainly in monetary but also in symbolic terms - was the key theme for all but one of the focus groups. Many victims and survivors of human rights violations expected the TRC to provide monetary reparations in exchange for their participation in the hearings and for the granting of amnesty to perpetrators. This was particularly salient for persons who are impoverished, lost their breadwinner or their own capacity for making their living and providing for their dependants:

My child is crippled and they promised to help with her studies and her medical bills. ... It was difficult to take her to physiotherapy, as I have no money. I never even received that 2000 Rand they promised. The TRC has done nothing

for me. I also cannot work because I'm sick, I am owing in school fees and have huge medical bills. ... We were made to fill papers and we don't know what reparations we will get. The TRC has made me false promises and I don't trust it any more. (JB6)

Anything that will console you about the death of your child unexpected. This means you getting into your pocket and preparing for the funeral that was not expected and you do not know the reason why the child was killed. So that is the worst pain. It was going to be better if they are just giving us the compensation just to help us since we have done the funeral, just to pay for the funeral. You find that this happened and one does not have even a cent. (DB5)

The payment of reparations was expected to alleviate poverty and to help deal with the consequences of the violations. Participants felt that the TRC made a promise to them that it failed to keep. This perception was enforced by a phrase that the commissioners often used to conclude the hearings: "What can the Commission do to help you?" This question created expectations that it was within the Commission's ambit to directly respond to victims' needs, when the Commission's role was really limited to develop recommendations for the government and to provide urgent interim payments. The failure to communicate these limitations contributed to create expectations that were in many cases disappointed and eventually influenced participants' overall evaluation of the TRC process (which often started on a note of anticipation and hope). It crucially shaped how just or unjust victims perceived the TRC process to be.¹¹

Disappointed expectations - "I felt exploited horribly"

The failure to pay reparations resulted in grave disappointment and bitterness. It was perceived as act of disrespect, breach of trust and exploitation. Several victims felt that they fulfilled "their part of the deal" while the TRC failed to hold up its end. Others expected significant changes and improvement in their lives and found those hopes disappointed:

When I went to the TRC I thought we would see a big change in our lives. We thought we would feel better after telling people about our stories but we were wrong. Our health deteriorated after the testimonies and it brought us more pain. We knew the people who killed our husbands and we thought after we had met them there would be a big change or difference in our lives but we were wrong, we saw no change. (JB6)

Many victims also complained about the lack of justice in the TRC process, particularly in relation to how they were treated in comparison to the perpetrators: While the perpetrators did not visibly have "to pay for their deeds", the victims' lives did not improve. They often still lived in poverty exacerbated by the violations but without prospect for improvement.

When we were attacked in 1992 we were staying in these shacks and even now we are still staying in shacks. ... The strange thing is that people who attacked us were building houses right next to us and we were left with nothing. (JB6)

These people must be sent to jail. You find that their lives are going on, they

support their families and they live happily with their families. And we on the other side we lost our breadwinners and now we are not supported and we sometimes have nothing to support ourselves. I personally I do not have even a place to stay and these were the results of the death of my child. (DB5)

The sense of fundamental injustice of this situation was exacerbated by the stance of the perpetrators. Many of them did not show any sign of remorse, did not account for their deeds and told "only more lies":

And it makes me ill to think that these are the men that killed my child, but not one of them will put up their hand and say, they shot him. ... I asked the Truth Commission to tell me who shot my child. They were about 9 or 10 on the truck, and not one of them will say "I killed that child". Not one has admitted. (CT2)

And, I mean, it is very heartbreaking to think that he didn't also come to say "I am sorry. I did it". He has never come forward. He has said nothing. (CT2)

I went there with the intention to reconcile. They came there not willing to expose the truth or to reconcile. (CT3)

In some cases, participants' disappointment and sense of justice denied went so far that they voiced the impression that the TRC exploited them or was "on the side of the perpetrators":

And what I do not like is that on that moment of not being compensated, TRC is now taking side of our enemies. I feel like killing myself because TRC is on their side. TRC did not do justice. I do not like it even now. (DB5)

We thought they would provide us with the same privileges they provided the perpetrators with. We feel as if they don't care about us. They should have taken measures to improve our lifestyles, as we are all poor. We feel as if they don't care about us at all. (JB6)

Um, I think they should treat situations like this more sensitively and more personalised. Not treat us like we are some statistic. And not just shove us aside. Now we have been there, done that and move on. That is what they have done with us. And that almost creates a sense of bitterness to us as victims. I think that is what has put me off, personally. Even I was negative to come to this group today. Because, I felt exploited horrifically by the TRC. (CT3)

Truth - "The TRC did not finish its job"

The prime motivation to testify at the TRC public hearings was to "find out the truth". This theme was unambiguously voiced in all focus groups, regardless of other differences and heterogeneity.

