

[Claire Moon](#)

## Narrating the present: confessional and testimonial truth-telling

### Book section

**Original citation:**

Originally published in Moon, Claire; *Narrating political reconciliation: South Africa's Truth and Reconciliation Commission*. Lanham, USA, Lexington Books, 2008, pp. 91-114.

© 2008 [Lexington Books](#)

This version available at: <http://eprints.lse.ac.uk/3258/>

Available in LSE Research Online: April 2008

**This material is still protected by copyright. All rights reserved. Please contact the publisher for permission to copy, distribute or reprint.**

LSE has developed LSE Research Online so that users may access research output of the School. Copyright © and Moral Rights for the papers on this site are retained by the individual authors and/or other copyright owners. Users may download and/or print one copy of any article(s) in LSE Research Online to facilitate their private study or for non-commercial research. You may not engage in further distribution of the material or use it for any profit-making activities or any commercial gain. You may freely distribute the URL (<http://eprints.lse.ac.uk>) of the LSE Research Online website.

This document is the author's submitted version of the book section. There may be differences between this version and the published version. You are advised to consult the publisher's version if you wish to cite from it.

## Chapter Four

### *Narrating the Present: Confessional and Testimonial Truth-Telling*

And ye shall know the truth and the truth shall set you free.

St John 3:32. Frequently quoted at TRC hearings by Commissioners and deponents and at prayers opening the daily hearings. It became a maxim of the TRC's work.

Truth does not belong to the order of power, but shares an original affinity with freedom: traditional themes in philosophy, which a 'political history of truth' would have to overturn by showing that truth is not by nature free. . . but that its production is thoroughly imbued with relations of power. The confession is an example of this.

Michel Foucault, *History of Sexuality: Volume 1* (London: Allen Lane, 1978).

The previous chapter discussed the ways in which the TRC reconstructed South Africa's violent history. Part of this argument drew upon the discussion in chapter two that elucidated the way in which South Africa's past was constructed and narrated around the, allegedly 'objective', notion of a human rights violation rather than, for example, narrating a history that culminated in a successful just war of opposition, or revolution, drawing the conclusion that, once translated into the work of the TRC, human rights discourse had the effect of reducing South Africa's violent history to a series of gross human rights violations that was, partly, stripped of its broader context. Two problematic effects of the TRC's casting of this history emerge. First, the TRC reduced the totality of

apartheid violence to a political contest from the 1960s onwards within which gross violations of human rights were posited as the main objects of enquiry and violations perpetrated with a 'political objective' the central moral problematic. Second, by evaluating violations perpetrated by all parties on the same grounds (by using a decontextualised taxonomy) the TRC, arguably, permitted a moral equation between those who perpetrated acts of violence in the name of apartheid, and those who perpetrated in opposition to the regime.

This chapter takes up the second part of the TRC narrative, moving on from its historical reconstruction of apartheid violence to its narration of the transitional present. The TRC narrated this present through the technology of the confessional, a process through which the nation was to be purged or cleansed of the 'sins' of its violent past in order to found a future reconciliation. The hearings, quasi-tribunal in nature, constituted the public site of this confessional and brought together the various narrative accounts or truths of the key protagonists of the reconciliation story. From 1996 to 1998, South Africans were exposed on a weekly and sometimes daily basis to public revelations about their violent past. The South African Broadcasting Corporation gave generous television and radio broadcast time to the TRC producing the 'Truth Commission Special Report'. This was televised regularly to a large audience and drew in more viewers than some of the most popular South African soap operas during the first few months of its transmission. More than one million listeners tuned in to Radio Zulu, which produced a weekly update on the TRC. Those who watched and listened were subjected to tales of extreme brutality: tales of routine and calculated killings and abductions carried out by agents of the state against its 'opponents' and 'ordinary citizens'; stories of corpses without hands, cut off to prevent identification; accounts of the necklacing of alleged informers in the townships in which a tyre filled with petrol was placed around the neck and set alight; and the haunting specter of the torturer's 'wet bag', a technique developed and perfected to extract confessions from captured anti-apartheid agents. Week after week, torturers, killers, and rapists 'confessed' their crimes and 'acknowledged' their guilt to the TRC, sometimes breaking down as they spoke. Some radio listeners complained that they did not like to mix 'blood with breakfast', but many were equally captivated by the ever-accumulating macabre revelations (Krog, 1999: 76).

The public ceremonial at which these stories were told interpellated and disciplined the new political subjects of South Africa, constituted 'truth' as the prime object of the confessional and conferred a moral authority upon these subjects and objects before a national audience. Within this public context, the confessional narrative, crucially, structured the testimonials within a *present morality tale* about South Africa's past which sought to instill repentance and remorse in the confessing subject, the perpetrator, as a necessary preliminary to the concluding narrative episode: reconciliation. This chapter takes on the task of exploring the workings of power in the confessional, and the subjects (victims and perpetrators), and object (truth), of the confessional discourse.

## The Confessional

The legitimacy of the ceremonial of truth in South Africa was constructed in part through a series of official declaratory statements that served to establish and enforce the norms within which the TRC would come to operate. An important early example of this is Tutu's inaugural speech at the first meeting of the TRC on 16 December 1995, a date that now carries the annual memorial function of 'Reconciliation Day' in South Africa, and at which Tutu declared that the principal function of the TRC was to promote the 'healing of the nation'. He explained that healing could only begin once the disclosure of 'painful truths' about the past had taken place. Tutu sought to legitimize his statement, behind which lay the by now incontrovertible amnesty agreement, by invoking the diametric specters of the inquisition and the confessional in Christian history and tradition. Tutu stated that this truth-recovery process was not going to be a 'witch-hunt' and that it was not going to be an inquisitorial body 'hell-bent on bringing miscreants to book'. By contrast, Tutu argued, the TRC was going to constitute a sacramental ritual of 'contrition, confession, and forgiveness' which would contribute to a 'corporate nationwide process of healing' (Tutu, 1995).

By implication, within the TRC's discursive field and the parameters of the narrative it sought to tell, there were no 'evil miscreants' to be brought to account and duly punished. There were only potentially penitent souls who were willing to yield their truths at the behest of the TRC. By stating that the TRC would follow a confessional model, Tutu implied that the legitimacy of the TRC's work would not rest upon the forcible (legal?) extraction of truth, but only upon 'freely' produced truths. However, Tutu's declaration conceals the play of power entailed in the 'free' confessional truth as opposed to the 'forced' inquisitorial truth. A critique of this simple opposition is facilitated by a consideration of Foucault's work on the confessional, which argues persuasively that power is just as present, although less visible, in confessions that appear to be freely given, as in those that are violently extracted. He writes:

One confesses—or is forced to confess. When it is not spontaneous or dictated by some internal imperative, the confession is wrung from a person by violence or threat; it is driven from its hiding place in the soul, or extracted from the body. Since the Middle Ages, torture has accompanied it like a shadow, and supported it when it could go not further: the dark twins (Foucault, 1978: 59).

Tutu's bifurcation of inquisition and confessional would not convince Foucault because his analysis, by contrast, suggests that the 'spontaneous' confessional is haunted by the historical relationship between torture and truth, an account of which lays bare the 'free' confessional as a model of power. The effect of an application of Foucault's argument is to militate against Tutu's assertion, and by implication the stated assumptions of the TRC: that a 'confessional' truth is freely rendered.

## Spectacular Power

In *Discipline and Punish* Foucault charts the development of disciplinary society from the pre-Enlightenment ‘great spectacle of physical punishment’ which entailed drawn-out torture and execution. Foucault charts the ways in which the spectacle was gradually displaced by more systematic and bureaucratic methods of social control over individuals, and how discipline became manifest in modern penal practices such as prisons and penitentiaries that relied not upon the spectacle of sovereign power to compel submission, but upon the invisible workings of systems of surveillance and control.

