

Identity in Transition:  
Towards a Conceptualization of the Sociopolitical Dynamics of the South  
African Truth and Reconciliation Commission

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This work has not been previously submitted in whole, or in part, for the award of any degree. It is my own work. Each significant contribution to, and quotation in, this dissertation from the work, or works, of other people has been attributed, and has been cited and referenced.

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## Chapter I

### Introduction

“A country like South African, wishing to move from dictatorship to democracy or from war to peace, has a double set of obligations. It has a responsibility to do as much as possible to heal its victims. The nation also has a responsibility to its own future—to analyze how war or dictatorship came to pass and to change its political culture so that it does not happen again.”<sup>1</sup>

### **Transitional Justice**

Oppressive authoritarian regimes, according to Chilean human rights attorney Jose Zalaquett, are characterized by “rule of force” and the “absence of a moral order.” The special charge of transitional justice, then, is the reconstruction of the moral and just order that is “at the core of social contract theory and of the concept of the rule of law,” as “such a notion gives ultimate meaning to democratic institutions.” Zalaquett argues that the traditional criminal justice model is “designed to enforce an existing just order,” and thus mechanisms of transitional justice require innovation and creativity; they must determine the most feasible and effective measures for contributing to the (re)establishment of a just order in each specific situation. They must determine the accountability of individual criminals, but also recognize that “it was the existence of a whole system behind the individual that made the break-down of society possible.”

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<sup>1</sup> Tina Rosenberg, “Afterword: Confronting the Painful Past,” in Martin Meredith, Coming to Terms: South Africa’s Search for Truth, (New York: Public Affairs, 1999, p. 327-70.): p. 327.

Zalaquett asserts, “It is important to impress upon society that there is no more pressing business than going about rebuilding the very moral foundations of living together.”<sup>2</sup>

The field of transitional justice emerged out of the need to address legacies of violence as part of, even integral to, a society’s transition to democracy. Transitional justice methods—which, in this paper, will refer almost exclusively to truth commissions—thus meet the special needs of the particular circumstances of transitions from authoritarian rule to democracy, which vary from place to place, and their concepts, goals, standards, mechanisms, et cetera must be distinguished from those of traditional criminal justice approaches in established democracies. Beyond rectifying acts of injustice for the benefit of individuals, transitional justice theory identifies a set of individual and social challenges posed by legacies of gross human rights violations. In Unspeakable Truths: Facing the Challenge of Truth Commissions, a seminal work of transitional justice scholarship, Priscilla Hayner notes,

When a period of authoritarian rule or civil war ends, a state and its people stand at a crossroads. What should be done with a recent history full of victims, perpetrators, secretly buried bodies, pervasive fear, and official denial? Should this past be exhumed, preserved, acknowledged, apologized for? How can a nation of enemies be reunited, former opponents reconciled, in the context of such a violent history and often bitter, festering wounds? What should be done with hundreds or thousands of perpetrators still walking free? And how can a new government prevent such atrocities from being repeated in the future?<sup>3</sup>

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<sup>2</sup> Naomi Rhot-Arriaza, “The Need for Moral Reconstruction in the Wake of Past Human Rights Violations: An Interview with Jose Zalaquett,” in Carla Hesse and Robert Post, et al., Human Rights in Political Transitions: Gettysburg to Bosnia. (Cambridge, Mass.: Zone Books, 1999.)

<sup>3</sup> Priscilla Hayner, Unspeakable Truths: Confronting State Terror and Atrocity, (London: Routledge, 2001.) p. 4.

Issues of history, memory, and social relations thus take on a highly-charged political salience during a transition period and beyond, and directly impact a country's nascent democratic processes, as well as its hopes for democratic stability and survival.

Transitional justice mechanisms thus operate beyond the scope of traditional retributive justice institutions and address both individual and broader social transitional needs, acting on a "now a widely held belief" that the "deep legacy" of human rights abuses and crimes against humanity must be addressed.<sup>4</sup> On an individual level, attention to the needs, rights, and obligations to the victims of gross human rights abuses is a noble and worthwhile cause in itself, and much has been written on the psychological benefits for victims and survivors. The concern here, however, is how the collection of individual psychological concerns translates into a society-wide problem that must be dealt with as part of a transition to democracy: "Where there were years of unspoken pain and enforced silence, there are often a pervasive, debilitating fear and, when the repression ends, a need to slowly learn to trust the government, the police, and armed forces, and gain confidence in the freedom to speak freely and mourn openly."<sup>5</sup> The lasting effects of violent histories on individual members are a particular concern for transitional societies, and comprise the focus of this paper.

Accordingly, on the social level, transitional justice methods work towards the resolution of the historical conflicts that preempted their establishment; "While individual survivors struggle to rebuild lives, to ease the burning memory of torture suffered or massacres witnessed, society as a whole must find a way to move on, to recreate a livable space of national peace, build some form of reconciliation between former enemies, and

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<sup>4</sup> Hayner, *Unspeakable Truths*, p. 11.

<sup>5</sup> *Ibid*, p. 4.

secure these events in the past.”<sup>6</sup> Even more, most transitional justice scholars and practitioners agree that, as Hayner states, “it is difficult to imagine how a society can return to some degree of functioning which would provide social and ideological support for democracy without somehow coming to terms with the most painful elements of its own past.”<sup>7</sup> However, the issues of “social and ideological support for democracy” and the variety of sociopolitical goals, hopes, and expectations are elusive, difficult to characterize and measure, yet critically important to the transitional agenda. Perhaps the best way to initially problematize the issue is to consider the opposite: collective amnesia, or state inaction.

#### *Against Amnesia and Inaction*

While attempts to “bury the past” are often promoted as alternatives to address the difficulties of both individual and social aspects of traumatic memory, such efforts will likely provoke popular indignation and otherwise threaten the potential of peace and democracy. According to Guillermo O’Donnell and Philippe Schmitter, “We are here in a situation of most difficult ethical, as well as political, choice....transitional actors must satisfy not only vital interests but also vital ideals—standards of what is decent and just.”<sup>8</sup> In addition to the attention required to a host of identity, conflict, and trauma issues, a new democracy must establish itself in opposition to the injustice and violence of its predecessor. In “worst circumstances” of gross human rights violations, Schmitter and O’Donnell “believe that the worst of bad solutions would be to try to ignore the issue,” as an attempted cover-up would only serve to reinforce impunity and thereby

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<sup>6</sup> Hayner, *Unspeakable Truths*, p. 4.

<sup>7</sup> Guillermo O’Donnell and Philippe Schmitter, *Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies* (Baltimore: Johns Hopkins University Press, 1986): p. 59.

<sup>8</sup> *Ibid.*, p. 59.

permit the continuance of cycles of violence. The “least worst” option is thus to “impose judgment, as “some horrors are too unspeakable and too fresh to permit actors to ignore them”<sup>9</sup>

Hayner agrees with this assessment, and focuses on the relationship of history—in particular, varied perceptions of history—to the anti-amnesia argument. Hayner notes that long-term, cyclical violence and conflict is often rooted in “fundamental differences in perceptions of the past,”<sup>10</sup> and asks if a society can “build a democratic future on a foundation of blind, denied, or forgotten history?”<sup>11</sup> Therein lies the link between past, present, and future, and their relation to the transition process:

Common wisdom holds that the future depends on the past: one must confront the legacy of past horrors or there will be no foundation on which to build a new society. Bury your sins, and they will reemerge later. Stuff skeletons in the closet, and they will fall back out of the closet at the most inauspicious times. Try to quiet the ghosts of the past, and they will haunt you forever—at the risk of opening society to cycles of violence, anger, pain, and revenge. By directly confronting the conflicts of old, it is surmised, these conflicts will be less likely to explode into severe violence or political conflict in the future.<sup>12</sup>

Continuities of past, present, and future will result in the continuation of conflict and threaten the stability of democracy unless some official measure is able to adequately reckon with violent historical legacies.

Aryeh Neier delineates three reasons for “confronting the past”: First, a new democracy “must recognize the worth and dignity of those victimized by abuses of the past,” as a failure to do so perpetuates and compounds victimization. Second, bringing to light past instances of violence and human rights abuses helps to establish and uphold the

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<sup>9</sup> Schmitter and O’Donnell p. 59.

<sup>10</sup> Hayner, *Unspeakable Truths*, p. 162.

<sup>11</sup> *Ibid.*, p. 5.

<sup>12</sup> *Ibid.*, p. 30.

rule of law, and “sends a message” that all are subject to it. And third, the rectification of injustice and the promotion of the rule of law will help deter future abuses.<sup>13</sup> Historical reckoning, of some variety, is thus a requirement of a transition, and while “there are various terms or circumlocutions for this business of past-beating, each of them implying a slightly different priority,” “all recognize that the problem of ‘what to do about the past’ is a major and intrinsic part of such transitions. Indeed, it can make the difference between success and failure.”<sup>14</sup> Transitional justice is thus more than perpetrator punishment and victim rectification—it provides, at the very least on a symbolic plane, both the justification and foundation of a hopefully peaceful democratic future.

### *Truth Commissions*

Traditional criminal justice mechanisms, such as prosecutions, are not sufficiently capable of addressing the social and political needs of transitional societies:

The concrete needs of victims and communities that were damaged by the violence will not be addressed through such prosecutions, except of course in providing some solace if the perpetrators are successfully prosecuted. The institutional or societal conditions that allowed the massive abuses to take place—the structures of the armed forces, the judiciary, or the laws that should constrain the actions of officials, for instance—may remain unchanged even as a more democratic and less abusive government comes into place. Many questions may remain open about exactly what took place during the years of repression, and tensions between communities may continue to fester, or deepen, if these are left unaddressed.<sup>15</sup>

As a result, truth-telling mechanisms—commissions, in particular—are an increasingly common means for “dealing with the past.” In addition to an “inherent right to know” of

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<sup>13</sup> Aryeh Neier, “Why deal with the past?” in Alex Boraine, et.al., Dealing with the past : truth and reconciliation in South Africa (Cape Town, South Africa : IDASA, 1994): p. 3.

<sup>14</sup> Hayner, Unspeakable Truths, p. xi.

<sup>15</sup> *Ibid*, p. 11.

victims, survivors, and society,<sup>16</sup> which in itself justifies the work of truth commissions, “debunking lies and challenging dishonest denial can go far in allowing a country to settle on one generally accurate version of history.”<sup>17</sup> While settling on a single, accurate version of history is a monumental, even impossible, task, fraught with the inter-subjective perceptions of an entire nation, an official truth-seeking mechanism can potentially ameliorate conflict by clarifying cover-ups and misperceptions and recognizing past abuse and oppression. Considering that unmitigated conflict will continue to threaten peace and stability even after the structural transition to democracy, such historical accounting is an imperative of the transitional state, for the sake of its own survival.

Truth commissions evolved out of this demand for a new formulation of justice to meet the specific needs of transitional societies. According to Andre du Toit, truth commissions are “*historical founding projects* in the transitional context of introducing and consolidating a new democratic dispensation and/or a culture of rights and accountability following massive violations of human rights under the prior regime. They are best understood as responses to the special *moral and political needs* of this kind of historical context.”<sup>18</sup> Truth commissions are thus designed to address two key issues facing transitional societies: the obligation to redress wrongs of individual gross human rights violations and the imperative to break with the unjust traditions of the past and provide a foundation for a just and secure society in the future.

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<sup>16</sup> Ibid, p. 31.

<sup>17</sup> Hayner, *Unspeakable Truths*, p. 163.

<sup>18</sup> Andre du Toit, “The Moral Foundations of the South African TRC: Truth as Acknowledgement and Justice as Recognition,” in Robert Rotberg and Dennis Thompson, et al, *Truth v. Justice: The Morality of Truth Commission*. (New Jersey: Princeton University Press, 2000.) p. 123-4.

Truth commissions are thus unique from other justice processes by virtue of their “transformative aspirations,” as the “task of creating a just society is one of moral reconstruction” that is “at once political, legal, cultural, moral, psychological, and spiritual.”<sup>19</sup> Hayner rightly notes that conflict derives from differing perceptions of the past,<sup>20</sup> and while such perceptions can never be completely changed and unified, transitional societies are charged with incorporating differing perceptions into non-violent social relationships as well as into the democratic process. In essence, differing perceptions (and, by association, differing identities) must be subjugated to a new democratic script that will define their interaction, with a particular emphasis on new, non-violent modes of conflict resolution.

*The South African Truth and Reconciliation Commission: A Model of Transitional Justice*

The core concepts of the South African Truth and Reconciliation Commission (TRC), du Toit argues, do not amount to a sacrifice of justice or a moral compromise, but rather “provide the outlines of a justifiable and coherent conception of transitional justice,” founded in the “distinctive features and requirements of the circumstances of *transitional justice*.”<sup>21</sup> Through a restorative justice model, the TRC advanced a notion of justice as a social condition of equal respect and opportunity existing between citizens in a just society, of civic reconciliation as the achievement and recognition of this just society and just social relations, and of truth as integral to the realization of both. The project of national restorative justice and civic reconciliation, in this sense, is a process

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<sup>19</sup> Elizabeth Kiss, “Moral Ambition Within and Beyond Political Constraints: Reflections on Restorative Justice,” in Robert Rotberg and Dennis Thompson, et al, *Truth v. Justice: The Morality of Truth Commission*. (New Jersey: Princeton University Press, 2000): p. 80.

<sup>20</sup> Hayner, *Unspeakable Truths*, p. 162.

<sup>21</sup> *Ibid.*, p. 123.

that much larger than and continuing beyond the scope of the TRC itself. The TRC thus acted not only as a “historical founding project” but as a founding catalyst project to civic reconciliation by establishing a collective memory and public discourse framework for the pursuit of a new moral, just, democratic society based on a culture of human rights.

Thus, in addition to its mandate to address the particular needs of victims of gross human rights violations, the TRC also hoped to engage a national audience in “the process of helping our nation come to terms with its past and, in so doing reach out to a new future.”<sup>22</sup> As TRC Chairman Archbishop Desmond Tutu writes in his foreword to the final report, “We could not make the journey from a past marked by conflict, injustice, oppression, and exploitation to a new and democratic dispensation characterized by a culture of respect for human rights without coming to terms with our recent history.”<sup>23</sup> The TRC made a conscious effort to broaden its scope, motivated by a belief that the future of the new democracy in some part relied on popular reflection on the past.

The language of accountability, responsibility, and restoration of dignity reveal that the model of restorative justice set forth by the TRC is centered on the need to uncover and establish “truth,” in its many different forms, about the events of South Africa’s sorted past. According to Elizabeth Kiss, the establishment of truth is integral to the pursuit of justice because, among other reasons, it serves to distinguish the innocent from the guilty and makes strides towards “overcoming fear and distrust” and “breaking cycles of violence and oppression that characterize profoundly unjust societies.”<sup>24</sup>

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<sup>22</sup> Desmond Tutu, “Chairperson’s Forward,” Truth and Reconciliation Commission of South Africa Report, Volume 1 (1998). Ch.1, Paragraph 6.

<sup>23</sup> Ibid, Paragraph 20.