When Yasmin¹² asked me what I would like to happen I only said I would like the truth to be unveiled around my son. I did not talk about money. I said I

would be happy if I knew who killed my son. If I could see them and they would say they shot my son dead, I would be satisfied. I was just hungry for the truth about my son's death. (CT1)

We want to get why did they kill our relatives and why were they not imprisoned. (DB4)

I needed the truth. ... I frankly wanted truth, reconciliation and justice. (CT3)

This priority of victims who testified in public corresponds well with the objectives that the TRC had when organising the hearings. Victims had high expectations of the truth finally coming to the surface. They felt that this was what they would get in exchange for forgoing their right to pursue prosecutions. Victims put a lot at stake: The exposure of their innermost feelings, in some cases their personal security, the risk of re-traumatisation. Yet in several cases, participants were not satisfied with "the truth" that emerged during the hearings: For example, the identity of perpetrators or informers was not revealed or there were obvious contradictions in perpetrators' accounts of the violations. Several victims claimed that the perpetrators were still lying or were shifting their responsibility onto others:

You'll first imagine the situation when this was happening and then you listen to the person's testimony and when you happen to ask more details from the person involved, he became very angry. And he will be saying this is what has happened and he does not want to say more. You must be thankful that he is telling you that he is the one who killed. And you can sense that the truth is not told, many facts are hidden or not said. You find that when one person has been convicted, then the others will just act as if the convicted one is the one responsible for everything. You find that the one telling the truth and others are just pointing fingers to that person. (DB4)

The missing truth created the sense that the TRC did "not finish its job" and that victims were "left hanging" by the TRC. On the level of scope, the TRC was also perceived to not have finished its job: Some participants criticised that the period for statement taking should have been prolonged, as many victims had not yet come forward with their claims.¹³

They said they would be going to each and every community. It was such a short time and the information was lacking. It is not everyone who listens to the wireless and the TV. When the people heard the hearing was at Gugs they would run there and then it would be only for one day and then it would be over. And again they would hear the TRC would be at KTC, then it would be over. (CT1)

Especially participants in CT3 emphasised that the TRC did not finish its job in regard to (economic) reconciliation:

I still think that the work of the TRC is still very unfinished because there is so much unfinished business in terms of reconciliation and about perpetrators not having apologised. Many of the people are in self-denial. (CT3)

I don't think of reconciling, at this moment in my mind, because there is too many lies. ... 90% or 99% of the white community has not asked for forgiveness. They haven't. So how can I go and reconcile, let alone the perpetrators. There cannot be no discussing of reconciliation in the country unless people in Camp's Bay and people in Bishops Court go to the people Nyanga and Gugulethu and Langa and Mitchell's Plain and Mannenberg and say "Your taxes was used, now I am going to plough back into this community". That is reconciliation. Otherwise, it is just talk, just cheap talk. The only people who are reconciling here are the disadvantaged. (CT3)

Investigations - "They did not really want to rock the boat"

Victims who were dissatisfied with the "amount of truth" tended to blame the Commission's investigative efforts: Either due to incapacity, "lack of passion" regarding the truth at stake or due to politically motivated unwillingness to "really rock the boat". In some cases victims pointed out obvious inconsistencies and contradictions that were apparently not followed-up by the TRC's investigators.