To illustrate the trajectory of this shift, Foucault begins the book with a frequently cited gruesome anatomy of the public torture and execution of Damiens the regicide in Paris in the mid-eighteenth century. He notes that the stability of the sovereign truth—the truth to be produced at the public confession—was partly secured by the *prior private* interrogation of the subject during which the initial confession was extracted. By the time the subject reiterated the confession publicly, he or she had been *already* scripted violently into the sovereign truth *prior to* its spectacular reproduction. The public spectacle thus represented the site of *reiteration* of the ‘confession’ already solicited, and it constituted the subject as the living embodiment of an official discourse which had been reinforced and stabilized by its previous private ‘rehearsal’ which was then re-enacted in the public realm.

Foucault’s description is directed towards the analysis of two functions of spectacular punishment. First, Foucault is keen to show how torture works to produce a confessional ‘truth’ from the site of the agonized body, and secondly and more importantly to this analysis, he endeavors to demonstrate the way in which torture inscribes sovereign authority directly onto the body of the subject, a practice that simultaneously constitutes the criminality of the subject. The body of the condemned constitutes the location of the exercise of sovereign power first, in its subjection to its punitive instruments, and secondly through yielding the ‘confession’. The confession entails a further level of subjection in that the ‘correct’ or only acceptable confession merely reproduces the truth of the sovereign.

Foucault notes, however, that in spite of its tremendous force and horror, the torturous performance of power was not always seamlessly successful. The diary of Bouton, a witness of Damiens’ execution, provides Foucault with a source of the various and grisly failures of this exercise of power which threaten the authority of the sovereign in whose name the spectacle is publicly delivered. Bouton’s diary records how Damien’s flesh failed to burn properly, and that his drawn and quartered body resisted its dislocation. Damien’s body thus becomes a metaphor for the failure of sovereign authority. For Foucault, the body might provide the site of articulation of sovereign power, but it is also just as likely to become the site of resistance to it, a repudiation of its intended awe-inspiring and pedagogical exercise. Importantly, the occasional failure of torture to render total the subordination of the body also allowed for the transformation of criminals

into heroes by spectators, their resistance speaking to and for those who might privately oppose sovereign authority (Foucault, 1977: 60–62).

For Foucault, the failure of the spectacle of punishment and its eventual transformation was attributable ultimately to its inability to deliver a secure and stable public lesson, a failure which is, I think, evident in Benzien's confession discussed in previous chapters and, as discussed later in this chapter, that of Winnie Mandela. On Foucault's account, the 'guilty' who managed to resist torture could be elevated to 'heroes' whilst others might 'confess' quickly in order to escape the excruciating treatment. As such, the veracity of the truth produced under duress was ambiguous rendering the subject of criminal discourse uncertain.<sup>1</sup> As Foucault documents, one of the prime consequences of this was that public punishment was subjected to a number of transformations towards the end of the eighteenth century during which time punishment became dependent upon the perceived necessity for a 'rational' calculation between the crime committed and the punishment apportioned. Thus the spectacle of excess, furnished by public executions, gave way to the principle of a rationally calculable punishment which purported to be proportionate to the crime committed. However the latter, crucially, retained the function of civic instruction in common with the spectacle through the moralizing principle of 'just deserts', which reflected the careful calibration of punishment in accordance with the crime. As such, the exercise of sovereign authority assumed a 'just' and 'rational' character and disposed of its overtly violent one, a shift that provided a new foundation for its legitimate execution which was now thoroughly predicated not upon torture, the 'art of unbearable sensations', but on the 'economy of suspended rights' (Foucault, 1977: 11).

Foucault captures the shift in punitive practices from the spectacle to modern systems of control, epitomized by the prison and penitentiary, by invoking Jeremy Bentham's panopticon as metaphor for the disciplinary society. The panopticon was a design for prisons in which inmates would be disciplined by the gaze of an invisible and anonymous administrator situated at the centre of the panoptic structure (Foucault, 1977: chapter three). Thus 'rational' social control came to be predicated upon constant surveillance and control rather than upon the sudden violent appearance of sovereign authority. This shift in punitive practices might be understood as an inversion of the logic of the public spectacle of punishment—this entailed a linear sequence of private interrogation followed by a public execution. By contrast, the modern ritual of truth inverts this relationship because it makes public the legal practice of interrogation (truth production), and makes private, or concealed from public view, the punishment of the 'guilty subject'. The search for truth and the final declaration of guilt or innocence thus displaces the historical spectacle of punishment which is now instead relegated to the private domain. Instead, the interrogation is now public and punishment private. Foucault makes a trenchant political point about this inversion because he argues that the now public character of the tribunal (the 'interrogation') makes a claim to legitimacy on the basis that it appears accountable to scrutiny by its audience (the 'general public'), in whose interests it claims to work.

The principle effects of this modern shift are twofold. First, it serves to constitute the regime as rational, deliberative, and considerate. And second, in the absence of violent spectacular power, the ceremonial of truth relies for its effectiveness upon individual discipline. What this means is that regimes of truth are profoundly pervasive, such that legal subjects and onlookers are internal to the discourses of power. As a result they reproduce the truth of the regime to the extent that they are self-regulating which, in turn, nullifies the necessity of a violent power display. Foucault's history marks this historical shift from practices of chastisement of the body to an emphasis on incarceration and reform which was designed to emphasize the restitution of the subject as its central function. This, Foucault argues, marked the 'entry of the soul on to the scene of penal justice' (Foucault, 1977: 24). Foucault's general purpose in marking this historical shift is to chart the development of disciplinary society in which individuals become largely self-regulatory to the extent to which they are constructed within and speak 'freely' to dominant social and political discourses or narratives.

### **Demonstrating Humanity**

The self-regulating workings of disciplinary society and its relevance to the TRC are made apparent by a consideration of Foucault's account of the confessional, a historical procedure for the production of truth and through which the confessing subject was constructed as being in possession of a 'soul' (Foucault, 1978: 57).<sup>2</sup> Foucault correlates the rise of the confessional (as one of the primary rituals of truth production) with the decline of 'accusatory procedures in criminal justice', amongst which he lists the Inquisition (Foucault, 1978: 58). Foucault argues that concomitant with this rise was the evolution of the *avowal* in which individuals were no longer attested for by the references of others, but were beseeched to vouch for their own 'authenticity' through veracity of their declarations. As such, he or she was 'authenticated by the discourse of truth he was able or obliged to pronounce concerning himself', the result of which was that 'the truthful confession was inscribed at the heart of the procedures of individualization by power' (Foucault, 1978: 58–59). The confessional thus seeks to establish a fundamental relation to truth through the process of self-examination.

The confession, Foucault notes, is now located within Western discourse as a highly valued and meaningful strategy of truth production and has pervaded a variety of social formations from medicine to education, to the family and to intimate relations such that in general, 'western man has become a confessing animal'. The confessional imperative, both in political life and in popular culture, is arguably even more powerful today than it was at the time of Foucault's writing:

The obligation to confess is now relayed through so many different points, is so deeply ingrained in us, that we no longer perceive it as the effect of a power that constrains us; on the contrary, it seems to us that truth, lodged in our most secret nature, 'demands' only to surface; that if it fails to do so, this is because a con-

straint holds it in place, the violence of a power weighs it down, and it can finally be articulated only at the price of a kind of liberation (Foucault, 1978: 60).

With these lines, Foucault points us to the invisible workings of disciplinary society, showing why we fail to see the locus of disciplinary articulation because it has undergone such a profound shift and has become so internalized to our everyday conduct and interactions. The command of the sovereign has become deeply entrenched within the bodies, the habits, the customs and rituals of those—all of us—subjected to the particular and invisible workings of power.