<sup>24</sup> Kiss, “Moral Ambition,” p. 71.

Without an accurate and public account of history, society risks the dangers of “unacknowledged injustice” and “distortions and disinformation,” both of which can be extremely divisive and can inhibit the transition from an unjust to a just society.<sup>25</sup>

Through the process of restorative justice, the TRC “was able to reconstruct a much more complete picture of human rights violations” than would have been possible through criminal prosecutions,<sup>26</sup> and in so doing contributed to the achievement of the aims of civic reconciliation.

The problem with truth commissions and broad associations with social transformation is the elusive nature of the social relations they seek to alter. For instance, the assumption that the TRC would facilitate a re-establishment of the rule of law is somewhat misguided, put bluntly by ... “as if the post-apartheid thief or carjacker would somehow come to respect the legitimacy of the law, despite the fact that the political assassin was literally getting away with murder.”<sup>27</sup> How is it possible to conceptualize, much less measure or assess, the achievement of a “just and moral order?” How exactly did the TRC operate in and have an impact on South African society?

## **Topic and Theoretical Framework**

### *Nationalism and Identity*

The concept of reconciliation, both personal and civic, used by the South African TRC is fundamentally a notion of identity politics; as a “founding national project,” the TRC addressed the history of a nation steeped in violence and division based on identity.

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<sup>25</sup> Kiss, “Moral Ambition,” p. 72.

<sup>26</sup> Ibid, p. 74

<sup>27</sup> Deborah Posel and Graeme Simpson, “The Power of Truth: South Africa’s Truth and Reconciliation Commission in Context,” in Posel and Simpson, et.al., Commissioning the Past: Understanding South Africa’s Truth and Reconciliation Commission. (Johannesburg : Witwatersrand University Press, 2002): p. 11.

This thesis will draw on the theories of nationalism and identity presented by Amin Maalouf and Benedict Anderson, which will be incorporated into the discussion of truth commissions and the condition of modernity outlined in the next section.

Maalouf's *In the Name of Identity: Violence and the Need to Belong*, defines individual identity as a complex and fluid set of allegiances, particular parts of which are given significance by social environments.<sup>28</sup> He notes the problems that arise when factional divisions give rigid precedence to one overriding identity factor, what he terms "vertical heritage,"<sup>29</sup> when "community allegiances are allowed to turn into substitutes for individual identity instead of being incorporated into a single wider, refined national identity."<sup>30</sup> In addition to lobbying for a general increase of tolerance and respect, Maalouf calls for "horizontal heritages" that create "threads of affiliation" to connect various individuals and groups in society and thus facilitate their peaceful and productive coexistence.<sup>31</sup> Unfortunately, Maalouf's short book gives little indication as to how this may be accomplished.

Maalouf's concept of "threads of affiliation" fits with Benedict Anderson's definition of a nation as "an imagined political community:" "imagined" because most members will never know or see each other, and a "community" because of the "deep horizontal comradeship" between its members.<sup>32</sup> Maalouf and Anderson's presentations of nationalism and identity are crucial to consider in the context of transitional societies, whose violent histories leave them without or with only weak "threads of affiliation" and

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<sup>28</sup> Amin Maalouf, *In the Name of Identity: Violence and the Need to Belong*, Trans. Barbara Bray (New York: Penguin Books, 2000): p. 23.

<sup>29</sup> Ibid, p. 23.

<sup>30</sup> Ibid, p. 149.

<sup>31</sup> Ibid, 120.

<sup>32</sup> Benedict Anderson, *Imagined Communities: Reflections on the origin and spread of nationalism*, 2<sup>nd</sup> ed. (New York: Verso, 1991): p. 6.

“horizontal comradeship.” This creates a virtual “identity vacuum,” when the rigid order of the authoritarian era is subverted and transition brings a reformulation of identity categories. The establishment of some sense of unity and cohesiveness, and with it peace and stability, becomes an imperative of the transition.

### *The Condition of Modernity*

A key problem with the perceived societal reach of transitional justice institutions is that goals such as promoting a human rights culture and the rule of law are notoriously difficult not only to track and measure, but to show any causal relationship with the institution itself. This is not to say, however, that these aspirations are misguided. Rather, Anthony Giddens’ theory of modernity, while not addressing transitional societies specifically, reveals how transitional justice institutions can potentially have a broad societal impact.

Throughout his body of work, Anthony Giddens develops a theory of the “institutional reflexivity of modernity” and the related “reflexive project of the self.”<sup>33</sup> Institutional reflexivity is characterized by a susceptibility of social and material relations to “chronic revision in the light of new information and knowledge.”<sup>34</sup> At the other end, the project of constructing an (ever-changing) self-identity involves a “reflexive process of connecting personal and social change.”<sup>35</sup> The creation and circular flow of knowledge involved in institutional and self reflexive process “is not incidental to what is actually going on but constitutive of it;”<sup>36</sup> “The reflexivity of modern social life consists in the

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<sup>33</sup> Anthony Giddens, *Modernity and Self-Identity: Self and Society in the Late Modern Age*. (Stanford, CA: Stanford University Press, 1991)

<sup>34</sup> *Ibid*, p. 21.

<sup>35</sup> *Ibid*, p.33.

<sup>36</sup> Anthony Giddens, *The Consequences of Modernity*. (Stanford, CA: Stanford University Press, 1990): p. 14.

fact that social practices are constantly examined and reformed in light of incoming information about those very practices, thus constitutively altering their character.”<sup>37</sup> The on-going process of self-identification is thus shaped by and shapes institutions of modernity, resulting in a dynamic, dialectical, and mutually constituting relationship between individuals and social contexts.

The reflexive quality of modern institutions and social life makes it impossible to imagine all possible outcomes of any action taken in the present;<sup>38</sup> no matter how well designed, the complexity of modern systems and society prevent wholly predictable system functioning.<sup>39</sup> Giddens conceptualizes modernity as a juggernaut, “a runaway engine of enormous power which, collectively as human beings, we can drive to some extent but which also threatens to rush out of our control and which could rend itself asunder.”<sup>40</sup> While the juggernaut can never be completely controlled or contained, Giddens believes that it can be steered via “utopian realism,” a critical theory focused on “institutionally imminent possibilities” that are particular to a society’s sociological and geopolitical needs.<sup>41</sup>

The future-oriented nature of modernity is an integral part of Giddens’ theory of reflexivity; specifically, the present is partially organized around counterfactual thought about the future, “such that the ‘future’ always has the status of counterfactual modeling...Anticipating the future becomes part of the present, thereby rebounding upon how the future actually develops.”<sup>42</sup> In terms of modern governance, this is the very

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<sup>37</sup> Giddens, *Consequences*, p. 38.

<sup>38</sup> *Ibid*, p. 45.

<sup>39</sup> *Ibid*, p. 153.

<sup>40</sup> *Ibid*, p. 139.

<sup>41</sup> *Ibid*, p. 154-6.

<sup>42</sup> *Ibid*, p. 154, p. 178

essence of public policy, and transitional justice institutions are certainly no exception. Transitional justice mechanisms are typically formed and presented as future-oriented counterfactual institutions, intervening in the present in order to shape the future of a new dispensation; they follow a particular agenda, seeking to foster certain social qualities seen as necessary for democracy but that were lacking in the previous authoritarian era. However, as Giddens' discussion of unintended consequences informs us, the nature of modernity's reflexivity makes these counterfactual goals difficult to track and measure, and, as I will argue, there is a need for a new conceptualization of transitional justice institutions in the condition of modernity.

#### *Towards a New Conceptualization*

Borrowing from Giddens' theory of modernity and Richard Wilson's seminal work on the TRC, I will argue that truth commissions are a unique brand of modern reflexive institutions, occupying a liminal space "betwixt and between existing state institutions,"<sup>43</sup> characterized by the reflexive flow of intersubjective knowledge focused on memory and identity, in a counterfactual effort to address the transitional "identity vacuum" and move towards a more unified sense of national belonging. In essence, transitional justice seeks to "steer the juggernaut" of the transition by establishing a framework for debate over identity, both past and present. In the South African case especially, where the TRC was a very public experience, the sought-after "threads of affiliation" necessary for the "imagined community" of the nation can possibly be forged by capitalizing on the inter-subjective and reflexive experience of the commission.

#### *Chapter Outline*

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<sup>43</sup> Richard A. Wilson, The Politics of Truth and Reconciliation in South Africa (Cambridge, UK: Cambridge University Press, 2001): p. 19.

In Part I, Chapter Two addresses the nature of identity conflict on the New South Africa, arguing that the fall of the old apartheid regime precipitated an *identity vacuum*, whereby the previously entrenched identity categories were suddenly open to flexibility, and thus to manipulation to serve sectarian ends. Chapter Three argues that a new sense of nationalism in the form of an “imagined community” could potentially mitigate the threat of violent and destabilization posed by the identity vacuum.

In Part II, Chapter Four discusses Anthony Giddens’ theory of the reflexivity of modernity, borrowing his conceptualization of modernity as a “juggernaut” for application to the transitional context. Chapter Five places the TRC within the context of the reflexivity, and argues that the TRC amounts to a special kind of modern institution capable of using modernity’s reflexivity and increasing interconnectedness of self and society to pursue the foundations of the new national script, or the new “imagined community.” Chapter Six concludes by addressing the concepts of truth, justice, and reconciliation in relation to the TRC as a nation-building project.

Part I

Conceptualizing Identity and Nation-Building in the South  
African Transition

University of Cape Town

## Chapter 2

### The Transitional Identity Vacuum

“Apartheid may have failed as a political and economic system, but the thinking of 300 years is unlikely to disappear as quickly.”<sup>44</sup>

In order to place the South African Truth and Reconciliation Commission within the sociopolitical dynamics of the South African transition to democracy, it is necessary to conceptualize the environment of identity politics in which it operated. The long history of racial domination that culminated in the 20<sup>th</sup> century with the apartheid regime was characterized by entrenched, vertically-aligned identity categories that were regulated by the state, which sought (ultimately unsuccessfully, but still with significant effect) to define the terms of each group’s relation with each other and with the state itself. The transition to democracy, with the redefinition of citizenship along an inclusive ideology, brought sudden flexibility and uncertainty to these previously strict identity categories, and with this sense of upheaval and uncertainty often came fear and anxiety.

Transitional South Africa was thus faced with a condition that is here termed an *identity vacuum*. An identity vacuum occurs when previously enforced vertical identity categories persist beyond the removal of the supporting structures (the laws of the old authoritarian regime), become subject to flexibility and re-articulation, and must be renegotiated within the parameters of the new dispensation. For its own survival, the transitional regime needed to find a way to forge a horizontal allegiance—some “thread of affiliation,” recognition of collective cooperation, and incorporation into a political

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<sup>44</sup> Erna Paris, Long Shadows: Truth, Lies and History (New York: Bloomsburg, 2000): p. 281.

arena for nonviolent conflict resolution—to thwart sectarian and ethno-national attempts at domination and disruption. The conditions of the identity vacuum had the potential to disrupt the transition to democracy by perpetuating the violence and deep divisions of the past.

### **Conceptualizing Identity and Conflict: Amin Maalouf**

In his book In the Name of Identity: Violence and the Need to Belong, Amin Maalouf draws on his experience as a Lebanese immigrant in France to address issues of identity and conflict—namely, he seeks understand what drives people to commit crimes in the name of identity. Maalouf conceptualizes identity as a flexible hierarchy of allegiances, noting that “Every individual is a meeting ground for many difference allegiances.”<sup>45</sup> A variety of allegiances coalesce to form unique, individual identities; “Identity can’t be compartmentalized. You can’t divide it up into halves or thirds or any other separate segments. I haven’t got several identities: I’ve got just one, made up of many components in a mixture that is unique to me.”<sup>46</sup> Each individual is the sum of many different parts, with no two people possessing the same combination. However, not all of our allegiances have equal importance at any given time,<sup>47</sup> for “while there is always a certain hierarchy among the elements that go to make up individual identities, that hierarchy is not immutable; it changes with time, and in so doing brings about fundamental changes in behavior.”<sup>48</sup> Allegiances are of a shifting and impressionable nature, and thus an individual’s identity “isn’t given once and for all: it is built up and

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<sup>45</sup> Maalouf, Name of Identity, p. 4.

<sup>46</sup> *Ibid*, p. 2.

<sup>47</sup> *Ibid*, p. 10-11.

<sup>48</sup> *Ibid*, p. 14.

changes throughout a person's lifetime."<sup>49</sup> The hierarchical arrangement of these allegiances is often defined in relation to others, as the "social environment" gives significance to particular aspects of identity over others.<sup>50</sup>

Despite the flexible nature of an individual's hierarchy of multiple allegiances, Maalouf notes that identities are often viewed as singular and fixed, with one characteristic seen as overriding, and thus "so much more important in every circumstance to all others that it might legitimately be called his 'identity.'"<sup>51</sup> Instances of persecution and racism arise when one identity characteristic is believed to outweigh all other affiliations,<sup>52</sup> which in turn prioritizes that particular identity aspect in the target population: "The identity a person lays claim to is often based, in reverse, on that of his enemy."<sup>53</sup> Maalouf continues, "What determines a person's affiliation to a group is essentially the influence of others: the influence of those about him—relatives fellow countrymen, co-religionists—who try to make him one of them; together with the influence of those on the other side, who do their best to exclude him."<sup>54</sup> In this sense, identity is *acquired*.<sup>55</sup> However, Maalouf uses the phrase "in the air" to indicate "the diffuse and elusive phenomenon that at certain moments in history makes a lot of people start to emphasize one element of their identity rather than the rest."<sup>56</sup> The hierarchy of allegiances is therefore relational in nature, as priorities are influenced and shaped by external conditions, but the relationship between identity and its influencing factors is complex and often ambiguous.

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<sup>49</sup> Maalouf, *Name of Identity*, p. 23.

<sup>50</sup> *Ibid.*

<sup>51</sup> *Ibid.*, p. 13.

<sup>52</sup> *Ibid.*, p. 14

<sup>53</sup> *Ibid.*

<sup>54</sup> *Ibid.*, p. 25.

<sup>55</sup> *Ibid.*, p. 26.

<sup>56</sup> *Ibid.*, p. 87.

Maalouf further categorizes individual allegiances (and thus identities) as deriving from two heritages: vertical, from “our ancestors, our religious community and our popular traditions,” and horizontal, “one transmitted to us by our contemporaries and by the age we live in.”<sup>57</sup> While Maalouf believes that, in the modern age of globalization and increased international interconnectedness, horizontal heritages are increasingly more influential, he notes that individual self-perception more often invokes vertical heritages:<sup>58</sup>

This is an essential point with regard to current concepts of identity. On the one hand there is what we are in reality and what we are becoming as a result of cultural globalization: that is to say, beings woven out of many-colored threads, who share most of their points of reference, their ways of behaving and their beliefs with the vast community of their contemporaries. And on the other hand there is what we think we are and what we claim to be: that is to say, members of one community rather than another, adherents of one faith rather than another.<sup>59</sup>

Despite the reality of increasing horizontal connections among groups and individuals, vertical heritages are still the perceived reality of many. A “gulf” exists between the reality and the perception of the nature of identity,<sup>60</sup> which can have serious consequences for cases of violent conflict, as well as their attempted resolution.