Poor communication - "I am still waiting"

The failure to communicate is perhaps the only criticism that was shared by all focus groups. Participants stated that once they had testified in public, they never heard from the Commission again. For example, participants were not informed about the progress of their cases, whether missing testimonies had been collected or whether perpetrators had been granted amnesty:

We don't know the truth, even after they were given amnesty we were never informed. ... Our lawyers had said they will come and give us feedback but that was not done, we only saw them getting amnesty on TV. (DB4)

They asked me at the time what I would like to see happening and I said I would like some kind of a monument and they said they'll get back to me and I'm still waiting. I think from that point I'm not saying there's fault with the process but one should be informed along the way that "We are busy with this and we will come back to you". I mean just something to say "We know you are still around". (JB7)

One participant reported that she had to make several calls to get information about her case. This made her feel like a petitioner rather than as someone entitled to be informed. The lack of contacting deponents and to provide them with follow-up information (e.g. regarding amnesty applications or reparations) is particularly essential upon considering that many of the victims are poor and uneducated. It is safe to assume that under these circumstances, there is a considerable inhibition threshold to organise information from "authorities" and to press the TRC about their cases.

Lack of debriefing and counselling - "We were left to see how we take care of ourselves"

According to the results of the focus groups, there was inconsistency in the provision of debriefing and counselling services to victims. The majority of the participants reported

they had not been offered counselling after testifying. Yet almost all of them said that testifying in public put them under considerable stress and in some cases triggered an emotional breakdown. A significant deterioration of the overall physical and psychological health after testifying was often reported: Traumatizing memories were brought back into the present.

If a person is giving all the details of how did they kill that particular person, so the picture of the person killed will come back to you at that particular moment. You will be imagining how was this person killed. (DB4)

Every since I went to the TRC my son got mentally affected. Even now when he thinks of it he cries and he wants his brother. They had already forgotten but going to the TRC brought it all back. I have also got ulcers since then. (CT1)

To some extent, the TRC anticipated such reactions and provided debriefing and counselling referrals. But these services were clearly not available for all deponents at risk.

They saw the pain we were going through and did not even attempt to help us. We had to relieve our sad experiences and most of us got sick after that, they did not even take us to doctors to receive medication. We were left to see how we take care of ourselves. They are the ones who asked us to testify after so many years, we were already forgetting what had happened and they reminded us of the events. (DB4)

It turned out to be the worst possible thing that happened to me to go and testify. Because after that, they told me that somebody would debrief me and there was nobody. My psychologist did not interview me because she thought that it was the TRC's role. The TRC thought that I am with my psychologist so that I would probably talk to her. (CT3)

Victims' individual abilities for coping and for accessing support structures differ: While people with a middle-class background may have the resources (knowledge, funds, thus opportunity) for counselling and psychotherapy, the situation was different for victims who live in poverty. Ironically, while both white participants (who can be qualified as belonging to the first group) were offered counselling, the majority of African or coloured participants reported not having received this offer.

Publicity of the hearings - "Going public makes you vulnerable"

Some victims participated in the hearings not only because they wanted to tell their story "to all of South Africa", but also because they wanted to contribute their "part of the truth" to history. They thus welcomed the presence of the media. This is particularly true for the white participants who both emphasised that the media coverage fulfilled a deliberate function for them:

I did not have a problem with that, I had something to say for the public to hear and I expected obviously the coverage. ... I felt being an ex-defense force member I had to make it clear that there had been victims of the so-called struggle from our side, people within the armed forces were caught up in the

opposites. I felt it was important to testify to try and give some balance to the proceedings. At that time there had not been that many so-called white people testifying It wasn't so much of a personal process but it was something I felt should be done, I somehow represented an element of the former South African Defense Force who had been disabled. (JB7)

Yet the publicity of the HRV hearings turned out to be double-edged sword, as they entailed serious consequences in some cases: E.g. loss of employment because a deponent's ANC-affiliation became known loss of privacy, fear of retaliation and conflicts within one's community.