The confessing subject is made powerfully present by the ritual of the confessional, because it features the speaking subject as the subject of the truth disclosure. Simultaneously, the confession constructs a power relation between the confessing subject and the other towards whom the confession is addressed. It is dependent upon the presence, or virtual presence of another, an authority who demands the confession, who either punishes, forgives, or reconciles in return, and who represents the 'agency of domination' to which the confessing subject is subordinate (Foucault, 1978: 62). The confession is a discursive ritual that is an *outward* manifestation, or rather performance, that seeks to represent an *inner* change on the part of the confessor where the act of producing the confession itself 'exonerates, redeems, and purifies' the subject. It promises salvation (Foucault, 1978: 62).

In sum, and in contrast to Tutu's assertion that spectacular power (the 'witch hunt') and confessional truth do not bear comparison, Foucault shows us that there is in fact a relationship between past spectacular power, through which the presence of sovereign authority used to be manifest violently, and the present practice of the confessional, which subsumes and hides the presence of authority, the direct workings of power, but does not do away with it.

However, as with the spectacle of public torture, the confessional does not always render complete the supplication of the perpetrator, as the testimonies of Jeffrey Benzien to the TRC illustrate most powerfully. Benzien was adept at aping the discourse of forgiveness and the posture of remorse, such that he subverted the very story about remorse and repentance on behalf of the perpetrators that the TRC was attempting to generate. Benzien stated in his public deposition that he was grateful that certain victims named in one of his amnesty applications had agreed not to oppose him in his application for amnesty. He said 'we are now all on the same side. . . it is now reconciliation, forgive and forget at its best'. However, in giving his account of the 'wet bag' torture technique, for which he was famous, Benzien reported, at odds with the style of the confessional and perhaps with some satisfaction, the 'efficiency' of his work. He stated that his technique was so successful that victims usually 'broke' in under thirty minutes. Benzien's account is subversive. In turns it wittingly deploys the language of forgiveness and reconciliation to frame his past actions—'life is precious, and based on today's political situation of reconciliation his (Ashley Kriel's) death was unnecessary'—and at the same time certain slippages occur where he professes to have been a patriot of the old South Africa, and, arguably, displays a certain professional pride in his work as a torturer. Benzien even



claims victim status as his own: 'the African Youth League threatened to have demonstrations on my front lawn. . . I did terrible things to members of the ANC, but. . . I have also suffered. . . I have also been a victim.'<sup>3</sup>

Indeed, the amnesty provision itself provides any applicant with the justificatory discourse within which an application needs to be framed, and on a radical reading, one could argue that it provides the *justifications per se* for past violence, that Benzien utilized to such dramatic, and to some, appalling effect. The sincerity conditions of the confession are in fact undermined by the promise of amnesty offered in exchange for confession. Such an incentivized confession gives the lie to the possibility that there is genuine remorse animating its performance, and the confession is thus undermined by its unequivocal instrumentality.

### The TRC as Confessional

For the first six months of the public hearings the Commission only heard the testimonies of the victims, but the longer these went on the need of the audience to hear the second narrative, that of the perpetrator, intensified. Krog, a journalist who followed and reported upon the hearings in detail wrote of the sense of expectation that she shared with other participants in the process, 'it had better be good' she states, it had 'better be powerful' and 'it had better display integrity. . . grief and bewilderment' (Krog, 1999: 56). Krog's account reproduces the general demand, generated by the TRC, that perpetrator confessions ought to be delivered with an appropriately remorseful attitude in order to fulfill the conditions, indeed expectations, of reconciliation. In order to meet the requirements of the confessional the deponent had to accept a charge in a suitably regretful manner, display subordination to the authority of the confessor and judge, the TRC, and ask for forgiveness from the named victim or victims. Any disturbance of these confessional presuppositions threatened the plausibility of the public confession.

Sometimes, Krog avers, the second narrative *did* sound good, such as Eugene de Kock pleading that he had just been following orders and that his orders 'came right from the top. . . from the President' during his time in command of the infamous Vlakplaas death squad. He ended his testimony with an apology. But frequently, perpetrator narratives completely failed the confessional imperative. They were not delivered in an appropriately remorseful tone. The condescending confession of General Deon Mortimer was a good example. Mortimer gave evidence about the security force assault on ANC facilities in Matola, launched in retaliation for ANC car bomb attacks on Air Force Headquarters in Pretoria in 1983.<sup>4</sup> Krog records the contempt with which he used the word 'terrorist', and the 'relish with which he pronounces the words "ban" and "unbanning"' (Krog, 1999: 57). Mortimer's account provoked the Commissioner, Reverend Khoza Mgojo, to respond as follows:

In this presentation I see self-righteousness and self-justification . . . There is

nothing as a sign of confession as I said before. We need to use an approach of confession and sorry. . . this to me is depressing because if you are writing history bringing reconciliation we need to be honest so that we can be sure of what we have done. So I need to say that I am very disappointed about that and again what has disappointed me most is that in this chronology of operations there is nothing said more, I see statistics when this is dealing with other organizations such and such thing happened, so many people, etc. but when you come to for instance the raids of Lesotho and Mozambique is not only the, it is very. . . ANC operation destabilized. People died there. There are tombs, funerals there and people are crying they miss their loved ones who are buried there.<sup>5</sup>

Mortimer refused in his account to be conditioned by the reconciliatory truth the TRC wanted to tell. He refused to adopt the lexicon of remorse as the narrative framework of his own account of past violations.

Sometimes the confession was equivocal, it was more complex than either a simple fulfillment or repudiation of the confessional. Krog reported that Winnie Mandikizela-Mandela consistently responded to the TRC's accusations of her own culpability with cries of 'ludicrous' and 'ridiculous' (Krog, 1999: 391). Tutu finally made a lengthy entreaty in which he appealed to Mandikizela-Mandela's 'greatness' and begged her to ask forgiveness for her past actions:

I speak to you as someone who loves you very deeply. Who loves your family very deeply. I would have said to you, let us have a public meeting. And at that public meeting for you to stand up and say there are things that went wrong. . . There are people out there who want to embrace you. . . I beg you, I beg you, I beg you please. . . You are a great person and you don't know how your greatness would be enhanced if you were to say sorry, things went wrong, forgive me. I beg you.<sup>6</sup>

Winnie Mandela finally suggested that it was just possible that the Mandela United Football Club had taken its authority too far, with violent consequences: 'things went horribly wrong and we were aware that there were factors that led to that. For that I am deeply sorry'. However, her confession was, generally, not considered to be heartfelt. Whilst her actual words fulfilled the condition of the confession, Mandikizela-Mandela's attitude did not, much to the outrage of the onlookers, and in particular the victims. Krog protested 'she didn't mean it! She simply aped the words Tutu put in her mouth—she aped it for the benefit of international media coverage!' (Krog, 1999: 392). However, as Veitch has argued, 'aping' the words of the TRC was much more likely to secure amnesty, and those perpetrators adept at this, like Benzien, were more likely to be successful in their applications (Veitch, 2001).

These examples of conformity to, and disturbance of, the confessional model of power point to a further level of constraint that is imposed by the internal narrative structure of the confession. The processes intrinsic to the confessional are linked in a linear and causal way, starting with the 'recognition' of a concealed or repressed 'truth' and ending with a regretful admission of accountability. An audience feels deprived, as in the case of Mandikizela-Mandela, if the confession fails to fulfill the expected narrative trajectory because this, accom-

panied by the correct attitude, represents the outward sign that the inner transformation of the soul has taken place.