### **Legacies of Apartheid: Entrenched Verticality and the Transitional Identity**

#### **Vacuum**

Legally defined vertical heritages, constructed along racial lines, were the cornerstone—even the *raison d’être*—of the apartheid state in South Africa. Identity construction was a monumental state project, with state definitions determining

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<sup>57</sup> Maalouf, *Name of Identity*, p. 102.

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*, p. 103.

<sup>60</sup> *Ibid.*

citizenship, and thus inclusion in or exclusion from social, political, and economic arenas. Legal entrenchment of vertical identity categories permeated all aspects of South African life, as the definitions sought to regulate relations between groups. The apartheid world-view illuminates Maalouf's discussion of the misperception of fixed identity, taken to an extreme. In a sense, apartheid intended to destroy or prevent horizontal connections between racial groups in South Africa.

The apartheid government entrenched strict vertical allegiances along racial lines, the effects of which reverberated throughout all aspects of South African society.

Anthony Marx argues that the drawing of racial lines is a social construction;

“Domination has been officially encoded in racial terms, suggesting that the state plays a role in constructing and enforcing institutional boundaries of race.”<sup>61</sup> Marx further notes the relationship between state enforcement of racial distinctions and violent conflict:

State actions were highly consequential in shaping the template of modern race relations. Where and when states enacted formal rules of domination according to racial distinctions, racism was reinforced, whites were unified as whites, challenges from those subordinated eventually emerged, and major racial conflict ensued. Where racial domination was not encoded by the state, issues and conflicts over race were diluted.<sup>62</sup>

In all states, citizenship is “a key institutional mechanism for establishing boundaries of inclusion and exclusion in the nation-state.”<sup>63</sup> When, as in apartheid South Africa, citizenship is linked with racial domination—indeed, citizenship is defined by racial domination—identity, in some part, becomes the property of the state.

State involvement in vertical, racial identity enforcement was thus painfully apparent in South Africa: “White supremacy was the glue that held South Africa together,

<sup>61</sup> Anthony Marx, *Making Race and Nation: A Comparison of South Africa, the United States, and Brazil* (New York: Cambridge University Press); p. 4.

<sup>62</sup> *Ibid.*, p. 267.

<sup>63</sup> *Ibid.*, p. 5.

inscribed in the very foundation of a polity born of historical conflict and exclusion.”<sup>64</sup> White South Africans, both Afrikaners and British, despite their own differences, were unified via “shared racism”,<sup>65</sup> and black South Africans unified in opposition: “The more the state sought to unify whites by harsher exclusion of blacks, the more it forced blacks to identify as such.”<sup>66</sup> State racial defined citizenship thus resulted in deeply entrenched vertical heritages. Robert Thornton comments that apartheid amounted to a marked difference of race and space, a “rationalized bureaucratic master plan of total differentiation of spheres of life” with an accompanying “master narrative.”<sup>67</sup> Such a long history of exclusion and domination created entrenched racial groups, formed and solidified in opposition to one another—put another way, the racial citizenship under apartheid resulted in a society marked by what can be called ‘entrenched verticality.’

When the bulwark enforcing this entrenched verticality—in this case, the apartheid regime—collapses, so goes the master narrative that defined identity and the relationships between groups and between groups and the state. Thornton, writing in mid-1995, during the temporary “Government of National Unity” and before ratification of constitution, characterized South Africa as in a period of marked and multiple uncertainties.<sup>68</sup> Identity, which was “previously legislated and believed to be immutable,” “suddenly open to threat and negotiation.”<sup>69</sup> Paraphrasing Steven Tyler on the “unspeakable” character of South Africa, Thornton writes, “there are quite literally no

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<sup>64</sup> Marx, *Making Race*, p.119.

<sup>65</sup> *Ibid*, p. 84.

<sup>66</sup> *Ibid*, p. 204.

<sup>67</sup> Robert Thornton, “The potentials of boundaries of boundaries in South Africa: steps towards a theory of the social edge,” in Richard Werbner and Terence Ranger, et.al., *Postcolonial Identities in Africa* (London: Zed Books Ltd, 1996): p. 142.

<sup>68</sup> *Ibid*, p. 144

<sup>69</sup> *Ibid*.

names, no vocabulary, to discuss major aspects and parts of its political being.”<sup>70</sup> The collapse of the old regime thus results in the need for re-articulation and renegotiation of previously entrenched identity boundaries.

But despite the newly-negotiable character of identity, transitional South African society was still dominated by the legacy of the old entrenchments—vertical identity categories persisted despite the removal of supporting state structures, and the negotiability and flexibility of identity in the transitional context is something that must be worked towards and realized. In South Africa, the end of apartheid did not signal the end of the salience of race: “Identities have persisted even after enforcing institutions were reformed. The dynamics of race-making remain.”<sup>71</sup> Marx further notes,

Unmaking racial domination does not unmake the prejudice upon which domination was built and then reinforced, nor dissolve a now-consolidated racial identity. The scars of race remain deeply embedded...the historical foundation and entrenched legacies of discrimination and inequality persist. Racial identities, ingrained through painful experience and embedded in everyday life, do not quickly fade even if the institutions that reinforced them change.<sup>72</sup>

In the newly-democratized South Africa, Marx notes that “ethnic, class, and racial tensions, building on historical legacies, remained just under the surface,”<sup>73</sup> as “long-entrenched racial animosity” could not be easily “defused by democratic inclusion and non-racialism.”<sup>74</sup> The persistence of entrenched verticality—a project of the old state, which did not follow the old system into extinction—is now a challenge facing the transitional, and even post-transitional, regime and society at-large.

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<sup>70</sup> Thornton, “Potentials of boundaries,” p. 144-5.

<sup>71</sup> Marx, *Making Race*, p. 23.

<sup>72</sup> *Ibid.*, p. 271.

<sup>73</sup> *Ibid.*, p. 214.

<sup>74</sup> *Ibid.*

The end of the old regime and concurrent collapse of the master narrative, coupled with the persistence of vertical, racial identity categories in the new dispensation amounts to what can be called an *identity vacuum*. Like a power vacuum—or perhaps even a type of power vacuum—where potentially sectarian interests rush to fill a void left by the collapse of a central authority, transitional South African society was left with an identity vacuum following the collapse of the structures that previously defined and regulated identity and interaction. Because of their sudden flexibility, identities and livelihoods are seen as under threat, subject to sectarian interests, and therefore there is a need for a new ‘master narrative’ to negotiate these changes. As Thornton noted in 1995, “South Africa is precisely and fully in the process of ‘inventing allusions to the conceivable’ since there is no agreed-upon reality, as yet, to which a single discourse can be referred. The master-narrative is quite literally gone. The ‘state,’ once all-powerful in South African eyes, is now suddenly recognized as vulnerable and non-hegemonic.”<sup>75</sup> Historical divisions persist, previously violently negotiated, and new order must work within the existing categories to mitigate conflict as power relations are reshaped—a transitional society marked by this phenomenon thus needs new modes of interaction suitable for peaceful coexistence.

Similar to Marx, Roger MacGinty cautions a peace process and subsequent transition to democracy can lead to an increase in hate crimes and ethno-national conflict rather than their regulation<sup>76</sup>; “the introduction of more plural political systems brings

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<sup>75</sup> Thornton, “Potentials of boundaries,” p. 146-7.

<sup>76</sup> Roger MacGinty, “Ethnonational Conflicts, Democratization, and Hate Crime,” in Sally Avery Bermanzohn, Mark Ungar, and Kenton Worcester, Violence and Politics: Globalization’s Paradox (New York: Routledge, 2002): p. 165.

few guarantees that prejudice and prejudice-motivated crimes will be exorcised.”<sup>77</sup> Referencing Paul Hockens’ book Free to Hate, MacGinty notes that the “collapse of authoritarian state structures gives individuals greater freedom. In some cases this has been abused and channeled into prejudice, with extreme nationalists offering quick-fix solutions at the expense of minorities.”<sup>78</sup> Nationalism was previously constructed through division and antagonism, involving an “ethnic” rather than a “civic logic,” and now must be replaced with a new script in order to prevent the continuation of violent identity conflict. Referencing a newspaper article, Marx writes of transitional South Africa, “With the loss of a unifying target of opposition, many felt the loss of identity more than they immediately adopted an inclusive nationalism. ‘The people are shattered into a thousand pieces. Everyone is just running with his own little piece of hatred.’”<sup>79</sup>

Indeed, Maalouf almost gave his book the subtitle “How to tame the panther” of identity, because “a panther kills you if you persecute it and it kills you if you leave it alone, and the worst thing you can do is to leave it alone after you’ve wounded it.”<sup>80</sup> He elaborates, stating that “people often see themselves in terms of which one of their allegiances is most under attack.”<sup>81</sup> Asserting identity becomes an act of liberation, and “agitators” arise in “wounded communities.”<sup>82</sup> This is a key problem of an identity vacuum situation: transitional regimes must deal with the “reality of the fear,” rather than the “reality of the threat,”<sup>83</sup> and work against the prevalent vertical concept of

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<sup>77</sup> MacGinty, “Ethnonational conflicts,” p. 174.

<sup>78</sup> *Ibid.*, p. 175.

<sup>79</sup> Marx, Making Race, p. 215.

<sup>80</sup> Maalouf, Name of Identity, p. 143.

<sup>81</sup> *Ibid.*, p. 26.

<sup>82</sup> *Ibid.*, p. 26-7.

<sup>83</sup> *Ibid.*, p. 28.

identity that leads to distortions and conflict.<sup>84</sup> Such a discrepancy can cause violent reactions in defense of the perceived threats to identity and livelihood.

The identity vacuum follows the collapse of the old order and its master narrative of entrenched verticality, and leads to sectional narratives vying for dominance and open to manipulation to serve sectarian ends. Without being incorporated into a framework of universal norms, “memories of the unresolved ‘past’” are available for “purposes of sectarian or nationalist mobilization.”<sup>85</sup> In fact, sectarian nationalisms at times threatened the transition to democracy in South Africa. For example, in one instance, in a column in the *Weekly Mail & Guardian* in February 1994, Afrikaner Volksfront member General Tienie Groenewald threatened violence if the Afrikaans population was not granted an independent *volkstaat*.<sup>86</sup> Even the negotiation process in South Africa was marked by this adversarial verticality: From 1990 to 1993, more than nine-thousand people died in conflict between the African National Congress (ANC) and Inkatha Freedom Party (IFP), with IFP receiving secret state support: “the continuation of negotiations was driven by mass mobilization and violence, much as their start was.”<sup>87</sup> With the collapse of entrenched verticality comes the need for a new horizontality—for the establishment of horizontal connections to break down vertical identity categories, the conflict between them, and the identity vacuum that comes in the wake of transition.

Indeed, addressing the consequences of the identity vacuum is an imperative of any transitional regimes, as some form of collective, horizontal functioning is seen as

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<sup>84</sup> Maalouf, *Name of Identity*, p.29.

<sup>85</sup> Andre du Toit, “The Truth and Reconciliation Commission: A Critical Appraisal,” Unpublished Paper (Cape Town, South Africa 2002): p. 7. Du Toit writes of the ability of truth commissions to pre-empt this phenomenon—a subject which will be taken up in another chapter.

<sup>86</sup> General Tienie Groenewald, “A volkstaat is a small price to pay for peace,” *Weekly Mail & Guardian*, February 11-17, 1994.

<sup>87</sup> Marx, *Making Race*, p. 211.

necessary for the functioning of democracy; “Identity formation is a prerequisite for mobilization. In the absence of a self-conscious group, there is no collectivity that can interpret and act on its situation.”<sup>88</sup> Even more, when someone feels despised or displaced, they are more likely to flaunt differences, whereas “when someone feels he has a place in the country where he has chosen to live,...he will behave in quite another manner.”<sup>89</sup> The state is thus entangled in identity formulation—in South Africa, the entrenched verticality created by the old regime persists into the new, but in a suddenly uncertain and competitive environment. It is thus the imperative of the state to mitigate conflict in order to ensure its own survival.

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<sup>88</sup> Marx, *Making Race*, p. 19.

<sup>89</sup> Maalouf, *Name of Identity*, p. 43.

### Chapter 3

#### Towards a New National Script

“Essentially, the TRC was committed to the development of a human rights culture and respect for the rule of law in South Africa. In this sense, the commission was not so much about the past as it was about coming to terms with contemporary challenges and future goals.”<sup>90</sup>

Amin Maalouf’s discussion of identity is directed towards a specific question:

How can a state be “managed” when its inhabitants feel like they belong to separate communities?<sup>91</sup> While Maalouf poses this question from his perspective as an immigrant, similar statements are often used to characterize South Africa’s post-apartheid predicament. Communities fight for a slice of the “cake” in societies with dominant vertical allegiances, each tending to feel slighted or misrepresented; this resentment is exploited by leaders and politicians, which increases a “tribal” sense of belonging, decreases a sense of national community, and fosters bitterness and a susceptibility to violence. “I am oversimplifying a little,” Maalouf writes, “but in the matter of ‘ethnic’ problems this is the scenario you head for as soon as community allegiances are allowed to turn into substitutes for individual identity instead of being incorporated into a single wider, redefined national identity.”<sup>92</sup> Maalouf’s assessment illuminates the threat of an identity vacuum to the stability, or even actual realization, of a new democratic dispensation: A focus on the interests of vertical heritage associations creates potentially

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<sup>90</sup> Alex Boraine, “Truth and reconciliation in South Africa: The Third Way,” in Robert Rotberg and Dennis Thompson, et.al., *Truth v. Justice: The Morality of Truth Commissions* (Princeton, N.J. : Princeton University Press, 2000): p. 150.

<sup>91</sup> Maalouf, *Name of Identity*, p. 144.

<sup>92</sup> *Ibid*, p. 148-9.

violent conflict, which may hinder peace and stability, and thus efficient democratic functions.

The conditions of an identity vacuum indicate the insufficiencies of a purely structural transition to democracy, without attention devoted to issues of identity-based conflict. “Just saying the word ‘democracy’ isn’t enough to create a peaceful co-existence.”<sup>93</sup> Elite political negotiations often lack strong resonance at the grassroots level, and the agreements cannot be “comprehensive enough to address the grievances and prejudices that form the basis of the conflict.”<sup>94</sup> Any transition process involves more than a change in government and law, but rather is an “enormous endeavor, attempting to change the very nature of belief, and requiring sustained engagement with actors previously regarded as enemies.”<sup>95</sup> As Maalouf’s book repeatedly argues, the problem with many multi-cultural societies is the notable absence of a sense of continuity and horizontal community—transitional South Africa, faced with the upheaval and dramatic change typical of transitional societies, was characterized by entrenched vertical allegiances separated by a violent and disputed history, the legacies of which pose problems for the transition to democracy. Considering that “deeply divided societies are likely to have an enduring culture of violence,”<sup>96</sup> as prejudice (and vertical allegiances) is left intact by the peace process,<sup>97</sup> the transitional state and society cannot afford to ignore the consequences of an identity vacuum.