Going public makes you more vulnerable because people know where you live, so that affects on the family too. So they had to deal with that. I had to deal with after darkness you become a lot more aware of noises, things like that. ... I had to deal with fear and the possibility that people may come around and did I do the right thing? (CT3)

I did comment about the broadcast on TV, this has brought trouble to us because people keep on asking different questions. They go to an extent of stopping us whilst walking on the street and ask about the benefits from the TRC hearing. (DB4)

The deponent becomes a "public person" and her or his experiences become a "public good" that is removed from one's sphere of control (e.g., availability of hearing transcripts, including names, on the internet; usage of people's stories in publications without prior approval). Feelings of exploitation and vulnerability resulted from this exposure:

I have been thinking about this for some time, that all these foreigners who came along and have written their books, done their PhD's etc on the backs of many victims. But they have not paid anything or given anything to the victims, not even taken them for a cup of tea, or lunch or a dinner or something like that. So, ja, I think there was a lot of exploitation during the whole process. (CT3)

One participant emphasised that there was not enough clarity about the structure of the TRC, its types of hearings and committees. Because of his participation in a HRV hearing, people in his community believed him to be a perpetrator ("they thought I was another Eugene De Kock or something"). In at least one instance the publicity of the TRC process resulted in a near-fatal incident: One participant related that a journalist marked him falsely as a police informer. The victim feared for his life, panicked and attempted to commit suicide.

While the TRC cannot be held responsible for this, participants' accounts provide a complex picture of the dangers inherent in conducting public hearings. To some degree this also talks to the ethical dilemmas of engaging in such an enterprise – the ethics of the Commission itself, as well as other actors (researchers, journalists,..) who engage with the testimonies once they have been revealed.

Benefits of testifying

Although victims criticised the TRC on many accounts, the analysis of the seven focus groups reveals three substantial benefits.

Disclosure of truth - "What I did not know I know now"

First of all, participants highly valued the disclosure of "the truth":

I would give another country advice to set up a TRC because they came up with the truth and things that were hidden away from the past. What I did not know I know now. It was public. A lot of things happened that we did not know about and overseas did not know about. I would recommend it to get the truth out. (CT1)

Victims who testified in public appreciated the value that the unearthing of the truth has, both on an individual as well as on the broader societal level.

I would also promote the TRC. We saw many bad things that were done to the people on the TV that were killed and buried and tortured. Other people were put in water and their bones were dug up. Things that were hidden and the police were the instigators. We saw things and people were crying about what happened to their people. (CT1)

Knowing what really happened and disentangling networks of lies and manipulations may constitute an essential part of "coming to terms" with the past. To make sense of the tragedies in one's life (as far as this is possible at all) or to reach a state of acceptance, some level of truth appears to be needed to ground this process on. "Closure" seems to be impossible as long as there is so little clarity about what happened:

We felt that he was part of the struggle, he had worked in Soweto and helped the people who killed him. I needed to know why and I had a lot of questions, that is the reason why I went to the TRC. Why him? ... We were not there and I needed to know. Listening to a couple of testimonies and talking to some people gave me a broader perspective on what happened that day. (JB7)

Learning the truth about the fate and whereabouts of loved-ones and about the motivation that led to the atrocities was of paramount significance to victims. What makes the quest for the "why" so important? Perhaps victims' need to explore and understand the reasons for the assaults and the (however perverted) logic behind them may help them to restore their sense of control and to overcome learned helplessness (Seligman, 1975). Understanding the perpetrator's reasons and finding a link for what caused the assault may help victims to claim back some of the power that they had lost. It may render them a tool to fight the feeling of being objected to complete arbitrary and thus uncontrollable actions.

Opportunity to encounter perpetrators - "I wanted to see those people"

The second benefit that can be identified was the opportunity to meet the individuals who committed the violations. Participants mentioned this as crucial to them, although such

encounters only happened in very few cases.

Being able to encounter the perpetrators within the setting of the TRC (i.e., under altered conditions of power and powerlessness, of right and wrong) may contribute to restore a sense of justice: It is a sign that the tides have turned. Former oppressors suddenly find themselves in need of accounting and explaining.

To me, this was also an opportunity to confront him. Without the threat of looking into the barrel of the gun. Because I did want to meet up with the guy that actually shot me. So I thought it was necessary for me to close that chapter. For me to have attended the TRC hearings, it was very important. (CT3)

Victims and survivors wanted to confront perpetrators with the consequences of their deeds: Suffering and pain.