The TRC constituted an extraordinary public model of confessional power. As a political procedure it utilized the confessional as a means of producing the truth about the past, and through which the confessing subject—the perpetrator—was constructed as being human being in possession of a soul. It also sought to establish a fundamental relation to truth through the process of soul-searching and revelation, but it simultaneously concealed the powerful source of the truth reproduced because the structure of the confessional is predicated upon, indeed relies for its veracity, upon rendering the impression that the confession is freely and spontaneously produced. However, it is striking that whilst the TRC conformed strongly to Foucault's confessional paradigm in which the direct workings of power are invisible and subjects appear to be self-regulating, it also retained some features of spectacular power. Notably, the stability of the truth produced at the hearings was partly secured by the prior private process of testimony solicitation by the TRC, which organized and synthesized testimonies through its Infocomm system, as previously discussed. By the time the selected confession was re-articulated in the public domain, it had been thoroughly conditioned by the truth regime of the TRC, which had been imprinted during 'private rehearsal'—the testimony solicitation process—prior to its spectacular reproduction. The public spectacle served to reiterate and reinforce the truth of the Commission, constituting the perpetrator as the living embodiment of the official discourse, thus doubling the voice of the regime. In addition, the public spectacle was used in order to perform and compel the truth of the regime, of which the visual semiotics of the hearings is evidence. During the victim hearings for example, seating was arranged to make sure that the victim was positioned at the same level as the panel of Commissioners by way of deconstructing the usual hierarchies of the court in order to reflect the privileged position that the TRC accorded to victims, and to serve the therapeutic function for victims of 'being listened to', rather than being instrumental to, the proceedings.

In spite of some similarities with spectacular power, it is important to emphasize here that at the TRC it was the soul rather than the body that constituted the site through which truth was articulated, and subjection to the sovereign narrative of reconciliation actualized. The public character of the TRC concealed the extant workings of power in that the TRC was made to appear accountable to examination by those whom it purported to serve. The effect of this was to constitute the TRC as perspicacious, judicious and considerate. The confessional conceals the more direct and forceful workings of power as it appears to spring from an inner impulse on the part of the supplicant, rather than being imposed from without. The confessional presents itself as 'the infinite task of extracting from the depths of oneself, in between the words, a truth which the very form of the confession holds out like a shimmering mirage' (Foucault, 1978: 59).

The doubt with which Winnie Mandela's confession was met seems to point to the failure of this working of power, because at this moment power was made transparent, and for the confessional to appear spontaneous the workings of power must remain invisible. Tutu's entreaty thus seemed to make visible the

truth regime of the TRC. Whilst it would have been politically unwise for Mandela to repudiate Tutu's appeal, her positive response cynically reproduced the truth of the Commission and revealed her own replication, as a hollow imitation, of the TRC's truth claims. However, what is interesting here is that this failure was perceived, by spectators such as Krog, as being Mandela's failure rather than that of the Commission. That Winnie Mandela failed properly to confess, to show sufficient regret, to wholeheartedly enter into the reconciliatory process did not reflect negatively upon the TRC but upon her own disposition and character.

The truth regime of the TRC scripted not only its direct subjects into the state narrative, but also those who participated in the various audiences, either at the public hearings or the many televised and radio broadcast bulletins. Immediate subjects and onlookers were made internal to the discourse of power by virtue of their participation in the production of confessional, either as confessors or as adjudicators of the 'authenticity' of the confession. However, the confessional constituted the principal technology through which the subject positions of victim and perpetrator were publicly interpellated, sustained, and compelled, and it is to this issue that I now turn.

### **'A Victim is a Victim is a Victim'<sup>7</sup>**

Whilst the confessional constituted the public site of the performance of South Africa's new political and national subjects, there were also other technologies which reinforced and compelled them. The TRC enforced certain modes of identification whilst excluding others by interpellating, for example, 'victims' rather than 'survivors', and 'perpetrators' rather than 'war criminals'.<sup>8</sup> The TRC's confessional narrative constituted and compelled the new political subjects of South Africa as victim and perpetrator, a strategy that circumvented the old racialized identity divisions of apartheid and party-political expressions of difference and opposition, in an attempt to reformulate the political subjects of apartheid and reconstruct national identity as inclusive. A new discursive mode of social division, and of social understanding, was thus instituted and which Tutu claimed to be 'politically, socially, and racially neutral'.

The pre-eminence of the TRC's discourse was sustained by a combination of processes. These included the symbolic, such as the confessional, and material, such as the amnesty and reparations processes. But these different sites of articulation of identity forge consent and require collusion on the part of the subject(s) towards whom it is directly addressed. However, as Norval argues in her discussion of the apartheid regime, 'while the forging of consent and the exercise of domination may differ in degree, they do not differ in kind. That is to say, even where subjects are interpellated into a discourse and where they may be argued to have "consented" in some sense, force is not absent' (Norval, 1996: 4). Force takes different forms. The force of discourse and the inclusions and exclusions that it entails is but one aspect. Norval applies this analysis to the maintenance of discourses and subjectivities that were integral to the apartheid regime; my contention here is that the same operation of force that was common to

apartheid is *also* present in the construction of the post-apartheid political field. The TRC enforced the subjects of its narrative via its legal mechanisms. For example, alleged perpetrators were commanded to make an appeal to the TRC through the use of subpoena, the first time that a truth commission had been endowed with more powerful legal mechanisms.

The new political order abolished the old apartheid subject positions—‘whites’, ‘coloreds’, ‘Indians’ and ‘blacks’—and the TRC replaced these with what it claimed to be racially cross-cutting categories of victim and perpetrator, thus instituting a new mode of national identification.<sup>9</sup> Tutu’s assertion cited above—‘a victim is a victim is a victim’—represented an attempt to be more inclusive on the part of the TRC, to represent all victims of violence in the past, to construct a democracy of victimhood that aimed to undermine and reorganize former apartheid subject positions.

The putative aim of recognizing *all* victims of the political violence regardless of their racial designation is resonant with the key themes of the ANC’s program of nation-building, which promoted a civic rather than a racial view of African nationalism as a way of fostering a common national identity.<sup>10</sup> These principles of non-racialism have long been central to the ANC, a party constituted by a coalition of different racial, ethnic, ideological, and religious elements, and this is a principle now enshrined in the new Constitution (Constitution of the Republic of South Africa, 1996: 1:1). But it is clear that different views of nationhood and legitimacy are persistent sources of contestation today and vary from the ANC’s ‘one nation’ project, which propounded an inclusive, civic nationalism, to the more exclusivist modes of identification underpinning the politics of, for example, the IFP and Afrikaner nationalism. In discursively constituting an inclusive polity in South Africa, the TRC appeared to be motivated more obviously by ANC ideals, and has consequently come up against criticism from those with different claims to nationhood, particularly Afrikaners, many of whom felt not simply excluded by the TRC process but vilified by it. Indeed, Norval in her speculations on a ‘new political imaginary’ for post-apartheid South Africa states that the mythical and symbolic renderings of unity and of social division articulated by the new National Party, the IFP and the far right all share some characteristics and present alternative modes of ordering to the ANC. Writing in 1996, Norval’s comments upon South African prospects for constructing an inclusive national discourse that transcended the divisions inaugurated and compelled by the apartheid regime note that ‘the discourse of non-racialism, clearly dominant in the construction of a post-apartheid order, will have to contend with and take account of these alternative myths if a successful transition to democracy is to be instituted’ (Norval, 1996: 275). It can be argued that this has now been borne out by resistance to some of the findings of the TRC, and to its casting of post-apartheid South African subjects as victims and perpetrators.

Inevitably perhaps, the putative neutrality of the TRC’s identity categories were thrown into question by its practical workings. Tutu claimed that:

There is no distinction between someone who is a victim of human rights violations, perpetrated by, say, the liberation movements, or one who is a victim of violations perpetrated by the apartheid dispensation. Once someone comes before the Commission and we say yes, a gross human rights violation has happened, we don't ask what is your political affiliation. In the matter of amnesty, no moral distinction is going to be made between acts perpetrated by the liberation movements and acts perpetrated by the apartheid dispensation. We can make that distinction, as most human beings would, but the act itself makes that moral distinction superfluous (Tutu, 1996: 43).