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<sup>93</sup> Maalouf, *Name of Identity*, p. 148.

<sup>94</sup> MacGinty, “Ethnonational conflicts,” p. 179-80.

<sup>95</sup> *Ibid.*, p. 176.

<sup>96</sup> *Ibid.*, p. 180.

<sup>97</sup> *Ibid.*, p. 178.

Nation-building is necessary for processes of governance to function properly.<sup>98</sup> In order to mitigate the threat of sectarian conflict, and its destabilizing potential, posed by the condition of the identity vacuum, transitional South Africa needed a concerted effort to renegotiate pre-existing vertical allegiances into a shared horizontal affiliation—a “redefined national identity,” to use Maalouf’s phrase, is one way to conceptualize such a horizontal affiliation. Nationalism, nation-building, national identity, and so on here do not necessarily imply the intense patriotism often associated with this terminology, but rather indicate the creation of a new national script with at least enough purchase in society to facilitate non-violent conflict resolution in the new dispensation.

#### **Nationalism and the Transitional Context: History and the “Imagined Community”**

In 1994, Weekly Mail & Guardian columnist Martin Woollacott wrote that South Africa was charged with “pioneering our multi-cultural future.” The realization of multiple groups existing within society is a “far more logical political [formation]” than nation-states based on singular ethnic identities, the principle of “one nation, one state,” though he also notes that the more realistic multi-ethnic states “do not yet work very well.”<sup>99</sup> However, he writes that the end of apartheid was “a defeat not only for racism but for nationalism in the old sense of the word,” as the racial ideology of apartheid represented a “romantic 19<sup>th</sup> century form of ethnic nationalism.”<sup>100</sup> But the end of apartheid was not replaced by a “single black ‘nation’—nor any balanced group of black ‘nations,’” as “apartheid demonstrated the asymmetries that would make this

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<sup>98</sup> Wilson, *Politics*, p. 17.

<sup>99</sup> Martin Woollacott, “The real ties that bind racially mixed nations,” Weekly Mail & Guardian, May 13-19, 1994.

<sup>100</sup> Ibid.

impossible.”<sup>101</sup> And so, Woollacott asks, “what is the basis on which South Africa can be a community?”<sup>102</sup> He continues,

South Africans enjoy no general agreement on ideology, or perhaps even on democracy, properly conceived....

The answer is that identity must somehow be clawed out of the experience of oppression, the repudiation of oppression, repentance for oppression, and forgiveness for oppression. History provides no other stuff for nation building, except the intensity of the struggle in the past, and the hope of a success in the future which could redeem not only the republic but much of the rest of Africa.

That is why Nelson Mandela speaks so often of reconciliation. Reconciliation is something of a myth because actual political behavior tells a different story. But it is a necessary myth, because there is literally no other foundation for being ‘one people with a common destiny’ as Mandela put in his victory address.<sup>103</sup>

A new South African national identity, though perhaps largely symbolic, must be forged out of its history of oppression for the sake of its survival in the future: “Without this past, there would be no nation. Without a repudiation of this past, by oppressors and oppressed alike, there can be no future.”<sup>104</sup> Woollacott is calling for a new kind of nationalism, forged out of history for the sake of the future.

Woollacott’s column has strong resonance with Benedict Anderson’s notion of a nation as an “imagined community.” In his book *Imagined Communities*, Anderson defines nationalism as “an imagined political community—and imagined as inherently limited and sovereign”: “imagined,” because most of its members will never know each other, and a “community” because of the “deep horizontal comradeship,” irregardless of inequality and exploitation, including a willingness to kill and die for it, that denotes its

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<sup>101</sup> Woollacott, “Real ties.”

<sup>102</sup> Ibid.

<sup>103</sup> Ibid.

<sup>104</sup> Ibid.

existence.<sup>105</sup> Tracing the history of nationalism, Anderson states that the idea of nation-ness grew out of a need for secular modes for interpreting issues of human existence, particularly the dialectical themes of fatality and continuity, and contingency and meaning.<sup>106</sup> “If national-ness has about it an aura of fatality,” Anderson argues, “it is nonetheless a fatality embedded in *history*.”<sup>107</sup> Nations connect the past with the future,<sup>108</sup> and are thus fundamentally rooted in history, but with the purpose of providing continuity and meaning through the passage of time. Nationalism connects a people through time and space, and provides a sense of destiny and direction through past, present, and future. Nationalism provides continuity by “linking the dead with the yet unborn,” and gives meaning to fatality and contingency, “since nationals always loom out of an immemorial past, and, still more important, glide into a limitless future. It is the magic of nationalism that turns chance into destiny.”<sup>109</sup>

A sense of nationalism, which is here used to indicate a horizontal sense of “nation-ness,” involves the themes of common, shared identity rooted in history, and the resulting horizontal connections that, though imagined, give shape to the shared future. Nationalism thus deals with representations of history and identity, and is integral to the functioning of the modern nation-state. Anderson notes that nationalism became an official policy of the modern nation-state, a “conscious, self protective policy,”<sup>110</sup> out of the recognition that state survival and continuity depends on this horizontal affiliation and sense of cohesive national community. An “official nationalism” is therefore also an

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<sup>105</sup> Anderson, *Imagined Communities*, p. 6.

<sup>106</sup> *Ibid*, p. 11.

<sup>107</sup> *Ibid*, p. 145.

<sup>108</sup> *Ibid*, p. 12.

<sup>109</sup> Anthony Smith, *Nationalism and Modernism: A Critical Survey of Recent Theories of Nations and Nationalism* (London: Routledge, 1998): p. 132.

<sup>110</sup> Anderson, *Imagined Communities*, p. 159.

official justification, a *raison d'être* for the state, its policies, and its form of existence and operations.

Under the apartheid regime, the “official nationalism” of the South African government was divisive, and drew sharp lines of exclusion that left most of the people within its geographic borders out of the “imagined community” of the nation, and thus out of the actual implications and benefits of citizenship. Since, as Boraine notes, the domination of the apartheid regime was not just a denial of basic rights but “a systematic piece of social engineering that embraced every arena of life from birth to death,”<sup>111</sup> the new South Africa inherited a vertically organized society, which was not ameliorated by the extension of citizenship and official inclusion into the nation. Erna Paris, writing her impressions on a trip to South Africa during the Truth and Reconciliation Commission process, notes the effects of the legacy of apartheid, and refers to the persistence of “competing versions” of South African history, and comments that black and white South Africans seem to exist in two different countries.<sup>112</sup>

If history is integral to a shared sense of nation-ness, then South Africa’s divided history—competing versions, derived from the enforced verticality of society under apartheid—complicates the foundation of a new “imagined community” of the new dispensation. Robert Thornton notes the effects of a seeming sense of chaos regarding history and nation in transitional South Africa; comparing South Africa to post-communist Europe, in that “both exhibit a nostalgia for the recent past.”<sup>113</sup> This is not nostalgia for apartheid (or communism, in the case of the latter) *per se*, but a longing for a lost sense of “certainty,” “a promise of the future unfolding and a sense of historical

<sup>111</sup> Boraine, “The Third Way,” p. 141.

<sup>112</sup> Paris, *Long Shadows*, p. 260.

<sup>113</sup> Thornton, “Potentials of boundaries,” p. 138.

majesty that goes with any nationalist narrative, especially when this is paired with a promise (if not the reality) of the rationally administered state.”<sup>114</sup> Anderson’s concept of a nationalism that provides a sense of continuity through past, present, and future is notably absent in the new, transitional South Africa, which, Thornton writes, is “a new-old country that thought it knew all along what would happen, and then didn’t know, and thus waits again for recognition of a past it has forgotten and the materialization of a future it does not know.”<sup>115</sup> Furthermore, as Tina Rosenberg warns, if conflicts of history are not resolved, a newly democratized society runs the risk of becoming or persisting as a “highly polarized society,” or even dictatorship,<sup>116</sup> which threatens to obliterate the principles and goals of the transition. Issues of identity, history, and nation should thus be an active concern in the new dispensation.

If the “official nationalism,” and thus “official justification,” of the apartheid state was based on a doctrine of racism and separation, the new South Africa needed a new “official nationalism” based in its principles of inclusion and democracy. In a word, civic (horizontal) nationalism must replace an ethnic or racial (vertical) nationalism—however, civic nationalism requires the existence of strong state structure, which is often a problem for the “debilitated states in crisis” inherited by transitional regimes.<sup>117</sup> While nationalism is generally an official state policy, it is thus a particular imperative of a transitional society plagued by the conditions of an identity vacuum. As the identity vacuum theory shows, pre-existing divisions create conflict and threaten the stability of the new dispensation. Racism, according to Anderson “erases nation-ness by reducing the

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<sup>114</sup> Thornton, “Potentials of boundaries,” p. 138.

<sup>115</sup> Ibid, p. 142. Thornton makes this comment as part of a discussion of the new South Africa’s “postmodern condition,” which is not a discussion I wish to engage in at this point.

<sup>116</sup> Rosenberg, “Painful Past,” p. 353.

<sup>117</sup> Wilson, *Politics*, p. 17.

adversary to his biological physiognomy;” nationalism “thinks in terms of historical destinies,” while racism thinks in terms of contamination and corruption.<sup>118</sup> In South Africa, the legacies of racism and division threatened to contaminate the new dispensation—to prevent the growth of a horizontal “imagined community” of the new nation.

The question of defining and encouraging some sense of unity without reference to revenge or exclusion is a big challenge of the new South Africa,<sup>119</sup> as the “legacy of past divisions” is difficult to overcome:

“Certainly the end of formal racial domination opened the possibility of inclusive nationalism cognizant of cultural diversity. But no institutional arrangement could magically produce this result, for antagonisms had long been entrenched by prior institutional rule. According to activist Neville Alexander, ‘in South Africa, building a nation has to be a conscious project, it won’t just happen.’”<sup>120</sup>

On an institutional level, the interim government encouraged national unity and managed to compromise and adopt a collectively-endorsed constitution—politically, the leaders were able to use new government structures to contain conflict.<sup>121</sup> However, a “transition to an inclusive form of nationalism remained uncertain;”<sup>122</sup> the spirit of compromise that surrounded the institutional transition was not guaranteed to spread throughout society. This challenge of forging national unity not only had to overcome the particular pattern of South African antagonisms, but also the more general tendency to define and construct a nation in opposition to some ‘other.’ Because “nationalisms [have] long been expressed in antagonistic terms,” the pursuit of a new national script in historically divided South

<sup>118</sup> Anderson, *Imagined Communities*, p. 148-9.

<sup>119</sup> Marx, *Making Race*, p. 216.

<sup>120</sup> *Ibid.*, p. 213.

<sup>121</sup> *Ibid.*

<sup>122</sup> *Ibid.*, p. 215.

Africa “required grappling with the past.”<sup>123</sup> If nationalism is rooted in history and built in opposition to an ‘other,’ the new official nationalism of the new South African state was built in opposition to its own violent history.

The concerns of history and identity that are a critical element of the “imagined community” of the nation are therefore related to transitional justice’s desire to address the past in order to end conflict. As discussed in Chapter One, standard theories of transitional justice posit that “something must be done” to deal with the past—to reconcile competing histories, create an accurate public record, and hopefully in so doing smooth over the conflict created by the previous authoritarian regime. Considering that nationalism—which here generally refers to the horizontal connections of a “sense of nation-ness”—is rooted in history, fostering a new nationalism in the new dispensation necessarily involves some form of addressing the violent legacies and divided histories of the previous authoritarian regime. Actively pursuing a new national script, a new “imagined community” based on democratic ideals of inclusion and tolerance, is a way to conceptualize a goal of the transitional justice movement, and highlights its relevance and pertinence to the larger project of democratic transition and consolidation. If apartheid forcibly confined individual identities to vertical categories, and accordingly sought to regulate the relationships and interactions of these categories in all spheres of social, economic, and political life, then the idea of the “horizontal comradeship” of a nation, an imagined connection among groups and individuals within a nation-state—the antithesis of apartheid—should ideally be a foundational project and continuing goal of the new democratic dispensation.

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<sup>123</sup> Marx, *Making Race*, p. 215-6.

### The TRC: Towards a New National Script

From the beginning, the “New South Africa” was extremely aware of the need to forge a sense of unity out of its historically divided population. Considering that identity is often expressed through symbols,<sup>124</sup> the provisional Government of National Unity, itself a symbol, as well as other administrations and institutions promoted symbols of a new sense of national inclusiveness. Remarking on 1997 Freedom Day event led by then-President Nelson Mandela, foreign observer Erna Paris comments that a parade of the newly- multi-racial South African Defense Force (SADF) was “a true reflection of the newly sanctioned ideology. The ‘new South Africa’—suffused with remembered pain and beset with present difficulties—has invented a hopeful new identity: a multiracial Rainbow Nation in the very land where, for centuries, *white* and *citizen* were synonymous.”<sup>125</sup> At the event, Mandela used every chance to “urge emotional reconciliation,”<sup>126</sup> and told the crowd that “patriotism means that we are committed to being citizens of our new democracy.”<sup>127</sup> President Mandela’s speech, and the ceremony at-large, was designed to “consolidate the new pluralist nationalism.”<sup>128</sup> Using a redefined concept of citizenship—one based on inclusion, rather than exclusion and division—Mandela and the leaders of the New South Africa sought to replace ethno-nationalism with pluralism, to incorporate the country’s diversity into a new framework of governance and non-violent social co-existence. The new South African official nationalism was designed to urge the horizontal affiliation of membership to the new, inclusive “imagined community” of the new nation.

<sup>124</sup> Maalouf, *Name of Identity*, p. 73.

<sup>125</sup> Paris, *Long Shadows*, p. 241.

<sup>126</sup> *Ibid.*

<sup>127</sup> *Ibid.*, p. 242.

<sup>128</sup> *Ibid.*

While the Truth and Reconciliation Commission had a variety of charges, goals, and modes of operation, on a political/institutional level it was in part a nation-building project. The TRC was one of the first institutions to explore the idea of the “Rainbow Nation,” a project rooted in the postscript of the interim constitution, which reads, “The pursuit of national unity, the well-being of all South African citizens and peace require reconciliation between the people of South Africa and the construction of society.”<sup>129</sup> This discourse of “national unity” provided a new “script of nationhood” that saw South Africa as a collection of diverse groups, with unity derived from “heterogeneity as a ‘rainbow’” and respect and tolerance for that diversity; “building a nation depended fundamentally on virtues of mutual respect and tolerance.”<sup>130</sup>

Even the process of creating of the TRC was characterized by this new script of collective negotiation and action: Antjie Krog writes of the Parliament debates regarding the TRC’s authorizing legislation,

It is late afternoon when Johnny de Lange concludes the debate. What makes this piece of legislation so unique, he says, is that it really is a patchwork of all viewpoints of the country. ‘I can point out a Dene Smuts [DP] clause, a Danie Schutte [NP] clause, a Lawyers for Human Rights clause, a victim clause, a police clause—and for this all of us should proudly take credit.’<sup>131</sup>

A new South African national identity based on inclusion and cooperation was a political priority of the transitional government from its very inception, and was a core consideration in the establishment of the TRC.