I wanted them to see what they did to me. I was blinded after they shot me and they thought I was dead. I wanted them to see the pain I'm in, and how they destroyed my life. (JB6)

I was happy for the fact that at the end of it all I did see the killers even though all they were saying were lies and it was painful. I was happy that I have seen the killers. (DB4)

However, the quality of a victim - perpetrator encounter (whether it was eventually conducive or adverse to reconciliation) depended largely on the perpetrator's stance. Where the perpetrator remained in denial of the victim's humanity, it was merely a physical encounter, giving the victim the opportunity to see the perpetrator and hear his story. Yet where real encounters between two human beings took place (in the sense of the "I - Thou" encounter of Martin Buber (1997), based on the acknowledgement of the victim's formerly denied humanity and dignity, they were very powerful:

I felt that was a way in which the TRC...achieved something unique. ... As a result of the TRC hearings that kind of thing became possible. It gave me as a victim of the bomb blast an opportunity to hear his side of the story and try and understand the logic behind the bomb blast and also hear from the person behind it what were his feelings about it. ... I was pleased with what the TRC afforded me, to tell my side of the story and to hear the other side and also to reconcile with the person who changed my life so much. (JB7)

To achieve this deeper significance and perhaps to move even toward reconciliation, the perpetrator needs to face the truth of his actions and to recognise the humanity of the victim. This requires the courage to sincerely confront one's actions, to "endure the truth about oneself"¹⁴ and then willingness to experience insight. Yet these are deep psychological and spiritual processes that cannot be forced. At best, conditions can be created that support the emergence of truthful confrontation, acknowledgement and personal insight.

Two focus groups discussed in some detail to meet with the perpetrators in a safe setting,

guided and supervised by persons with moral, political or spiritual authority. The following quote illustrates the mixture of emotions accompanying this process:

Resp.1: I think it will be much better to have that meeting with other people listening. I must not be alone.

Resp.2: I can even try to kill him if we are just going to be together if it is going to be me and that person.

Resp.3: I'll just close the doors and do the same thing because my child was killed during the day in front of many people. So I'll do the same to him.

Mod: So you are saying you do not want them coming to you as individuals, then who do you expect to be there when you are having that reconciliation?

Resp.: People from my political party, a person from the government, the priest from my denomination, an elderly family member just to refer to for advice. It must not be at my home but somewhere else. (DB5)

Such mediated encounters were perceived as an opportunity to foster reconciliation in divided communities where former violations and transgressions still fundamentally affect relations. They were also perceived as measures to prevent future acts of revenge by sons and daughters of the violated.

I think Buthelezi and Mbeki should come to Boipatong and show the community that they are no longer fighting and maybe people will stop. We need to show our children that we are no longer fighting and shake hands with our former enemies. That will maybe open our children's eyes. (JB6)

While the TRC was seen as such a place where a mediated interaction could occur, only a few were given the opportunity to benefit from such encounters.

Telling one's story - "I wanted the world to know"

Persons who testified at the hearings deeply valued the opportunity to finally tell their story to the public:

My child was crippled in the attack and she was only 3 years old then, my fiancé died due to injuries he sustained during the attack. I wanted the world to know that these people were even killing innocent kids who knew nothing about what was happening. Children were not part of the war and they were killed and injured, so the world had to know about the evil deeds our attackers did. (JB6)

For telling one's story in public, four main sources of motivation were identified: To share one's pain and suffering, to gain public acknowledgement, to rectify lies and eventually to achieve closure and healing.

I testified in the TRC because I wanted to share my grief with everyone. My entire family was wiped out in the attacks and I thought by testifying I would feel better. I lost all my possessions in my house, so I decided to go and testify so that my story could be heard. (JB6)

It was very mixed emotions and it brought back a lot of memories about the day that happened. It was quite traumatic from that point of view and reliving the past is not easy in that situation. ... On the other hand, I felt a sense of not relief but a good feeling that this is out, it's in writing and his name has gone down in history books. It was like an achievement that he would be now acknowledged. (JB7)

Victims and survivors aimed to restore their reputation in the community and to clear the names the names of their loved ones:

I was there because the community I am living with was now looking at me as a bad person, and they lost trust in me. So I had to go to get the truth about whether did my son damage the railway line or not. The community did not accept me so ... I had to go to the hearing. I wanted my name to be cleared. (DB4)

Those victimised by the apartheid state had also been denied the right to tell the truth of their stories. The public hearings provided a forum for victims of oppression to rectify distorted versions of the truth and to gain public acknowledgement:

I think initially, it gave me a sense of - not relief, what is the word, inner fulfilment. It gave me a sense of fulfilment in that I was finally able to speak about that particular morning out in the open to people who would not shoot me, people who would not put me in jail, and people who would understand what I am saying. (CT3)

Martha Minow (1998) describes this effect as "restorative": The "clandestine nature" of violations by repressive governments also denies victims' stories and thus jeopardises their own memory and sanity. In contrast, speaking out in a setting where the experience is acknowledged can be restorative. A few participants perceived their public testimony as a means to "close this chapter" and to healing (compare Herman, 1992):

The reason why I decided to testify was that the incident in which I was involved left some emotional scars and to me, the TRC was a mechanism where I could address those scars. (CT3)

That day, after I testified, when I came off the stage, I cried. I am not really a person who can cry easily in front of people. It was just too much. I can't, I am always smiling. But I kept everything inside. I kept the pain inside for all those years. And when I went to the Truth Commission, I don't know, I just stood and cried and screamed. My husband said people could hear me outside the hall. ... The truth commission helped to some extent in that way. Since then, until today, I don't take the nerve pills anymore. (CT2)

Recommendations: Lessons to be learned from the TRC process

The final question that was asked in the focus groups was "If you were to advise someone from another country on setting up a truth commission, what advice would you give?" The analysis of victims' recommendations is organised on two levels: The first two conclusions

refer to the structure and organisation of public hearings with HRV victims. They are based on victims' concrete experiences. The remaining conclusions comprise general recommendations and caveats.

Sensitivity and integrity in dealing with victims

Because of deponents' prior experiences with victimisation and oppression, special emphasis should be placed upon how they are treated during hearings. Intimidating settings that may re-evolve memories of interrogations need to be carefully avoided. The majority of the focus group participants credited the TRC in this regard, although testifying in public was stressful to them. Victims need to be fully informed about what to expect at the hearing.

Ethical treatment: counselling

Testifying in public had a considerable potential for re-traumatisation. Thus it is crucial to offer counselling, as many victims and survivors are likely to need some form of support beyond basic assistance on the day of testifying. Such support should also be seen as an opportunity to confront traumatic experiences and to work through emotions that may have been buried for many years. Lack of access to counselling services (particularly due to economic inequalities) needs to be addressed to ensure that existing inequalities are not further exacerbated.

Clear information policy (before, during and after the hearings)

Implementing a clear information policy plays a crucial role. The ambit, tasks, responsibilities and limitations of a truth commission should be communicated to the public before the commission commences its work to avoid creating false expectations and to help directing claims to the right authority. Unequal access of the population to information (illiteracy, access to media) needs to be taken into account. Clarification regarding the commission's roles and structures may help avoid damaging the reputation of deponents, particularly where public appearances may be associated with stigmatisation. Another crucial aspect is the provision of follow-up information, e.g. regarding the progress of cases, amnesty applications or reparations. Also, limitations of resources to deal with individual cases should be communicated.

The avoidance of creating false expectations needs particular emphasis, as unrealistic expectations are likely to lead to renewed anger, bitterness and feelings of injustice.

Strong investigative forces

To live up to its mission to unearth "the truth", a truth commission obviously needs to be equipped with strong investigative powers. In addition to the legal basis and executive back up, investigators who are sufficiently funded and trained are required. This is vital to preserve credibility and to maintain victims' compliance with the process.

Mediated victim - perpetrator encounters

Victims' narratives show the significance of being able to confront the perpetrators in a safe

setting. Where possible, mediated victim - perpetrator encounters should be offered. With the TRC, this service was unfortunately not provided to all deponents in the hearings.

Promotion of victim support groups

While most of African and coloured victims and survivors who participated in the focus groups were connected with each other through community structures, white victims were not. They discovered that they benefited from the exchange with another victim (even within the meagre context of a focus group): Someone who has found a way to deal constructively with the past may help other victims to find a pathway out of the state of victimisation.