However, contrary to Tutu's statement, it was necessary to enquire into the 'political affiliation' of the amnesty applicant because this was a *prior* condition of amnesty, as it was granted *only* for violations found to have been perpetrated with a *political objective*. Party political violence provided both the narrative context within which the violation(s) took place, and constituted the organizing rationale of the amnesty application, for which party political affiliation would be integral to an acceptable justification for the perpetration of a gross violation. For that 'political objective' to be made apparent, it was necessary for the applicant to reveal his or her political affiliation at the outset.

This procedural point apart, the Commission contradicts the position taken by Tutu here on another count. On the question of making 'evenhanded' judgments, the Report states that great care was taken to ensure that 'victims' were dealt with equally but that that *moral judgment* was not suspended (TRC, 1 (1) 52–56). Indeed, it was fiercely argued during the TRC's investigations that the Commission would fail if it refused to make a moral judgment *against* the agents of apartheid and *in favor* of those who resisted state violence. This argument was elaborated by Kader Asmal, Louise Asmal and Ronald Suresh Roberts in their book *Reconciliation Through Truth* which was published during the TRC hearings (Asmal et al, 1996). The authors argued that if the TRC failed to make a clear moral distinction between the architects and defenders of apartheid and those who fought against it, then its attempt to construct a new moral order would miscarry. A moral narrative had to make judgments about right and wrong, about the agents of good and the agents of evil. It could not simply suspend this judgment and simultaneously claim to lay new moral foundations for the nation. The authors are keen to point out that the founding legislation of the TRC, The Promotion of National Unity and Reconciliation Act did not make provision for the elaboration of a clear moral judgment because it did not make any distinction between the perpetrators and the victims on the various sides of the conflict. The mandate of the TRC is here thus at odds with what these critics, and many others, considered to be the vital task of the TRC.

Tutu's comments on moral distinctions (or lack thereof) was at odds with the balance of testimony that was aired at the public hearings, which stands in contrast to the overall attempt to allocate blame 'proportionately' across the parties. The voice of the victim was overwhelmingly black, and many were women. By contrast, the voice of the perpetrator at the amnesty hearings resonated most strongly with the voice of the National Party which was represented overwhelmingly by white male security agents of the old regime. The hearings thus had the

effect of assigning, broadly, perpetrator identities to agents of the apartheid state, and victim identity to liberation agents.

Importantly, it is not only the hearings but the findings based upon the investigated cases which were instrumental to assigning political subjectivity to parties to the conflict within the broader narrative about past violence that the TRC sought to relate. Anthea Jeffery makes a detailed analysis of the findings emerging out of the amnesty hearings and argues that the TRC made a series of errors and omissions, which carried particular political consequences (Jeffery, 1999). Jeffery argues that the TRC made an insufficiently systematic attempt to enquire into the role of liberation movements in initiating and sustaining 'people's wars' and that disproportionate blame was allocated to the South African Police and IFP and not enough to the ANC, with particular reference to the violence in KwaZulu-Natal and other instances. This resulted in a disproportionate number of non-state perpetrators being assigned to parties other than the ANC. Jeffery also notes that some of the TRC's findings were at variance with former judicial rulings on particular cases. For example, the TRC at least doubles the number of fatalities at the hands of the police in its investigations of the Sebokeng shootings in March 1990. This, she argues, was one effect of poor methodology and selective investigations, relying upon the 'balance of probabilities' rather than upon proof beyond reasonable doubt. This, according to Jeffery, meant that 'disproportionate' blame was allocated to former state security agents and the IFP, and the culpability of the ANC was minimized in the TRC's findings. However, I would argue that Jeffrey reduces the truth produced by the Commission to a highly legalized and positivistic truth. She focuses on what she sees as the paucity of the truth recovery process because it did not require corroboration or cross-examination of witnesses, and misses a key objective of the Commission which lay in its attempt to illuminate a truth that exceeded these narrow legal parameters. The deliberate refusal to cross-examine was justified by the TRC because it argued that victims had suffered enough. Cross-examinations would only add to 'the harrowing experience of victims' and subject them to the further 'indignity' of doubt. As a result, in cases that had already received attention, the TRC relied upon 'the basic facts about what had happened' which it claimed were 'already well known' (TRC, 1 (5) 45). In addition, by the time the TRC produced the first, incomplete, version of the Report—upon which Jeffrey relies—most of the amnesty evidence had been heard from security force applicants and relatively little from ANC, UDF and PAC applicants. Jeffrey's criticism, however, highlights a general and critical tension running through the work of the TRC between its quasi-legalistic processes and the moral-political narrative it was trying to generate.

The narrative of the Report is an additional site of the bifurcation of identity into victim and perpetrator, in that it lists the names of all of those found to be victims of gross violations, although it defends its decision to 'establish a finite list of victims' (TRC, 1 (4) 133). The finitude of this list performs an act of closure on the past with the aim of precluding the possibility of any further future petitions for reparations and preventing the re-opening of past wounds. It states that 'it became increasingly clear that there would be no value in simply

handing the government a list which included a broad category of unidentified persons for consideration as victims deserving of reparations'. The Report asserted that it would be 'unrealistic to give the government what would, in effect, have been an open-ended list and, on this basis, to expect the state to make a commitment to paying reparations' (TRC, 1 (4) 134). A limit was placed on the politics of restitution, which would ultimately have to materialize as financial reparations, and concomitantly, a narrative cut-off point was designated.<sup>11</sup>

The politics of naming cuts two ways. It was designed to perform both the 'restoration of human dignity' of victims and the 'shaming' of perpetrators. The accomplishment of 'visibility' and 'public recognition' is a constitutive feature of naming. In the early stages of discussion about the means of dealing with the past, the TRC defended its decision not to conduct a criminal tribunal because this ran the risk of fetishizing perpetrators and their truths, which would have the effect of ontologically privileging perpetrator narratives about the past (TRC, 1 (1) 20–32). In the process, according to the Commission, this would have risked the truth recovery process which instead was greatly facilitated by the amnesty provision because amnesty provided a huge incentive for perpetrators to approach the TRC with their accounts. Criminal trials, the TRC argued, would also have required the cross-examination of victims resulting in new ordeals, potentially retraumatizing, rather than providing the catharsis and recognition promised by the TRC. A cathartic and restorative function was also assigned to perpetrator's testimonies which, in the context of the public confessional, were assumed to instill a 'new moral sensibility' into the confessor:

For many the testimonies before the TRC—from victims and perpetrators, such as Benzien, Cronje, Hechter, Mentz, Van Vuuren, and De Kock—provided much more than cold objective and factual information. These testimonies encouraged moments of truth, where people were converted to an understanding of what injustice is, while at the same time becoming aware of a new notion of justice. Confronted by the stories, the face of evil became visible to these people, giving birth to a feeling of shame and to a notion of justice. The latter is of particular importance, for through this feeling of shame, a moral responsibility for what went wrong in the past may also be acknowledged. In other words, in the confrontation with the past a dialectical tension often develops. Within the context of this tension we begin to see things in a different light and experience a new moral consciousness (Esterhuysen, 2000: 152).

The TRC suggested that the practice of naming was integral to the process of the confessional, the first act of self-recognition, and then of public revelation facilitating a formal naming and the identification and attachment of a person to a particular violation. The Act stated that those found eligible for amnesty should be named in the Government Gazette as they had, by implication, already identified themselves as perpetrators by applying for amnesty in the first place. As such, perpetrators were implicated in their own subjection by going to the Amnesty Committee to make their submissions, an act which predetermined the parameters of their testimony to the TRC. Before naming was carried out, the TRC sent notice to the perpetrator warning that they were about to be named.