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<sup>129</sup> Posel and Simpson, “The Power of Truth,” p. 9.

<sup>130</sup> *Ibid.*

<sup>131</sup> Antjie Krog, *Country of my skull : guilt, sorrow, and the limits of forgiveness in the new South Africa* (New York : Times Books, 1999): p. 15.

If, as Anderson argues, nationalism is intimately linked with history, then the TRC's charge of discerning an accurate historical record is a foundational element of the new South African national identity. Additionally, this historical accounting was recognized as necessary for present and future stability—another characteristic of Anderson's concept of nationalism, which, as discussed above, finds continuity in past, present, and future. The TRC's foundational document, the Promotion of National Unity and Reconciliation Act of 1995, recognizes this connection as it relates the TRC with the new Constitution's creation of a "historic bridge between the past of a deeply divided society characterized by strife, conflict, untold suffering and injustice, and a future founded on the recognition of human rights, democracy and peaceful co-existence for all South Africans."<sup>132</sup> In his foreword to the final report, Chairman Archbishop Desmond Tutu writes, "We could not make the journey from a past marked by conflict, injustice, oppression, and exploitation to a new and democratic dispensation characterized by a culture of respect for human rights without coming face to face with our recent history."<sup>133</sup> History and future here are considered in a dependent dichotomy, as the future is rooted in but exists in opposition to the past: out of a violent and divided history comes new order based on human rights.

Issues of "national healing" and reconciliation taken up by the TRC were thus fundamentally those of nation-building, of working towards an overarching horizontal affiliation of a national community. The TRC was "intensely focused on national healing and reconciliation, with the intent of moving a country from its repressive past to a

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<sup>132</sup> Promotion of National Unity and Reconciliation Act of 1995, [http://www.fas.org/irp/world/rsa/act95\\_034.htm](http://www.fas.org/irp/world/rsa/act95_034.htm). (Accessed July 13, 2007)

<sup>133</sup> Tutu, "Chairperson's Forward," Paragraph 20.

peaceful future, where former opponents work side by side.”<sup>134</sup> The rhetoric of “healing wounds,” which are rooted in historical legacies of violence and oppression, equates to “producing political stability in an historically fractured society,”<sup>135</sup> a critical achievement for the future of the democratic dispensation.

Referencing Anderson’s concept that a “shared national past” forms the basis of a “shared national future,” Richard Wilson argues that truth commissions are nationalist projects because they “construct a revised national history,” “write into being a new ‘collective memory,’”<sup>136</sup> and institutionalize a view of past conflict.<sup>137</sup> The nationalist concern with history is ever-present in the TRC: the recording of testimony was “socially significant process” because it is “the basis of what future generations will remember.”<sup>138</sup> Additionally, the TRC was designed to “restore memory” after the “systematic elimination of the nation’s archival record” by the previous government through censorship, assassination, and destruction of documents, and thus incriminating evidence, by the apartheid regime.<sup>139</sup>

However, this fact-finding mission is not for history’s sake alone. Truth commissions “codify” a fragmented history, and their reports are similar to national narratives which express “discontinuity with the past,” a contrasting view of the present

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<sup>134</sup> Priscilla Hayner, “Same Species, Different Animal: How South Africa compares with truth commissions worldwide,” in Wilhelm Verwoerd and Charles Villa-Vicencio, Looking Back, Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa (Cape Town: Cape Town University Press, 2000): p. 33.

<sup>135</sup> Sandra Young, “Narrative and Healing in the Hearings of the South African Truth and Reconciliation Commission,” *Biography*, Vol. 27, 2004. ([www.questia.com](http://www.questia.com), accessed May 24, 2007)

<sup>136</sup> Wilson, Politics, p. 14.

<sup>137</sup> *Ibid*, p. 16.

<sup>138</sup> Cheryl De la Rey and Ingrid Owens, “Perceptions of Psychosocial Healing and the Truth and Reconciliation Commission in South Africa,” *Peace and Conflict*, Vol. 4, 1998: p. 260.

<sup>139</sup> Paris, Long Shadows, p. 243.

and the future.<sup>140</sup> The TRC process, Wilson continues, thus becomes a “nationalist history lesson” connected with the formation of a new South African identity. The new identity is defined by response to and reaction against the old, as derived from “sharing the traumas” of apartheid through the TRC testimonial process.<sup>141</sup> In this sense, truth commissions construct an “official nationalism,” to again use Anderson, for the new dispensation.

The “official nationalism” of the new South African government revolved around concepts of human rights—or, as Wilson says, the language of human rights was fitted to nation-building project of the ‘New South Africa. “Human rights were subjected to the imperatives of nation-building in the ‘New South Africa,’”<sup>142</sup> and were fitted to advance the imperative of the new state.<sup>143</sup> The TRC was geared towards “using human rights talk to construct a new national identity,”<sup>144</sup> a key imperative of the new state, and thus clear connections made between reconciliation and nation-building.<sup>145</sup> As a nationalist project, the human rights canon of the TRC was firmly rooted in its historical accounting:

The new South African identity is constructed upon a discontinuous historicity, where the past is not a past of pride, but of abuse....The TRC codified the official history of martyrs of that struggle in order to institutionalize those shared, bitter experiences of apartheid, which were silenced before, as a unifying theme in the new official version of the nation’s history.<sup>146</sup>

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<sup>140</sup> Wilson, *Politics*, p. 16.

<sup>141</sup> *Ibid.*, p. 14.

<sup>142</sup> *Ibid.*, p. 3.

<sup>143</sup> *Ibid.*, p. 4-5.

<sup>144</sup> *Ibid.*, p. 13.

<sup>145</sup> *Ibid.*, p. 9.

<sup>146</sup> *Ibid.*, p. 17.

The TRC proceedings were “part of the endeavor both to put the past to rest, and publicly to define the moral standards of the new state,”<sup>147</sup> and the discourse of hearings was conscious of the larger South African nation-building process focused on constructing a new identity based on principles of universal human rights.

### **Civil Society: A Space for Non-Violent Conflict Resolution**

An organized civil society, which is seen as necessary for circulation of ideas of nationalism, is a difficult concept to fathom in deeply divided societies. According to John Keane, democracies mitigate fear via “spaces of nonviolence called civil society,” which limit the scope of institutionalized political power.<sup>148</sup> Civil societies in modern states flourish because of the protection of “the freedom of individuals to live without the everyday fear of violent death and the hands of others.”<sup>149</sup> The conditions of non-violent conflict resolution occur when “members of society become capable of suppressing or sublimating their aggressive impulses, whether they are directed at governments or at fellow civilians themselves. They display a remarkable self-restraint, even in the face of hostility.”<sup>150</sup> Democracies today “operate in a framework of communications media,” which decrease fear and despotism by publicizing and thereby transforming it; “the cultivation of public opinion within nonviolent public spheres came to be seen as a weapon against the paralyzing effects of fear.”<sup>151</sup> Civil society is thus a space for

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<sup>147</sup> Sally Falk Moore, “Systemic Judicial and Extra-Judicial Injustice: Preparations for Future Accountability,” in Richard Werber, et.al, *Memory and the Postcolony*. (NY: Zed Books, 1998.) p. 133

<sup>148</sup> John Keane, “Fear and Democracy,” in Bermanzohn, Ungar, and Worcester, et.al., *Violence and Politics*: p. 229.

<sup>149</sup> Ibid.

<sup>150</sup> Ibid, p. 230.

<sup>151</sup> Ibid.

expression without fear of reprisal, suggests nonviolent remedies for social problems, open discussion rather than subversion and rumor.<sup>152</sup>

However, under apartheid, all aspects of life were dominated by entrenched verticality, which itself was a violent endeavor, and interactions between these vertical alignments were often characterized by violence. According to Andre du Toit, authoritarian rule is characterized by the absence of a civil society, which he defines as “self-organized and autonomous institutions and movements independent of the state.”<sup>153</sup> People are “atomized” and “de-politicized” because of the high cost of expression and action, and thus “in an important sense there is no space for ‘politics.’”<sup>154</sup> Accordingly, a key feature of the final stage of transition is the “normalization” of politics, as political parties emerge as key actors, and liberation movements and other organizations have to reformulate to fit and participate in a new democratic framework.<sup>155</sup>

Because of the divisive effects of the entrenched verticality of society under apartheid, and the persistence of that conflict in the transition in the form of the identity vacuum, civil society must be created as a political space for non-violent interaction and conflict resolution. Similarly, Maalouf writes that public discourse must occur in an “atmosphere of relative calm”<sup>156</sup> in order to address issues of identity conflict.<sup>157</sup> Civil society and nationalism are thus part of the same goal—a new, democratic “imagined” national community cannot exist without a non-violent realm of civil society, but the

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<sup>152</sup> Keane, “Fear and Democracy,” p. 230.

<sup>153</sup> Du Toit, “South Africa as Another Case of Transition from Authoritarian Rule?” (IDASA Occasional Paper no. 32, 1990); p. 5.

<sup>154</sup> *Ibid.*

<sup>155</sup> *Ibid.*, p. 7.

<sup>156</sup> Maalouf, *Name of Identity*, p. 153.

<sup>157</sup> *Ibid.*, p. 157.

functioning of civil society in turn requires an ability to envision a sense of cohesion and shared national identity—and “imagined community” with its horizontal comradeship.

### “Threads of Affiliation”

Amin Maalouf writes that “men of good sense” recognize that a country is not a blank slate or a done deal, “but a page in the process of being written.”<sup>158</sup> The future should be seen as continuous with the past, with changes and contributions from elsewhere.<sup>159</sup> The ideal condition of any society is the “acceptance of a multiplicity of allegiances as all equally legitimate,”<sup>160</sup> but with a focus on “threads of affiliation”: symbols of identity that connect individuals to those around them and provide “bridges to the Other.”<sup>161</sup> This is a particular problem for deeply divided transitional societies because of the persistence of historical identity conflicts. A new sense of nationalism can provide “threads of affiliation” in deeply divided transitional societies by renegotiating previously violently antagonistic vertical divisions into the fold of the non-violent political space of civil society. As Maalouf writes, perhaps idealistically but nonetheless usefully,

As soon as someone decides to belong to a country or group of countries such as a united Europe, he can’t help feeling a certain kinship with all its component parts. Of course, he still has a very special relationship with his own culture and feels a certain responsibility towards it, but at the same time builds up relations with the other components of the adopted country or group of countries.<sup>162</sup>

The construct and growth of a new nationalism and civil society must be active projects of the transitional state, for the sake of its own survival. As Part II will describe, methods

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<sup>158</sup> Maalouf, *Name of Identity*, p. 40.

<sup>159</sup> *Ibid.*

<sup>160</sup> *Ibid.*, p. 160.

<sup>161</sup> *Ibid.*, p. 120.

<sup>162</sup> *Ibid.*, p. 162.

of transitional justice, and in particular the Truth and Reconciliation Commission of South Africa, contribute to this sociopolitical phenomenon.

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## Part II

### The Condition of Modernity and the South African Truth and Reconciliation Commission

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Chapter 4:  
The Modern Context:  
Reflexivity and Self-Identity Formation

“What might be portrayed as some kind of collective movement is composed of the sum of the new relationships that people manage to create, not only with their past, but with their neighbors and former enemies.”<sup>163</sup>

While the Truth and Reconciliation Commission, like other transitional justice mechanisms, is in many aspects a unique institution, it cannot be separated from the larger context of modernity, the forces of which shaped its very existence and allowed for it to realistically expect a degree of sociopolitical impact. Theorist Anthony Giddens, who rejects the traditional sociological idea of society as a “bounded” system, argues for the consideration of social life as organized across time and space in the conditions of modernity, involving “complex relations between *local* involvements (circumstances of co-presence) and *interaction across distance* (the connections of presence and absence).”<sup>164</sup> As a consequence, self-identity formation in modernity involves the “interlacing of distance and proximity, of the personal and the large-scale mechanisms of globalization.”<sup>165</sup>

The next chapter will examine the TRC within this framework—this chapter establishes the dynamics of modernity, particularly the increasing interconnectedness of self and society in a co-constituting process of reflexive knowledge production, that are particularly relevant to the TRC’s function as a political institution of the South African

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<sup>163</sup> Andrew Rigby, *Justice and Reconciliation: After the Violence* (Boulder, CO: L. Rienner, 2001.) p. 189.

<sup>164</sup> Giddens, *Consequences of Modernity*, p. 64.

<sup>165</sup> *Ibid.* p. 157.

transition. Using Giddens as a base, South Africa's transitional identity vacuum is conceptualized as part of the "juggernaut" of the transition, a force that required the attention of the state, as it threatened to destabilize the new democracy.

### **Setting the Stage for Conceptualization: Anthony Giddens and the Reflexivity of Modernity**

Theorist Anthony Giddens identifies modernity as modes of social life and organization that began in seventeenth century Europe and have since become influential worldwide, with the late twentieth century amounting to the "opening of a new era" of "high modernity."<sup>166</sup> Giddens rejects the notion that the age of modernity has passed into a stage of post-modernism, which, according Jean-Francois Lyotard, is "distinguished by an evaporating of the 'grand narrative'—the overarching 'story line' by means of which we are placed in history as beings having a definite past and a predictable future. The post-modern outlook sees a plurality of heterogeneous claims to knowledge, in which science does not have a privileged place."<sup>167</sup> Rather, Giddens asserts that these feelings of disorientation result from "the sense many of us have of being caught up in a universe of events we do not fully understand, and which seems in large part outside of our control."<sup>168</sup> Accordingly, "rather than entering an era of post-modernity, we are moving into one in which the consequences of modernity are becoming more radicalized and universalized than before."<sup>169</sup>

To conceptualize the "consequences of modernity," Giddens develops what he terms a "discontinuist" interpretation of modern social development. Modern institutions

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<sup>166</sup> Giddens, *Consequences of Modernity*, p. 1.

<sup>167</sup> *Ibid*, p. 2.

<sup>168</sup> *Ibid*, p. 2-3.

<sup>169</sup> *Ibid*, p 3.

are post-traditional, almost completely distinct from those of the preceding traditional order:

The modes of life brought into being by modernity have swept us away from *all* traditional types of social order, in quite unprecedented fashion. In both their extensionality and their intensionality the transformations involved in modernity are more profound than most sorts of change characteristic of prior periods. On the extensional plane they have served to establish forms of social interconnection with span the globe; in intensional terms they have come to alter some of the most intimate and personal features of our day-to-day existence.<sup>170</sup>

The radically new phenomenon of local-global interconnection—which will here be termed local/global interplay, or self-society connection—will provide the context for considering the TRC in the next chapter.

#### *Reflexivity of Modernity and Modern Identity Formation*

The “reflexive” character of modern institutions, social life, and individual self-identity formation is the central component of modernity’s discontinuity with the traditional era. “The reflexivity of modern social life consists in the fact that social practices are constantly examined and reformed in light of incoming information about those very practices, thus constitutively altering their character.”<sup>171</sup> As a central feature of the modern condition, the “institutional reflexivity of modernity” and the related “reflexivity of knowledge,” are crucial elements of individual and group identity formation in conditions of modernity. The “reflexivity of knowledge,” particularly in the social sciences, refers to the production of knowledge that becomes consequential, and even co-constituting, to its source, as analytical writings “serve routinely to organize, and alter, the aspects of social they report on or analyze....Such knowledge is not incidental

<sup>170</sup> Giddens, *Consequences of Modernity*, p. 4.