I know for a fact there are a couple of people that testified the other white victims of the Pretoria car bomb, who don't share my sentiments.... they are walking away from the TRC more bitter than before they have been able to talk about it. I think where the TRC could have played a significant role ... for example what is happening here today is the kind of thing that could have happened on a more formal way. ... I think I could have helped other people who are still bitter, angry, annoyed and life is terrible for the other victims of the bomb blast. (JB7)

Promoting victim support groups that are not racially grouped may have added value:

That woman whose husband was killed who was a colonel, might find it beneficial to talk to a woman of the same age whose husband was also killed in the blast but was black, who was a business man working on the street. She is just as much a victim but unfortunately the TRC did not bring the people together to share. (JB7)

Reparations

Finally, the issue of monetary reparations takes on paramount importance for impoverished survivors of violence - the majority of the South African victims. Not providing timely and adequate reparations endangers the credibility of the process. It fundamentally violates victims' sense of justice to see the lives of the perpetrators untouched by the transgressions while their own lives have been severely disrupted. To see the perpetrators gaining immediate benefits from the TRC in the form of amnesty while they have to wait a very long time for reparations fuels their perceptions of the process as biased and unjust. However, reparations are a sensitive and ambiguous topic as some victims and survivors may perceive them as cheap effort to buy-off guilt and pain.

Justice can be understood as a dynamic process aiming to recuperate a state of equilibrium. It tries to balance that, which has been unbalanced. Hence, an action that violates the balance calls for a restoring action of some sort. It depends on the collective societal and cultural understanding which actions are considered violations and which actions are considered appropriate to restore the balance. Victims' emphasis on reparations may also be an expression of this inner sense of justice: Where harm has been done, a restorative act is demanded.

Personal Reflection on the HRV Hearings from an Austrian Perspective

By conducting public hearings, the TRC pursued several goals as outlined in the [Promotion of National Unity and Reconciliation Act](#). Among these were to create a forum for public storytelling and the recognition of wrongs, to restore the human and civil dignity of victims and thus to contribute to healing and reconciliation. Were these objectives achieved? And if so, was the price too high for victims and survivors who participated in the public hearings?

In spite of the credits that the TRC and the public hearings received by some participants (e.g. for "getting the truth out", the integrity of the commissioners, the cathartic effect of narrating one's story) there were many strong criticisms. These were voiced in regard to the organisation and settings of the HRV hearings and to the justice of the TRC on a more general level. The South African government's delay in finalising reparations for victims overshadowed and shaped the discussions in several focus groups.

The data analysis shows that the HRV hearings' first function - to provide a public space for storytelling and recognition - was achieved for most participants in this study. Whether the "human and civil dignity" of victims has been restored, and whether "healing" has been achieved is too simplistic a question. Restoration and healing are long processes that involve many different factors. While some victims saw the process as clearly beneficial or harmful, most experienced it as a very mixed blessing.

Many countries across the globe need to solve a similar dilemma as South Africa: to develop transitional processes that balance a compromise for "the greater societal good" with victims' individual rights. Whether this balance has been achieved by the TRC cannot be answered here.

However, beyond the level of the individual - which was the focus of this research - there are two more levels on which the tool of public hearings should be considered, particularly if viewed against the backdrop of alternative ways of dealing with a legacy of violence and human rights violations. Individually, public hearings offer victimised persons the opportunity to tell their story, to receive public acknowledgement and thus perhaps they contribute to healing. On the state level, the TRC approach has symbolic power - it exemplifies fundamental values that the state adopts. By establishing an official body that carries the ideals of "truth" and "reconciliation" in its name and its mission, a clear statement has been made by the new South African republic. On the societal level, public hearings challenge the members of a society to face the truth about their past. This means disclosure, confrontation and discussion instead of the cultivation of a collective "hidden history". The need for a process that addresses the societal level and deals with public memory and consciousness is particularly well illustrated by the country where I was born and raised, Austria. The South African way is in sharp contrast to how the past has been handled in my own country.

As in Germany, the (symbolic) process used to deal with the past were the Nuremberg trials, implemented by the Allied Forces ("victor's justice"). Austria also went through denazification¹⁵ and from this point on considered itself purged of its horrific past. For decades, a mainstream agreement ruled to "let sleeping dogs lie" and to "let bygones be bygones". This agreement was fortified by the creation of the collective myth and shared

self-understanding: "Austria was the first victim of Nazi-Germany". A collective "layer of silence" covered the past and specifically the roles Austrians played in the Hitler regime.