Naming was usually a result of the alleged perpetrator appearing in a number of testimonies and where a witness had confirmed their identity. A reasonably 'high level of corroboration' was required.<sup>12</sup> Although the TRC justified naming, it recognized the tension between the public interest in the exposure of wrongdoing and the need to ensure fair treatment of individuals in what was not a court of law. Given the investigative nature of the Commission and the limited legal impact of naming, the Commission made its findings on the 'balance of probability' rather than on 'proof beyond reasonable doubt'. This required a lower burden of proof than that demanded by the conventional criminal justice system, and it meant that, 'when confronted with different versions of events, the Commission had to decide which version was the more probable, reasonable, or likely after taking all the available evidence into account' (TRC, 1 (4) 155). Naming consequently took place after enough evidence had been made available to make a finding on a balance of probability, although this was *not* a finding of legal guilt but of *responsibility* for the commission of gross human rights violations for which amnesty may or may not have been granted.

The TRC constructed as a privilege assigned to its participants, and in particular, to those it interpellated as victims of gross human rights violations who were constructed as the new constitutive pillar of society. In spite of this, perpetrators have frequently been seen as the greater beneficiaries of the Commission in that a 'guilty' finding did not carry the consequences of the criminal justice system if the crime was found to have been politically motivated. There was thus a perceived tension between the work of two of the Committees, the Committee on Amnesty, and the Committee on Human Rights Violations, and the different truths each generated. The Committee on Amnesty dealt primarily with perpetrator testimonies, and the Committee on Human Rights Violations dealt with victim depositions. The main task of the Committee on Human Rights Violations was to record, acknowledge and make public the experiences of victims as part of its restorative judicial remit. The Report states that the establishment of a full picture of past violations had to be coupled with a 'public, official acknowledgement of the "untold suffering" which resulted from those injustices' (TRC, 1 (5) 2). But the pursuits of these two aims were seen by some to deepen injustices already experienced by victims. The Committee on Amnesty had the power to implement an amnesty ruling with *immediate effect* whereas reparations for victims were subject to a much more lengthy and considered investigation with no immediate award of reparations. Perpetrators, then, benefited almost immediately from their confessions as amnesty was implemented with immediate effect whereas victims were subjected to further reviews over a lengthy period of time in order to clarify the precise reparations award. It is important to take into consideration such procedural constraints on the discursive construction and privileging of particular subjectivities, of victims over perpetrators. Whilst victims appeared, publicly, to be privileged by the TRC's discourse of reconciliation, they were also undermined by the bureaucratic and lengthy procedures which determined reparative measures, but also by the foundations of the TRC which were thoroughly grounded in and conditioned by the amnesty agreement. Reparations were, in effect, an afterthought. In addition, victim testimonies consti-

tuted evidence which could be used in support of amnesty claims leading to freedom from prosecution and in some cases prison, on the basis of 'full disclosure' by the amnesty applicant. Where, some wanted to know, was the justice in this? Whose truth, then, did the process privilege? In order to get closer to these issues a consideration of the nature of truth mediated by the Commission is necessary.

### **Truth: Four Types of Ambiguity**

The TRC posited truth as the foundation of national reconciliation and towards which the political subjects of the confessional were oriented. The Commission stated that it 'sought to uncover the truth about past abuses' as part of the 'struggle of memory against forgetting', an aim which explicitly sought to 'recover' aspects of past violence that had been concealed by the previous regime. This represented an explicit endeavor to 'overcome the temptation to remember in a partisan, selective way; to recognize that the narrow memories of past conflicts can too easily provide the basis for mobilization towards further conflicts' (TRC, 1 (5) 51). Cognizant of the role of memory in conflict, the TRC suggested that a more 'inclusive' official memory of the past which allowed different parties to represent their perspectives in an official forum was more likely to prevent the resurgence of violence in the future. This recognition was constitutive of the pragmatism of the TRC. By contrast with the former regime which sought to represent and violently enforce only the truth of Afrikaaner nationalism, the TRC claimed to bring together a multitude of truths about the past in order to reflect the different experiences of the various parties engaged in the conflict. Further, and more importantly, the TRC sought coherence between these accounts by organizing the plethora of truths solicited at its behest within the overall teleological framework of reconciliation. Reconciliation as political process aimed to go further than to 'simply' mark the end of violent conflict, but was directed towards a more complex and abstruse process of coming to terms with the past. The Commission justified its search for a more 'replete' historical record and articulated the relationship of truth to reconciliation by stating that 'lies, half-truths and denial are not a desirable foundation on which to build the new South Africa' and that 'there can be no genuine, lasting reconciliation without truth' (TRC, 5 (8) 5). As such, truth was clearly established as the necessary and causal precondition of reconciliation, without which it was assumed that reconciliation would be an impossible objective.

In order to maximize the recovery of truth about the past and militate against a narrow memory of the conflict, the TRC elaborated a complex definition of truth within which victim and perpetrator narratives came to be framed (TRC, 1 (5) 29–45). Importantly, this complexified truth sought to maximize commensurability between the various accounts in order to facilitate the reconciliation process. This taxonomy was partly designed to expand the idea of truth beyond that of a legal or forensic truth, which would facilitate the emergence of only a 'narrow' parameter of truth. The TRC wanted to grasp the *full complexity*

of the past, and to construct a layered discourse of truth that both victims and perpetrators might deploy—in their justifications of past violence, and in rendering accounts of suffering—in their accounts of the past. To this effect, and after much debate, four different categories of truth were constructed: The categories that were established by the TRC were ‘factual or forensic truth’, ‘personal and narrative truth’, ‘social truth’, and ‘healing and restorative truth’.

#### **Factual or forensic truth**

This category refers to the ‘familiar legal or scientific notion of bringing to light factual, corroborated evidence, and of obtaining accurate information through reliable (‘impartial and objective’) procedures’ (TRC, 1 (5) 30). The pursuit of this type of truth sought to engage two main aspects. The first of these related to the precise details of individual findings: establishing what happened to whom, where, when, and how, and involving whom. The second aspect attempted to establish the contexts, causes, and patterns of violations.

#### **Personal and narrative truth**

This category refers to the individual truths of victims and perpetrators alike, and emphasized the value of all truths to the TRC, and the ‘healing potential’ of truth revelation. On the subject of narrative truth, Tutu stated during the public hearings that the Commission would ‘listen to everyone’. He argued that it was crucial that ‘everyone should be given a chance to say his or her truth as he or she sees it’ in order to give ‘meaning to the multi-layered experiences of the South African story’, and to provide ‘unique insights into the pain of South Africa’s past’ (TRC, 1 (5) 35). This dimension of truth-telling, Tutu argued, had particular resonance in the South African context which continues to attach importance to the ‘oral tradition’. Tutu thus claims this to be a culturally authentic mode of reproduction of the past which had a specific resonance, function, and power, within its social context.

For the TRC, personal and narrative truth recognizes the individual contingency of truth, and emphasizes the role of interpretation and of divergent interpretations of particular events. It seeks to contextualize the actions and interpretations of social agents within broader narratives of race, ethnicity, political ideology, and nationalism. Without an appreciation of the wider discourses shaping human action, for example, the way in which the discourse of Afrikaaner nationalism led to the emergence of ‘separate development’, it is impossible to understand the context in which violations took place and the development of individual subjectivity and political identity formation, the TRC argued.

This category of truth sought recourse, for its legitimacy, to the *Promotion of Unity and National Reconciliation Act* which inaugurated the TRC. The Act provided a prior iteration of the assertion that storytelling has a ‘healing potential’ by linking the ‘restoration of human and civil dignity’ of victims to the importance of granting official validation of those stories in a public context. The official authorization of previously denied or silenced individual accounts, namely victim testimonies, was considered on the one hand an important func-

tion of restorative justice, but on the other crucial to the process by which those participants might offer ‘history lessons’ to the nation (TRC, 1 (5) 37).