<sup>171</sup> *Ibid.*, p. 38.

to what is actually going on but constitutive of it—as is true of all contexts of social life in conditions of modernity.”<sup>172</sup> Reflexive knowledge creates a condition whereby “thought and action are constantly refracted back upon one another,”<sup>173</sup> thereby linking ideas and institutions in a fluid interchange that continually changes the nature of their existence. Knowledge in the condition of modernity is thus subject to constant revision: “No knowledge under conditions of modernity *is* knowledge in the ‘old’ sense, where ‘to know’ is to be certain.”<sup>174</sup> This pervasive uncertainty contributes to the sense of disorientation that characterizes the stage of high modernity.

The reflexivity of knowledge is part of the larger “institutional reflexivity of modernity,” the susceptibility of social and material relations to “chronic revision in the light of new information or knowledge.”<sup>175</sup> Knowledge generated about social institutions and relations is constantly refracted back upon those institutions, thereby altering their nature and altering the knowledge in a never-ending and ever-changing relationship. The processes of reflexivity thus have a “chronic character,”<sup>176</sup> a “never-to-be-relaxed...monitoring of behavior and its contexts”<sup>177</sup> that is pervasive through all aspects of modern life, from institutions, social organization, and individuals: “There is a fundamental sense in which reflexivity is a defining characteristic of all human action. All human beings routinely ‘keep in touch’ with the grounds of what they do as an integral element of doing it.”<sup>178</sup>

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<sup>172</sup> Giddens, *Modernity and Self-Identity*, p. 14.

<sup>173</sup> Giddens, *Consequences of Modernity*, p. 38.

<sup>174</sup> *Ibid.*, p. 39-40.

<sup>175</sup> Giddens, *Modernity and Self-Identity*, p. 21.

<sup>176</sup> Giddens, *Consequences of Modernity*, p. 36.

<sup>177</sup> *Ibid.*, p. 37.

<sup>178</sup> *Ibid.*, p. 36.

Modern identity formation must be considered within this framework of fluctuation and continuous change resulting from modernity's reflexivity. Because of the processes of reflexivity, modern institutions are unique in their dynamism, erosion of traditions, global impact, and subsequent effect on daily life and personal experience. Accordingly, "modernity must be understood on an institutional level," but Giddens' main interest is how the "transmutations" of modern institutions "interlace in a direct way with individual life and therefore with the self." The interconnection of the extremes of global and local, of "globalizing influences on the one hand and personal dispositions on the other," and their influence on each other through the processes of reflexivity, is a defining feature of modernity.<sup>179</sup> Individuals shape and are in turn shaped by institutions of modernity:

The overriding stress of this book is upon the emergence of new mechanisms of self-identity which are shaped by—yet also shape—the institutions of modernity. The self is not a passive entity, determined by external influences; in forging their self-identities, no matter how local their specific contexts of action, individuals contribute to and directly promote social influences that are global in their consequences and implications.<sup>180</sup>

While self identity formation is increasingly influenced by distant, global factors, individuals also actively shape and continually reformulate those very same forces.

The age of high modernity is thus characterized by the influence of distant events on the self.<sup>181</sup> In the condition of modernity, "self-identity becomes a reflexively organized endeavor,"<sup>182</sup> with the "reflexive project of the self" involving the sustenance

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<sup>179</sup> Giddens, Modernity and Self-Identity, p. 1.

<sup>180</sup> *Ibid.*, p. 2.

<sup>181</sup> *Ibid.*, p.4-5.

<sup>182</sup> *Ibid.*, p. 5.

of “coherent, yet continuously revised, biographical narratives.”<sup>183</sup> With decline of tradition, “daily life is reconstructed in terms of the dialectical interplay of the local and the global.”<sup>184</sup> As a result, individuals are increasingly connected to society, and vice versa: “For social circumstances are not separate from personal life, nor are they just an external environment to them. In struggling with intimate problems, individuals help actively to reconstruct the universe of social activity around them.”<sup>185</sup> The reflexive project of the self, and its relation to the larger reflexivity of modernity, force everyone into a process of “active intervention and transformation,” a life-long internal struggle to “[find] oneself” in the modern world.<sup>186</sup> Individuals and society are thereby increasingly bound together in a co-constituting relationship—a dialectical interplay of self and society that is itself integral to the nature and character of the existence of each.

In addition to the reflexivity of modernity, Giddens identifies another simultaneous influence that impacts identity formation in the modern era: the related phenomenon of time/space “distanciation.” The separation of time and space enables the local/global interplay that is a dominant force in modern identity formation. “In pre-modern settings,” Giddens argues, “time and space were connected *through* the situatedness of place.”<sup>187</sup> In modernity, the separation of time and space make possible the “coordination of social activities without necessary reference to the particularities of place,”<sup>188</sup> and “coordination of the actions of many human...physically absent from one another.”<sup>189</sup> In contrast to the relative inclusiveness of localities in pre-modern eras, in

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<sup>183</sup> Giddens, *Modernity and Self-Identity*, p. 5.

<sup>184</sup> Ibid.

<sup>185</sup> Ibid, p. 12.

<sup>186</sup> Ibid.

<sup>187</sup> Ibid, p.16. (Emphasis in original.)

<sup>188</sup> Ibid, p. 17.

<sup>189</sup> Ibid.

modernity place is “increasingly *phantasmagoric*: that is to say, locales are thoroughly penetrated by and shaped in terms of social influences quite distant from them.”<sup>190</sup>

Globalization has spread this phenomenon to encompass most of the world, resulting in the “intensification of worldwide social relations which link distant localities in such a way that local happenings are shaped by events occurring many miles away and vice versa.”<sup>191</sup> The dual influences of reorganized time and space and local/global interplay creates conditions of increasing interconnection of self and society—a web in which individual identities constantly form and reform, negotiate and renegotiate, in a ever-changing dynamic environment.

Like Maalouf’s discussion of the flexible hierarchy of allegiances that comprises an individual identity and is influenced by broader social and historical forces, Giddens’ theory of reflexivity involves constant re-negotiation of self-identity in a constantly fluctuating world: “Self identity...is not something that is just given...but something that has to be routinely created and sustained in the reflexive activities of the individual.”<sup>192</sup> Reflexivity and globalization indicate an increased interconnectedness between self and society, resulting in the increased impact of global forces on individual identity formation: “Transformations of self-identity and globalization...are the two poles of the dialectic of the local and the global in conditions of high modernity. Changes in the intimate aspects of personal life, in other words, are directly tied to the establishment of social connections of a very wide scope.”<sup>193</sup> Maalouf also notes the “ever accelerating intermingling of elements” of society and identity under circumstances of globalization,

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<sup>190</sup> Giddens, *Consequences of Modernity*, p. 18-19.

<sup>191</sup> *Ibid.*, p. 64.

<sup>192</sup> Giddens, *Modernity and Self-Identity*, p. 52.

<sup>193</sup> *Ibid.*, p. 32.

as a “great tide of different images, sounds, ideas and products submerges the whole planet, bringing everyday new changes to our tastes, hopes, habits, lifestyle and view of the world and also to ourselves.”<sup>194</sup> Both theorists highlight the increasingly interconnected relationship between society and self-identity formation in the modern era.

However, both Giddens and Maalouf discuss the frequency of backlashes against the circumstances of this increased interconnectedness. Giddens states that the rise of “local nationalisms” is a reaction to globalization’s stretching of social relations across time and space.<sup>195</sup> Similarly, Maalouf writes that “whenever a society sees ‘the hand of the stranger’ in modernity it tends to repulse it and try to ward it off.”<sup>196</sup> Globalization is often incorrectly seen as a force of hegemony and domination,<sup>197</sup> and as a result individuals and social groups may attempt to withdraw from the “emerging universal culture” that they see as “incomprehensible” or even “hostile.”<sup>198</sup> The stretching of social relations combined with modernity’s erratic character prompt defensive reactions from those who feel their identity, and thus sense of coherency, is under threat.

Giddens’ and Maalouf’s discussion of the hostile reaction of the stretching of social relations can be borrowed to conceptualize South Africa’s transitional identity vacuum<sup>199</sup>—and thus the circumstances that influenced the TRC’s sociopolitical context and potential impact, which will be discussed in the next chapter. Social relations under

<sup>194</sup> Maalouf, *Name of Identity*, p. 107.

<sup>195</sup> Giddens, *Consequences of Modernity*, p. 65.

<sup>196</sup> Maalouf, *Name of Identity*, p. 119.

<sup>197</sup> *Ibid.*, p. 113.

<sup>198</sup> *Ibid.*, p. 123.

<sup>199</sup> This is not to argue that apartheid was a pre-modern system, but simply a way to conceptualize South Africa’s transitional predicament with regards to identity. Robert Thornton argues that apartheid, both in ideology and in practice, “one of the most virulent varieties of modernism” for its coldly bureaucratic administration aimed at producing “wealth and leisure” (p. 141). To Thornton, post-apartheid South Africa is thus a post-modern condition.

apartheid were entrenched along legally defined vertical identity categories, as established in Chapter 2. The apartheid state determined citizenship along race boundaries, thereby demarcating South African society along strict lines of inclusion and exclusion and regulating the relationships between these groups. Racial groups in apartheid South Africa were intended to be wholly inclusive, and the state went to extensive lengths—ultimately unsuccessfully—towards that end. With the collapse of the apartheid structure, and the redefinition of citizenship based on principles of inclusion, social relations were suddenly stretched across new boundaries.

While much progress was made on the political level regarding compromise and cooperation, this stretching of social relations ushered in by the newly inclusive state was still characterized by historically rooted mistrust. Lasting feeling of antagonism had the potential to perpetuate violence, at worst, or else the “paralyzing effects of fear”<sup>200</sup>—based in reality or not—could prevent the functioning of civil society in support of the new democracy. An example of this fear is found in the transitional era debates over justice mechanisms and ultimately the TRC. Covering the trial of Eugene de Kock, New York Times reporter Bill Keller observes that historical reckoning has ramifications beyond the political level, as “many Afrikaners fear that raking up the past will make it impossible for them to live safely in South Africa.”<sup>201</sup> Additionally, Martin Meredith notes that, during this period, “a common theme in the Afrikaans-language press was: ‘Atrocities were committed on both sides, so let us just forgive and forget.’”<sup>202</sup> These

<sup>200</sup> Keane, “Fear and Democracy,” p. 230.

<sup>201</sup> Bill Keller, “A Glimpse of Apartheid’s Dying Sting,” *New York Times*. (20 February 1995)

<sup>202</sup> Martin Meredith, *The fate of Africa : from the hopes of freedom to the heart of despair : a history of fifty years of independence*, (New York : Public Affairs, 2005): p. 654.

defensive attitudes were a common occurrence, a legacy of historical divisions and the violence and mistrust that often characterized social relations.

An opinion article in the *Weekly Mail & Guardian* written just prior the first election of the newly democratic South Africa in 1994 summarizes several sources of mistrust in the transitional society:

The NP [National Party] is too burdened by the past, too untrustworthy in its born-again nonracialism. The shakiness of its liberal commitments was shown by its willingness to resort to racism to lure the coloured vote in the Western Cape. Minority groups which put their faith in the NP to protect them are forgetting how opportunistic the NP is, and how quickly it will shed these commitments when it suits the party... [The NP is also dominated by] men whose political instincts are fundamentally undemocratic.

The IFP [Inkatha Freedom Party] has chosen to play a strong ethnic ticket. The lesson of Bosnia, Biafra and Burundi shows how destructive and counter-productive this is. We are voting to get rid of racism, to cross boundaries, not to reinforce them.

The PAC [Pan-African Congress] is also too willing to play a racial ticket, too tolerant of slogans like "One settler, one bullet." ... While it has shrewdly put land on top of its political agenda, its proposed solutions are designed to exacerbate ill-feeling, rather than seek rehabilitative solutions.<sup>203</sup>

While the piece urges support for the African National Congress (ANC) for its non-racial ideology, the writers are still somewhat critical of the party for unnecessarily detaining IFP supporters, indicating a willingness to suspend human rights "under the kinds of special circumstances and tough pressures that the new government is likely to face."<sup>204</sup>

While the ANC received harsher criticism from other sources, the point here is that mistrust based on historical division and identity-based conflict coalesced around political parties in the new dispensation. Mistrust between groups and parties is expected

<sup>203</sup> "Cast Your Vote for Change," *Weekly Mail & Guardian*, April 22-28, 1994, pg. 20.

<sup>204</sup> *Ibid.*

in any society, but the degree of mistrust and suspicion found in deeply divided societies can threaten the stability of transitions to democracy.

Mistrust and defensive mechanisms were thus key features of South Africa's transitional identity vacuum. If, as Giddens writes, "trust in others...is at the origin of a stable external world and a coherent sense of self-identity,"<sup>205</sup> the pervasive mistrust was a serious dilemma for the new dispensation. In the absence of basic trust, which provides a sense of protection against "risks and dangers in the surrounding settings of action and interaction,"<sup>206</sup> social relations are characterized by heightened anxiety, caused by a decline in "awareness of self-identity" because of a decline in basic security.<sup>207</sup> Accordingly, the new South Africa was, to some extent, lacking in what Giddens terms "civil indifference" or "civil inattention," a "generalized trust" exhibited, for instance, by strangers passing on the street.<sup>208</sup> Civil indifference "represents an implicit contract of mutual acknowledgement and protection drawn up by participants in the public settings of modern social life."<sup>209</sup> This occurrence of trust as "background noise"<sup>210</sup> is a necessary phenomenon for anonymous encounters in modern social life, as it provides "reassurance of lack of hostile intent"—the opposite of civic indifference is the "hate stare."<sup>211</sup> The state of civil indifference provides individuals a needed sense of "ontological security," a "coherent sense of 'being in the world'" and "the confidence that most human beings have in the continuity of their self-identity and in the constancy of the surrounding social

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<sup>205</sup> Giddens, *Modernity and Self-Identity*, p. 51.

<sup>206</sup> *Ibid.*, p. 40.

<sup>207</sup> *Ibid.*, p. 45.

<sup>208</sup> *Ibid.*, p. 47.

<sup>209</sup> *Ibid.*, p. 47.

<sup>210</sup> Giddens, *Consequences of Modernity*, p. 82.

<sup>211</sup> *Ibid.*, p. 81.

and material environments of action.”<sup>212</sup> The consequences of the condition of the identity vacuum thus reverberate throughout society, from the individual to the sociopolitical level—individual anxieties, resulting from a lack of a sense of security, complicate attempts to redefine social relations along lines of inclusiveness and cooperation.