This self-understanding prevailed for many years and was for the first time efficiently challenged in 1988, when a wide range of educational and cultural activities was organised in remembrance of 1938. It was only then that a senior government representative¹⁶ officially acknowledged Austria's role as perpetrator and apologised to the victims. An official and thus far-reaching process of facing the truth on the national level had - until that point - never been undertaken. This late step of public acknowledgement stirred-up strong reactions and heated discussions. It eventually led - to a certain degree - to breaking the collective silence. In a telling German phrase, the generations born after the Nazi regime are said to "fall under the blessing of the late-borns". Yet the subtle but powerful effects of collective denial to face the truth still affect these generations to date (compare Heimannsberg & Schmidt, 1993; Schlink, 1995).

Bearing this contrast in mind, I perceive the South African choice to publicly confront its past as an important human development, while also acknowledging doubts, criticisms, disappointment and anger in regard to the TRC. I perceive the Truth and Reconciliation Commission as an endeavour to arrive at a far- and deep reaching change of a nation's self-understanding on the collective level, a process that Austria failed to go through for a very long time. This process may be essential to build a more humane present, based on the capacity to face the truth and to account for the past.

Notes:

¹ For a comprehensive and critical reflection on the TRC from various angles see: Villa-Vicencio, C. & Verwoerd, W. (Eds.). (2000). *Looking back reaching forward. Reflections on the Truth and Reconciliation Commission of South Africa*. Cape Town: University of Cape Town Press.

² The design and implementation of the study was a collaborative effort of a number of individuals and organizations, most particularly Carnita Ernest (Centre for the Study of Violence and Reconciliation), Shirley Gunn (Khulumani Western Cape), Duma Khumalo (Khulumani Johannesburg) and Nike Durczek (KwaZulu Natal Programme for Survivors of Violence).

³ I am aware of the discussion whether the term "victim" or "survivor" is more appropriate. Yet in accordance with the TRC's phrasing I decided to use the term "victim" in most instances in this text.

⁴ Source: Homepage of the TRC: <http://www.doj.gov.za/trc>, June 7th 2003.

⁵ The focus of this study was on victims who testified in the general HRV hearings and in the event hearings (another benchmark in the TRC process were the public Amnesty Hearings with perpetrators, organised by the TRC's Amnesty Committee).

⁶ The [Promotion of National Unity and Reconciliation Act](#) (July 26th, 1995, No. 34)

constitutes the legal basis for the Truth and Reconciliation Commission, its mission and ambit and defines principles and procedures for the Commission's composition and work.

⁷ <http://www.doj.gov.za/trc/trccom.htm>, June 7th 2003.

⁸ Persons declared to be victims were eligible for reparations. Another committee of the TRC (the Reparation and Rehabilitation Committee) had the task to develop recommendations regarding the nature (e.g., symbolic or monetary) and extent of reparations.

⁹ Promotion of National Unity and Reconciliation Act, 1995, Chapter 2, 3. (1) c. <http://www.doj.gov.za/trc/legal/act9534.htm>, June 7th 2003.

¹⁰ Focus groups were conducted in Zulu, Xhosa, Sesotho, Afrikaans and English.

¹¹ The South African president Thabo Mbeki (ANC) eventually issued a statement to parliament on April 15 2003, committing to a once-off grant of R30 000 to individual victims designated by the TRC. This contrasts with TRC recommendations that suggested a total amount of about R120000 to be paid over a six-year period.

¹² Commissioner Yasmin Sooka.

¹³ The following information corroborates this perception: "Khulumani Western Cape membership figures are currently at 2900. Only 4.9% of the total membership went to the TRC to make statements" (Source: E-mail communication with Shirley Gunn/ Khulumani Western Cape, November 8th 2001). It receives further support by the statement of a former South African police officer who preferred to remain anonymous: "What you can see at the TRC (*i.e. reports about human rights violations*) is nothing but a drop in the ocean" (personal conversation in Johannesburg, November 2001).

¹⁴ Quote by Alexander Mitscherlich (address at the opening of the Sigmund Freud Institute).

¹⁵ A measure intended to "cleanse" all influential and public positions off persons with an official Nazi record.

¹⁶ Chancellor Franz Vranitzky, Austrian Social Democratic Party (SPÖ).

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