### **Social truth**

Social truth is, in the words of Judge Albie Sachs, the ‘truth of experience that is established through interaction, discussion and debate’ (TRC, 1 (5) 39). It is under the sign of social truth that the Commission came closest to acknowledging its own role in truth production, stating that ‘it was in its search for social truth that the closest connection between the Commission’s process and its goal was to be found’. However, the TRC explicitly upheld a notion of social truth that is itself revealed or liberated by a dialogic encounter whose norms are presented as being self-evidently legitimate and therefore beyond contestation. The Commission argued that ‘participation’ and ‘transparency’ were the fundamental properties of a dialogic social truth, and suggested that the TRC itself provided the main forum for the exposure of a variety of situated perspectives on the past, from those of the faith communities, to NGOs and the medical professions. The Report states that:

The process whereby the truth was reached was itself important because it was through this process that the essential norms of social relations between people were reflected. It was, furthermore, through dialogue and respect that a means of promoting transparency, democracy, and participation in society was suggested as a basis for affirming human dignity and integrity (TRC, 1 (5) 42).

However, the ‘essential norms’ of the TRC rather than those of ‘objective’ social relations between people were the norms reflected by the dialogic encounters between victims, perpetrators and the Commission itself. The space for encounters constituted by the Commission certainly made such a dialogue possible but the norms it purveyed were not *reflected* but *constituted* by the TRC.

### **Healing and restorative truth**

The fourth and final category of truth considers the nature of ‘healing truth’, through which the TRC sought to place ‘facts and what they mean within the context of human relationships—both amongst citizens and between the state and its citizens’ (TRC, 1 (5) 43). This category stresses the importance of ‘acknowledgement’ to the establishment of truth, and its ‘healing properties’. ‘Acknowledgement’ requires that official history is re-written, that newly-revealed truths are placed on public record and due recognition given to individual suffering. Further, ‘acknowledgement is an affirmation that a person’s pain is real and worthy of attention’ (TRC, 1 (5) 45). This category of truth is directed towards three things: it seeks to narrate individual truths within a national context, officially acknowledges victim experiences as a function of restorative justice, and is directed towards preventing future violence. Healing and restorative truth seeks to expand the limits of factual truth because, the TRC argues, ‘it is not enough simply to determine what had happened’ (TRC, 1 (5) 44).

The real value of truth recovery, according to the TRC, was to help *victims* become ‘more visible and valuable citizens through the public recognition and

official acknowledgement of their experiences', and at least three of the four types of truth are designed to address this issue (TRC, 1 (5) 27). Personal and narrative truth provides insights into painful experiences in the past, social truth seeks to integrate and authorize these stories within a social context and healing truth asserts the palliative effect of the testimonial and of official recognition. An interesting omission to this category is that of 'confessional truth' by which perpetrators seek to 'restore their humanity' and re-enter society as reformed souls. This function of truth was not spelled out in the official documentation, although, as discussed, the confessional was the powerful discursive paradigm through which perpetrators were afforded the opportunity of demonstrating their humanity.

These four categories of truth were constructed by the TRC in order to reflect the relationship between truth and reconciliation, and the relationship between individual, social and national truths. To this end, forensic truth aims to establish the minutiae of what happened, when and how. Personal truth adds individual interpretation to the forensic picture, and social truth places that individual truth within a broader context, making plain the way in which certain truths are generated by the interests and actions of a group, political or otherwise. The TRC as arbiter of social truth aims to weave these various group perspectives together through an open and public process of negotiation, with the aim of generating a healing truth explicitly directed towards the process of national reconciliation.

Of these four types of truth, three are most obviously victim truths as they are specifically directed towards the recognition, rehabilitation, and restoration of the 'visibility' and 'dignity' of victims. The effect of this is to constitute victims as the ontologically privileged subjects of the TRC's narrative, making the 'victim's status as victim the constitutive pillar of a new political order' (Steiner, 1997: 31).

However, the TRC did not make entirely clear how the different aspects of truth are made to relate to one another, and the Report fails to elaborate the connection between each category of truth. Additionally, the TRC did not provide the forum for victims and perpetrators to speak directly to one another, to negotiate in a dialogic fashion their various perspectives on the past. Indeed, they were very much separated by the structure of the TRC because victims and perpetrators approached different committees with their depositions. A further separation was constructed by the temporal organization of the hearings. Victim testimonies were aired during the first six months of the hearings, and perpetrator accounts were publicly rendered *after* the victims had been heard.

Wilson notes that only two of the categories were compelled with any force: forensic truth and narrative truth (Wilson, 2001: 37). Wilson argues that forensic and narrative truths were regularly set in opposition to one another, and that each was dominant at different times in the life of the Commission. Consequently, narrative truth presided over the early life of the Commission and the forensic paradigm came in to force subsequently. These truths were alternately hegemonic because the first stages of the TRC were devoted to hearing victim testimonies, upon which the importance of 'narrative truth' turned, and the later

hearings concentrated on amnesty cases to which the establishment of 'forensic truth' was critical. However, against Wilson I would argue that narrative truth was as much crucial to the amnesty hearings as was forensic truth. Amnesty was conditional as much upon depositions being framed within the organizing framework of a political objective—requiring that the applicant articulate their past actions as having been carried out within, and as part of, a political conflict—as it was upon full disclosure, that is, rendering the factual details surrounding every violation with which an applicant might have been associated.

An expanded truth paradigm emerged out of the idea that forensic truth was limited because it did not adequately serve the reconciliatory process. And yet one of the key achievements of the TRC, as Michael Ignatieff has argued, was that it reduced the number of 'permissible lies' that circulated unchallenged in public discourse, which rest, arguably and primarily upon the forensic model (Ignatieff, 1996: 111). This was because the TRC was able to establish a considerable amount of factual evidence regarding violent security force tactics against political opponents, details which had until its work been rumored but not established. The work of the TRC made it impossible to state, for example, that the practice of torture by state agents was not systematic and widespread. It was no longer possible to sustain the claim, as did many from the former regime, that only a few individuals acting on their own initiative were responsible for gross violations, that it was due to just a 'few rotten apples'. And the Commission gathered sufficient evidence to prove that missing political activists were systematically interrogated, tortured, killed and buried on farms all over the country. At the beginning of the TRC's investigations, there was a paucity of information about this issue in particular, but as time went on, evidence that such farms existed in the old Natal, the Transvaal, the Orange Free State, and the Eastern Cape emerged. The evidence amassed filled out the TRC's narrative about the far reach of the state's operations against its opponents. However, some of the triumphs of truth claimed by the TRC had already been established by the ANC's earlier investigations into abuses in its own camps. The Commission was able to make very detailed presentations of the abuse of human rights in relation to the treatment of detainees, among other issues, in the military camps of the ANC precisely because the ANC had conducted its own internal commissions of enquiry, the Stuart report, and the Skweyiya and Motsuenyane Commissions (1992 and 1993 respectively). The TRC drew upon these reports and enquiries to present evidence of ANC violations. Many of the truths the TRC generated were clearly not new, although the TRC enabled these details to enter the public domain much more effectively than these previous enquiries had managed to do.