The “wide arenas of non-hostile interaction with anonymous others”<sup>213</sup> that come with civil inattention in modernity were significantly absent, though certainly not completely, between the vertically aligned racial groups under apartheid. It is certainly understandable that after the violent history of racial domination, civil trust and inattention would be notably lacking after the transition. Like the idea of civil society as an arena of non-violent interaction, civil indifference is a status that must be worked towards. Conversely, “if basic trust is not developed or its inherent ambivalence not contained, the outcome is persistent existential anxiety. In its most profound sense, the antithesis of trust is thus a state of mind which could best be summed up as existential *angst* or *dread*.”<sup>214</sup> Modern governments are themselves a complex set of trust relations,<sup>215</sup> and transitional regimes—which are not just a new administration, but an entirely new dispensation making a dramatic break from its precedent—are generally times of high risk and insecurity; a new dispensation cannot assume a functional degree of basic trust and civil indifference among its population.

### *The Juggernaut of Modernity*

<sup>212</sup> Giddens, *Consequences of Modernity*, p. 92; Giddens, *Modernity and Self-Identity*, p. 36-8.

<sup>213</sup> Giddens, *Consequences of Modernity*, p. 118.

<sup>214</sup> *Ibid*, p. 11. (Emphasis in original.)

<sup>215</sup> *Ibid*, p. 91, footnote.

As a result of the reflexivity of modernity—the “continual generating of systemic self-knowledge”<sup>216</sup>—Giddens writes that the modern era is marked by the impossibility of imagining all possible outcomes of action, giving modernity an “unstable” and “mutable” character.<sup>217</sup> Modern social life is therefore constantly faced with the impact of unintended consequences—the modern social world and its institutions can never be totally predictable or direct-able because the “circularity of social knowledge,” the constant input and reflexive flow of knowledge, “alters its nature, spinning it off in novel directions.”<sup>218</sup> Reflexivity of knowledge and institutions creates a situation where “knowledge claimed by expert observers...rejoins its subject matter, thus...altering it,”<sup>219</sup> and thus the belief that more knowledge about social life will allow for greater control of those forces is entirely false.<sup>220</sup>

The issue of unintended consequences is problematic for another key feature of modernity: the obsession with thought towards the future, which also feeds into the larger processes of reflexivity. In the environment of “extreme reflexivity of late modernity,” thought about the future is not simply based on expectation or anticipation.<sup>221</sup> Rather, “‘futures’ are organized reflexively in the present in terms of the chronic flow of knowledge into the environments about which such knowledge was developed—the very same process that, in an apparently paradoxical way, frequently confounds the expectations which that knowledge informs.”<sup>222</sup> The “heavily counterfactual nature of future-oriented thought” is thus an essential characteristic of modernity, as “modernity is

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<sup>216</sup> Giddens, *Consequences of Modernity*, p. 45.

<sup>217</sup> *Ibid.*

<sup>218</sup> *Ibid.*, p. 153.

<sup>219</sup> *Ibid.*, p. 45.

<sup>220</sup> *Ibid.*, p. 43.

<sup>221</sup> Giddens, *Modernity and Self-Identity*, p. 29.

<sup>222</sup> *Ibid.*

inherently future-oriented, such that the 'future' has the status of counterfactual modeling....Anticipating the future becomes part of the present, thereby rebounding upon how the future actually develops."<sup>223</sup> The impact of unintended consequences thus creates quite a conundrum for future-planning, and the dynamic forces of reflexivity continually alter the situations about which such plans are made.

The "erratic character of modernity,"<sup>224</sup> caused by the processes of reflexivity and the consequent impact of unintended consequences, leads Giddens to conceptualize modernity as a "juggernaut,"

a runaway engine of enormous power which, collectively as human beings, we can drive to some extent but which also threatens to rush out of our control and which can rend itself asunder. The juggernaut crushes those who resist it, and while it sometimes seems to have a steady path, there are times when it veers away erratically in directions we cannot foresee. The ride is by no means wholly unpleasant or unrewarding; it can often be exhilarating and charged with hopeful anticipation. But, so long as the institutions of modernity endure, we shall never be able to control completely either the path or the pace of the journey.<sup>225</sup>

The reality of unintended consequences dictates that, no matter how well designed, the complexity of modern society and institutions prevents a wholly predictable system functioning. Consequently, "we cannot seize 'history' and bend it readily to our collective purposes. Even though we ourselves produce and reproduce it in our actions, we cannot control social life completely."<sup>226</sup>

Even so, Giddens does not believe that the "juggernaut of modernity" implies hopeless chaos. He writes that we should not to give up on trying to steer the juggernaut, and instead advocates for a "utopian realism" that recognizes the "institutionally

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<sup>223</sup> Giddens, *Consequences of Modernity*, p.178.

<sup>224</sup> *Ibid.*, p. 152-3.

<sup>225</sup> *Ibid.*, p. 139.

<sup>226</sup> *Ibid.*, p. 154.

imminent possibilities” created by modernity’s reflexivity.<sup>227</sup> Giddens calls for “radical engagement,” an “optimistic outlook...bound up with contestatory action rather than a faith in rational analysis and discussion,” which asserts that “although we are beset by major problems, we can and should mobilize either to reduce their impact or to transcend them.”<sup>228</sup> Though the conditions of high modernity may appear overwhelming and even uncontrollable, awareness of modernity’s reflexive processes can hopefully serve to minimize unintended consequences.

Giddens’ analysis of the modern condition is useful for conceptualizing the condition in which the TRC could potentially impact the broader—as in, beyond the individuals directly participating through testimony—sociopolitical dynamics of the new South Africa. The conditions of the identity vacuum significantly influence the “juggernaut” of South Africa’s transition: South Africa’s history of identity-based divisions continued in the form of mistrust in the new dispensation and had the potential to threaten the peace and stability of the transition to democracy. For all these reasons—the increased connection of self and society, the subsequent backlash against that connection, the need for trust and civil inattention for properly functioning modern social system, and so on—the identity vacuum can be conceptualized as a key feature of the juggernaut of transition, which needs to be harnessed or steered if the new dispensation is going to survive. Such was the sociopolitical context the TRC sought to influence—which will now be assessed Chapter 5.

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<sup>227</sup> Giddens, *Consequences of Modernity*, p. 154-55.

<sup>228</sup> *Ibid.*, p. 137.

## Chapter 5

Self-Society Connection, Nation-Building, and the South African Truth and  
 Reconciliation Commission:  
 A Uniquely Modern Phenomenon

“The voice of an ordinary cleaning woman is the headline of the one o’clock news.”<sup>229</sup>

In an article titled “Underlining need for a truth commission,” Adrienne Carlisle of the *Weekly Mail & Guardian* reports that a South Africa Supreme Court judge found state security forces responsible for the murder of anti-apartheid activists, including that of Matthew Goniwe and the “Craddock Four.”<sup>230</sup> After discussing the details of the ruling, which failed to identify individuals responsible for the murders, Carlisle concludes, “But perhaps one of the most powerful effects of the finding has been to underline the need for a truth commission.”<sup>231</sup> One case thus illuminates both the pervasiveness of the problem of the contested history of apartheid and the relevance of individual experiences to broad social, political, and historical dynamics.

The TRC was a uniquely modern institution, in that it practically relied on modernity’s reflexive processes and actively highlighted the interconnection of self and society. Even more, as a transitional institution and accordingly temporary and inter-structural—or “liminal,” in the terminology of Richard Wilson—the TRC is a special kind of modern institution, which more consciously used its reflexive potential to work

<sup>229</sup> Krog, *Country of My Skull*, p. 45.

<sup>230</sup> Adrienne Carlisle, “Underlining need for a truth commission,” *Weekly Mail & Guardian*, June 3-9, 1994, p. 7.

<sup>231</sup> *Ibid.*

towards its ultimate goal. To understand the potential for impact the broader sociopolitical foundations of the transition, the TRC should be conceptualized as operating within the reflexivity of modernity. Through rhetoric that incorporated individual testimonies into a national historical narrative, the TRC emphasized the connection of self and society—a condition unique to modernity—and thereby established the framework for the creation of a horizontal/national affiliation. By addressing the history that created the deeply divided society, constructing the rhetoric for a new national identity (redefining boundaries of inclusion through the language of human rights), and providing a public forum for nonviolent debate and conflict resolution, the TRC sought to turn a contentious history into the foundation of the new nation

### **Understanding TRC as a Unique Modern Institution**

#### *Truth Commissions as 'Liminal' Institutions*

According to Richard Wilson, truth commissions help generate legitimacy for a new state by occupying a “liminal space”—an “interstructural position”—“betwixt and between existing state institutions.”<sup>232</sup> In this sense, “liminality” implies a process of moving society away from its former manifestations and becoming something new by internalizing a new moral core.<sup>233</sup> The liminal characteristics of the TRC include its limited period of operation, lack of attachment to any one government branch, and ambivalent connection to legal institutions.<sup>234</sup> The liminal character of TRC allowed it to generate a source of authority for the new state, which was dramatized, for example, by the amnesty hearings, as perpetrators were made to use the new dispensation’s language

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<sup>232</sup> Wilson, *Politics*, p. 19.

<sup>233</sup> *Ibid.*

<sup>234</sup> *Ibid.*

of human rights, and thereby “recognize the new government’s power to admonish and to punish.”<sup>235</sup> Through the TRC process, agents of the old apartheid regime adopted the new dispensation’s script of all-inclusive human rights.

Because of their ability to incorporate disparate elements of the past into a new script of the new nation, Wilson argues that truth commissions are better suited than legal processes for creating legitimacy for the new state, as “truth commissions are transient politico-religious-legal institutions which have much more legitimizing potential than dry, rule-bound and technically-obsessed courts of law.”<sup>236</sup> Establishing legitimacy for the new state is a critical function of a transitional period, as “legitimacy is not only an end in itself, but a prerequisite for pursuing other state objectives in the post-apartheid order.”<sup>237</sup> Though not legal institutions, truth commissions still impact the transitional imperative of establishing a rule of law through their legitimizing potential.<sup>238</sup> The TRC was thus part of a process of drawing new boundaries of acceptable behavior in the new South Africa, which was necessary for the proper functioning of the state,<sup>239</sup> and in so doing helped set the parameters for a new national identity.

#### *The TRC as a Reflexive Liminal Institution*

By first understanding the TRC as a liminal institution, a temporary state apparatus that occupies an inter-structural position between more permanent state institutions, and then analyzing the TRC’s functions according to Giddens’ theory of the reflexivity of modern institutions, the TRC can be seen as a special kind of modern institution. If the TRC is considered within Giddens’ construct of the reflexivity of

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<sup>235</sup> Wilson, *Politics*, p. 20.

<sup>236</sup> *Ibid.*

<sup>237</sup> *Ibid.*

<sup>238</sup> *Ibid.*, p. 21.

<sup>239</sup> *Ibid.*

modern institutions, it is possible to conceptualize *how* the TRC process—more importantly than its report—could potentially impact the large-scale project of nation-building and identity formation in the new dispensation. First, the TRC was capable of broad social impact precisely because of modernity’s connection of the local and global, of self and society, and the resulting impact on individual and group identity formation. Modernity connects “individuals to large-scale systems as part of complex dialectics of change at both local and global poles.”<sup>240</sup> This connection, and the reflexive generation and flow of knowledge between either end, is co-constituting of both extremes, and allows modern institutions to realistically expect to achieve goals of broad sociopolitical impact. If self-identity formation is increasingly influenced by large-scale social forces, the TRC was not unreasonable to strive for influence on the nation-building process.

### **Dual Modes of Self-Society Connection**

#### *Process/Institutional Structure and Capacity*

The TRC was perhaps even more conscious of the increased connection of self and society than other modern institutions, as its narrative processes sought to harness that very dynamic. Through the testimony of individual survivors and perpetrators, the TRC constructed a universal framework for the consideration of the general South African audience:

The temporal structure of narrative seems to cultivate a relationship of past to future that accords with the hope invested in the TRC that the stories of ‘ordinary’ individuals, often disconcertingly intimate stories, stories of untold suffering, violence, and abuse at the hands of apartheid’s agents, if publicly staged and authorized in a powerful meeting of public and private, will generate a national catharsis and pave the way to a new future.<sup>241</sup>

<sup>240</sup> Giddens, *Consequences of Modernity*, p. 177.

<sup>241</sup> Young, “Narrative and Healing.”

The TRC process thus sought a self-society connection in two ways: first, as a modern reflexive institution, and thus as part of the pervasive conditions of local/global interplay, and second, by using individual narratives with a universalizing framework, the TRC actively sought to accentuate the link between self and society.

The TRC thus explicitly linked the public and the private, as intimate personal narratives were told in a public setting, integrated into a larger national historical narrative, and then transmitted across the country and across the globe. By focusing on the link between self and society, the TRC hoped to establish a framework for a new national identity: “Throughout, the TRC was animated by an implicit faith that a new national self-understanding and a new future would emerge from the personal narratives of horrifying abuses executed with impunity under apartheid’s draconian security legislation, if there were told at the hearings and acknowledged publicly in this way.”<sup>242</sup> The act of “bearing witness” is thus a step towards establishing the horizontal affiliation needed to counteract the entrenched vertical social organization left over from the apartheid era. Through the telling of individual narratives, an invitation is offered for national-level—and thus horizontal—participation:

The opportunity to recognize psychic trauma remains available to the audience as long as the witness continues to offer his or her testimony. To tremble in the face of another’s pain—and it was impossible not to tremble before the deluge of pain, horror, and irrevocable loss, presented day after day at the hearings—was to have one’s own humanity affirmed, if shamefully. Catharsis is generated in the moment of acknowledging pain. To bear witness to apartheid’s traumas is to be offered the opportunity to participate in the experience of pain, and in the narration’s triumphant testament to survival. It is to affirm one’s own humanity by bearing witness to the scene of pain that was a part of the past, and to overcome the temporal and spatial chasm that excludes one from the victim’s past suffering. It is an affirmation of solidarity in pain, a solidarity bridged

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<sup>242</sup> Young, “Narrative and Healing.”

across time by means of the structure of the narrative, which...is of as much value for the audience as it is for the testifying survivor.<sup>243</sup>

On a symbolic level, “it seemed crucial that the nation itself be able to hear and bear witness.”<sup>244</sup> By emphasizing the self-society connection and placing it within a discourse of human rights and nation-building, the TRC process helped establish the framework for the new South African national identity.

The national reach of self-society connection asserted by the TRC was made possible by the unique role of mass media communication in the conditions of modernity and its influence on modern identity formation. Both Maalouf and Anderson view the media as essential to modern identity formation: Maalouf states that the “interchange of images and ideas” in modern media prompts “very swift transformation in our knowledge, perceptions and behavior” and has a “fundamental effect on our vision of ourselves, our allegiances and our identity.”<sup>245</sup> For Anderson, newspapers are “cultural products” that “provided the technical means for ‘re-presenting’ the kind of imagined community that is the nation.”<sup>246</sup> The inclusion of events and stories otherwise independent of each other is “arbitrary”—the “collage effect” of “mediated experience,” according to Giddens<sup>247</sup>—and shows that the linkage between them is imaginary.<sup>248</sup> This imagined link is derived from two sources: “calendrical coincidence,” or date; and the relationship between newspapers and the market, as newspapers are “one day best sellers” consumed in an “extraordinary mass ceremony.”<sup>249</sup> The resulting unified level of

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<sup>243</sup> Young, “Narrative and Healing.”