In spite of the necessity of the production of a legally authoritative forensic truth, the expanded truth paradigm developed in part out of a critique of it. The TRC was compelled in the first place to point up the limitations of forensic truth because the amnesty process was mandated by the Act to rationalize accounts of violations within the wider *context* of a political motivation. As such, the narrative component of truth was already stipulated by the legal parameters. This feature already represented a departure from the forensic truth paradigm upon which 'regular' court investigations are based, which on the whole do not seek to

establish the legitimate context of the ‘crime’ *prior to* the beginning of the trial. It is this feature, I argue, added to the decision against retribution, that led to the development of an expanded truth paradigm which, in my view, was a compensatory gesture towards victims for the fact that retribution was not a possibility. As a result, the four truths appear, ostensibly, to favor victim truths, giving substance to the TRC’s claim that the victims of past violence would have a public forum through which they could exorcise their suffering and find some kind of cathartic release from the torments of the past. However, I would argue that this compounds victim subjection to the TRC process because none of the types of truth conflict with a reconciliatory outcome and all appear to be subsumed to it. There is no alternative type of truth through which victims might voice their opposition to the current order: each truth is directed towards reconciliation. Indeed, as Verdoolaege has demonstrated, victim testimonies were oriented towards reconciliatory outcomes in the exchanges between commissioners and victims during the public hearings, and victims were often explicitly asked by the Commissioner at the end of a testimony whether or not they would consider forgiving a perpetrator (Verdoolaege, 2006). The case of Ms Seatlholo who made a testimony about the random killing of her husband in Soweto in 1976 is a case in point.<sup>13</sup> Yasmin Sooka, TRC Commissioner, said to her ‘we have heard many young women of your age who have had an experience of losing their loved ones’ and goes on to ask how might someone like Seatlholo ‘begin to heal and understand the idea of reconciliation’. Seatlholo replies ‘I want to forgive those people who killed my husband’ but states that she cannot until they come forward to confess publicly their crimes.

Yet some victims *did*, occasionally, depart from the reconciliatory script. Bettina Mdlalose refused to forgive those who had killed her son after being asked by the Commissioner, Mr Dlamini, if she would reconcile with the killers:

Commissioner: But one other thing that’s an objective of this Commission is that after we have ventilated about the atrocities that were committed to us, is that we should reconcile as the community of South Africa at large. The perpetrators, those who committed those atrocities to you, killed your son, according to our records haven’t come forth for amnesty. . . . But one question I would like to ask is that, if today those perpetrators would come forth and say, ‘Commission, because you exist today, we would like to go and meet Mrs Mdlalose to ask for forgiveness’, would you be prepared to meet with the perpetrators? I know they haven’t come forward, they have not even admitted an application for amnesty, but still we would like to ask from you, to get a view from you that if they come to you and ask for forgiveness would you be prepared to sit down with them, shake hands with them, and reconcile with them. Would you be prepared to talk to them? (TRC hearing cited in Verdoolaege, 2006: 67–68).<sup>14</sup>

Mrs Mdlalose responds that she would not authorize a meeting, and is told by the Commissioner not to ‘feel bad’ for this refusal, and promises that when the perpetrator gets in touch with the Commission, the Commission will contact her to let her know. Not only is her refusal made to seem discordant with the expectations of the Commission and the principles of the reconciliation process, but in

this case the perpetrators had *not, in fact, come forward with a confession in the first place*, the condition upon which forgiveness might in fact be forthcoming.

## Conclusions

The TRC's narrative of the present turned upon two aspects. The first of these was the public spectacle of the hearings. The second comprised the technique of the confessional through which the dramatic and 'cathartic' revelation of truth was played out, the subjects of its narrative constituted and compelled and truth (as confessional and testimonial) as the foundational property of national reconciliation performed.

As a discursive ritual, the narrative of confession has an internal logic which constrains the actions and words of the supplicant and the confessor, its end point already pre-ordained before the confessing subject begins. The effect of this narrative structuration is to enact the moralizing force of its closure, which centers on the 'reform' of the confessing soul. The teleology of confession functions in order to admonish rather than punish the confessing subject.

However, and problematically, the moral demands of the confessional were incommensurate with the mandate of the TRC, which outlined the conditions under which amnesty would be granted. There was no formal stipulation for the truth disclosure to be delivered in the style of a confessional. This resulted in a tension during the hearings because the public narrative, charged with conveying moral lessons to the nation, privileged the confessional model of truth because it required remorse and regret to be articulated. The confession played into the narrative of reconciliation in a way that a simple articulation of the 'facts' could not because it performed the 'healing' of the perpetrator by signaling the 'restitution of the soul' that the confession attempts to constitute.

In addition, whilst the TRC's truth taxonomy widened the parameters of truth, it also constrained what could be said, or called for, in its name. Perpetrator and victim stories were both disciplined and constrained by this taxonomy. Perpetrators had to narrate their actions within the context of a political struggle in order to secure amnesty. Without this framing rationale, the TRC rejected the application. Victims appeared to be given more narrative freedom due to the fact that a particular outcome or ruling was not contingent upon the story given. However, victims could not simply relate their accounts 'as they saw them'. They could not demand justice for what they had endured. One woman related a horrifying account of her torture by the South African Police and ended her testimony with the plea that her torturers be brought to justice. To this plea, one of the commissioners responded simply 'thank you for contributing your story to the national process of reconciliation' (Chidester, 1999: 135). Yet another 'victim' argued that if 'perpetrators' were truly remorseful they would subject themselves to punishment rather than amnesty (Krog, 1999: 38). Victim narratives were thus compelled by, insofar as they are called for and subordinate to, the organizing teleological framework of reconciliation *even when they called for retribution*. Victims, in short, had to be reconciled to reconciliation.



## Notes

1. Foucault notes that the transformation of punitive practices was attributable to 'logical' rather than 'humanitarian' analyses by Beccaria and other Enlightenment reformers, who objected to the likely 'quality' of the truth produced under duress and suggested practical reforms on that basis.
2. Foucault's work on the confessional is focused primarily on the production of the 'truth of sex' but his account is easily applicable to the confessional as a technology of truth production more generally.
3. TRC, *Amnesty Hearing: Jeffery T. Benzien*, Cape Town, July 14, 1997.
4. TRC, *Armed Forces Hearings: Maj. Gen. B. Mortimer, Submission IRO The Former SADF: SA Defence Force Involvement in the Internal Security Situation in the Republic of South Africa*.
5. TRC, *Armed Forces Hearings*, Cape Town, 7–10 October 1997.
6. TRC, *Mandela United Football Club Hearings*, Johannesburg, 24 November–4 December 1997 and Johannesburg, 28–29 January 1998.
7. Phrase coined by Desmond Tutu (1996).
8. The Commission 'for the sake of consistency' and 'in keeping with the language of the Act' continued, despite some protests, to use the word 'victim'. The TRC does however acknowledge the contested nature of the term, stating that some might prefer "survivor" and notes that 'many played so crucial a role in the struggle for democracy that even the term "survivor" might seem an inadequate description' (TRC, 1 (4) 39).
9. See definitions of victims and perpetrators in the TRC's discussion of its terminology (TRC, 1 (4) 37).
10. For example, see then deputy president Mbeki's speech during the adoption of the new constitution in May 1996: 'I have seen what happens when one person has superiority of force over another, when the stronger appropriate to themselves the prerogative even to annul the injunction that God created all men and women equal in his image. . . We are assembled here today to mark their victory in acquiring and exercising their right to formulate their own definition of what it means to be African. The constitution whose adoption we celebrate constitutes an unequivocal statement that we refuse to accept our Africanness will be defined by our race, colour, agenda, or historical origins. . . It gives concrete expression to the sentiment we share as Africans. . . that the people shall govern' (Mbeki, 1996).
11. Volume 7 of the TRC Report lists names of victims along with descriptions of violations in each case. The Commission confined the victims eligible for reparations to three main categories; those who personally made statements to the commission; those victims named in a statement made by a relative or other interested person, for example a colleague, friend, or neighbour; and finally, those victims who were identified through the amnesty process.
12. A 'low level of corroboration' meant that the witnesses had to confirm an event but were not required to confirm the identity of the person involved. There was no naming where the identities of individuals were unclear, and where the TRC had insufficient evidence to send out section 30 notices to those implicated in violations.
13. TRC, *Human Rights Violations Submissions: Dorothy Seatholo*, Soweto, July 22, 1996.
14. Full transcript at TRC, *Human Rights Violations Submissions: Bettina Mdlalose*, Vryheid, April 16, 1997.