<sup>244</sup> Ibid.

<sup>245</sup> Maalouf, *Name of Identity*, p. 92.

<sup>246</sup> Anderson, *Imagined Communities*, p. 25.

<sup>247</sup> Giddens, *Modernity and Self-Identity*, p. 26.

<sup>248</sup> Anderson, *Imagined Communities*, p. 33.

<sup>249</sup> Ibid, p. 33-6.

communication and awareness of others<sup>250</sup> “[makes] it possible for rapidly growing numbers of people to think about themselves and to relate themselves to others in profoundly new ways.”<sup>251</sup> The representation of imagined linkages “invites shared identifications with the space and the characters represented within them in the minds of the readers,” and thereby “helps construct their identifications with one another,”<sup>252</sup> which thereby “created the possibility of a new form of imagined community, which in its basic morphology set the state for the modern nation.”<sup>253</sup>

Likewise, Giddens places the media at the “core of modernity,”<sup>254</sup> as it plays an essential role in this interplay between individual selves and social contexts. Media facilitates the separation of time and space that is central to the modern condition, and allows for the “intrusion of distant events into everyday consciousness.”<sup>255</sup> The speed and scope of media coverage thus facilitates familiarity with events not encountered personally—with the TRC, for example, television coverage of the victims’ hearings familiarized a large segment of the population with gross human rights violations that they did not themselves suffer. Accordingly, media “do not mirror realities but in some part form them.”<sup>256</sup> Indeed, the global reach of modern institutions “would be impossible were it not for the pooling of knowledge” involved in the daily production of the ‘news.’<sup>257</sup> Considering that most South Africans engaged with the TRC through various media (as opposed to attending a hearing), the creation and flow of knowledge facilitated

<sup>250</sup> Anderson, *Imagined Communities*, p. 44.

<sup>251</sup> *Ibid.*, p. 36.

<sup>252</sup> Smith, *Nationalism and Modernism*, p. 32.

<sup>253</sup> Anderson, *Imagined Communities*, p. 46.

<sup>254</sup> Giddens, *Modernity and Self-Identity*, p. 24.

<sup>255</sup> *Ibid.*, p. 27.

<sup>256</sup> *Ibid.*, 27.

<sup>257</sup> Giddens, *Consequences of Modernity*, p. 77-8.

by mass media should thus be understood as an integral part of the TRC process—not a subsidiary or supplement to it, but a function of it.

Media coverage of the TRC was, in fact, monumental, such that “no one living in South Africa could escape the truth commission or fail to see the human stories of repression.”<sup>258</sup> As such, understanding the relationship of the TRC and its media coverage is critical to understanding the TRC’s potential for broad sociopolitical impact. Newspaper articles familiarized South Africans with concepts during creation of TRC,<sup>259</sup> and during the TRC’s functioning, the hearings were intensely covered by newspapers, radio, and television. Four hours of hearings were broadcast live on the radio each day, and the Sunday Truth Commission Special Report “quickly became the most-watched news show in the country.”<sup>260</sup> Media coverage thus allowed the TRC to expand its capacity as a public forum:

The TRC’s values and objectives were highly visible in South Africa in the months and years of active hearings, and not surprisingly as a national event the TRC generated important and varied responses. The hearings aired live on national television during the day, and extracts were retelevised in the evening. They dominated the media, and the political and artistic scenes.<sup>261</sup>

Media thus provided the critical link between the TRC hearings and the national audience it sought to engage.

For their part, members of the South African media were very conscious of their seminal role in this process. Writing about a workshop held for TRC reporters, reporter, and later novelist, Antjie Krog lists a sample of the topics discussed:

<sup>258</sup> Rosenberg, “Painful Past,” p. 354.

<sup>259</sup> Meredith, *Fate of Africa*, p. 19.

<sup>260</sup> Hayner, *Unspeakable Truths*, 42.

<sup>261</sup> Young, “Narrative and Healing.”

Why should the commission be reported? How will emotional exhaustion be prevented? How can viewers, listeners, and readers be involved? Should Truth Commission stories be confined to a special page? Won't people just skip over this section? How can we see to it that the past becomes front page news?<sup>262</sup>

Krog also writes of the conscious decision to use the phrase “Truth Commission” rather than “TRC,” so as not to “conceal the essence of the commission behind a meaningless abbreviation.”<sup>263</sup> Krog and her colleagues tailored their coverage for maximum impact, with special consideration for those tempted to disengage:

Instinctively, one knew that some people would deliberately cut themselves off from the Truth Commission process. But very few people escape news bulletins—even the music stations have a lunch time news report. So it is crucial to us that the commission and its narratives be captured as full as possible on ordinary bulletins. Even people who do no more than listen to the news should be given a full understanding of the essence of the commission.<sup>264</sup>

Media coverage of the TRC was thus even more, and more consciously, a part of the reflexive process and the self-society connection than with other modern institutions.

Through the media, the TRC was able to connect individuals with society in a nation-building process in two interconnected ways: participation/process and narrative/content. Unlike previous truth commissions in Latin America, the TRC was a “very public process,” and was able to engage the public in a process of reflection over the course of its work, from beginning to end.<sup>265</sup> The creation of the TRC involved a transparent public process of debate and negotiation<sup>266</sup>—drafts of the legislation were

<sup>262</sup> Krog, *Country of My Skull*, p. 19.

<sup>263</sup> *Ibid.*, p. 45.

<sup>264</sup> *Ibid.*, p. 44.

<sup>265</sup> Hayner, “Same Species, Different Animal,” p. 37.

<sup>266</sup> Martha Minow, *Between Vengeance and Forgiveness: Facing History After Genocide and Mass Violence* (Boston: Beacon Press, 1998): p. 53.

released for comment, extensive public testimony was taken before Parliament, and the suggestions of non-governmental organizations were incorporated<sup>267</sup>—as public deliberation over the TRC’s design was necessary for establishing its legitimacy.<sup>268</sup> “Without this process,” Hayner writes, “the mandate of the Commission would surely have been much weaker.”<sup>269</sup> This amounts to a quasi-conscious use of modern reflexive processes, even if not in name, which recognizes that legitimacy comes from participation of members of the desired “imagined community.”

In addition to its liminality, the TRC is a unique modern reflexive institution by virtue of its participatory character. Indeed, the “triumph of the TRC” is a function of “its creation of an open public space of dialogue where an astonishing number of participants could make their contributions to the richly textured mosaic of the TRC.”<sup>270</sup> Through its processes, the TRC used the self-society connection through both direct participation in TRC hearings as well as more general participation of society through debate and discussion, which was largely facilitated by the media. As such, on an institutional level of the new transitional government, the TRC was an “access point”—a mechanism that brought face-to-face commitments in an otherwise faceless and abstract system<sup>271</sup>—of the new dispensation. Modern social life, according to Giddens, is made possible by “large areas of secure, coordinated actions and events,” which he terms “abstract systems,”<sup>272</sup> but access points are necessary for influencing attitudes of basic social trust in those systems. The TRC was thus one of the first access points of the new dispensation, as it

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<sup>267</sup> Hayner, “Same Species, Different Animal,” p. 38.

<sup>268</sup> Minow paraphrasing Dullah Omar p. 55.

<sup>269</sup> Hayner, “Same Species, Different Animal,” p. 38.

<sup>270</sup> Young, “Narrative and Healing.”

<sup>271</sup> Giddens, *Consequences of Modernity*, p. 90.

<sup>272</sup> *Ibid*, p. 113.

was an active attempt to engage the entire population in a process of re-formulation and re-definition as a nation.

### *Narrative/Content*

Through the use of narrative as its main mode of transmission, the TRC focused on connecting self and society through the content of the new national script. Through the combined narratives of liberation, religion, and reconciliation, the TRC constructed an encompassing narrative framework to “incorporate individuals into a wider nation-building project by enmeshing their narratives within a new mythology of the nation-state.”<sup>273</sup> The concluding remarks of each hearing even served this end, as they included a “stock patriotic speech intended to link individual grief with the newly cast history of the nation.”<sup>274</sup> The format of public testimony-giving therein goes beyond the “reconstruction of private-individual trauma” and also becomes a “social-political process through which the past abuses are reconstructed and documented as public historical knowledge.”<sup>275</sup> This “constitutive narrative,” in which the “boundaries between individual and social are not clearly distinguishable,”<sup>276</sup> also provides a historical sense of self-system connection: “The process of individual testimonies can be seen as an opportunity for illuminating the interaction between a sociopolitical system of apartheid and the lives of individual South Africans.”<sup>277</sup> Not only the narrative process, but the content of the narratives and their placement within a broader narrative framework also served to emphasize the self-society connection and work towards establishing a sense of national, horizontal affiliation and identity:

<sup>273</sup> Wilson, *Politics of Truth and Reconciliation*, p. 131.

<sup>274</sup> Paris, *Long Shadows*, p. 295.

<sup>275</sup> De la Rey and Owens, “Perceptions,” p. 260.

<sup>276</sup> *Ibid.*

<sup>277</sup> *Ibid.*, p. 266.

The focus on narrative has shown how each testimony reveals how actions of the state changed the life course of the individual, how the individual in turn responded in ways that challenged or perpetuated the social conditions of the time. Through these narratives the inextricable boundedness of the personal and social is elaborated.<sup>278</sup>

This “boundedness” attempts to establish a historical sense of self-society connection that, like any national story, will carry the “imagined community” into the future.

Narrative’s capacity for self-society connection also has special benefits for the testifying survivors:

In telling their stories in the detail required by the Commission, the victim is given the space to integrate the events of the past so that meaningful connections are made with the present and the future. At the same time it allows them to locate their personal histories within the broader context of the country. Furthermore, the documentation of the testimonies form part of the official historical record of human rights abuses during the apartheid regime.<sup>279</sup>

The TRC elevated the experience of the individual survivors to the level of national concern. While this had benefits for the testifier, the “moral accounting of apartheid,” pursued through individual narratives, was also a wider attempt to “integrate respect for human rights into the everyday beliefs and practices of ordinary South Africans.”<sup>280</sup> Dual processes of self-society connections were pursued through the TRC’s narrative structure—connecting the testifying survivor to the new national script, using that intimate discourse to connect individuals in the society-audience to that same script—with an overriding imperative of constructing a connective national identity.

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<sup>278</sup> De la Rey and Owens, “Perceptions,” p. 269.

<sup>279</sup> Ibid.

<sup>280</sup> Wilson, *Politics*, p. 56.

Through the media's transmission of intimate personal testimony to a large viewing audience, the TRC was able to construct and disseminate its human rights-based nation-building message. Media coverage

tended to extract more general, 'universal' truths about experience, truths about suffering and victimization, remorse and reconciliation, which undergirded the TRC as a strongly moral performance. The televised confessional, which is what the public hearings became, created space for the telling of individual stories, but with an overriding sense of their more global, 'human' messages.<sup>281</sup>

The new South Africa still had to acknowledge divergent viewpoints, but the goal was to incorporate them into a broader "moral framework and historical narrative that combined these differences into a harmonious larger whole"<sup>282</sup> which was not possible without a public accounting of the past to move the country towards a consensus on moral unity for the future.<sup>283</sup> The TRC was thus a modern reflexive institution that actively sought to engage individuals—and therein, society—through its structure and process as well as its narrative content, in an exercise centered on concerns of nation-ness. The individual narratives were incorporated into a larger national-historical narrative that emphasized the continuity of past, present, and future—and did so in a way that sought to highlight or establish a sense of horizontal connection among historically divided groups.

### **Historicity: The Utility of History in Transition**

The TRC provided a forum for the connection of individuals within the new South Africa, and with a new national script discerned via historical accounting—a project that that sought to lay the foundations and direction for the future of the new

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<sup>281</sup> Posel and Simpson, "The Power of Truth," p. 8.

<sup>282</sup> Ibid, p. 9-10.

<sup>283</sup> Ibid, p. 10.

“imagined community” of the new nation. The focus on history for the purposes of the future is another distinctly modern function of the TRC. Giddens writes of the “radical historicity” of modernity: the “appropriation of the past to help shape the future,”<sup>284</sup> or the “use of knowledge about the past as a means of breaking with it.”<sup>285</sup> The “use of history of make history” is a phenomenon particular to modernity, and is one part of modernity’s reflexivity.<sup>286</sup> Historicity as deployed by the TRC involves both “breaking with the past” and reformulating history into a new nationalist script for the future—the new national identity based on principles of universal human rights sought to break with historical practices of violence and division, which required the use of that very history as a foundation and justification.

However, in a society so deeply divided, the process of establishing an official record of the past for the foundation of the new national identity was bound to be difficult: “Even if everyone agreed that the past ought to be aired in some way, history is interpreted as well as fact, and in a territory as divided as South Africa there was bound to be a battle over the official record.”<sup>287</sup> The new South Africa was challenged with reinventing itself while many still clung to its former manifestation,<sup>288</sup> which often resulted in vastly different interpretations of the TRC’s process and content. Erna Paris observed, “Many black South Africans think apartheid murderers are crying crocodile tears and faking repentance in the hope of being excused. On the other side, the Afrikaans press complains incessantly that the TRC is a ‘witch hunt’ designed to denigrate their

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<sup>284</sup> Giddens, *Consequences of Modernity*, p. 20-1.

<sup>285</sup> Giddens, *Ibid.*, p. 50.

<sup>286</sup> *Ibid.*

<sup>287</sup> Paris, *Long Shadows*, p. 245.

<sup>288</sup> *Ibid.*

people and their history.”<sup>289</sup> Accordingly, as TRC Deputy Chair Alex Boraine notes, the TRC had inherent limitations, as one body cannot be expected to bring about a peaceful society: “At best the TRC could, through its work and through its recommendations, lay down what could be termed building blocks that could point to the possibility of coexistence, and of mutual respect, leading to the long, difficult, and painful process of reconciliation.”<sup>290</sup>

In this regard, the TRC can be seen as using historicity in an attempt to provide a framework within which the conflict of the identity vacuum could be contained—within which the juggernaut of transition could be steered. The TRC was, according to Hayner, “intensely focused on national healing and reconciliation, with the intent of moving a country from its repressive past to a peaceful future, where former opponents work side by side.”<sup>291</sup> Historicity as deployed by the TRC provided a reformulation of the past for the purposes of securing a democratic future—reformulated in the sense the new South Africa is defined in opposition to the old, as the inclusive principles of the new dispensation grew out of the conflict and oppression of the old. Additionally, the historical clarity provided by a public accounting for the past and the creation of an official record is useful for the political operations of the new state:

The strength of a truth commission is usually in advancing reconciliation on a national or political level. By speaking openly and publicly about past, silenced events, and by allowing an independent commission to clear up high-profile cases, a commission can ease some of the strains that may otherwise be present in national, legislative or other political bodies. An official accounting and conclusion of the facts can allow opposing parties to debate and govern together without there being latent conflict and bitterness over past lies.<sup>292</sup>

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<sup>289</sup> Paris, *Long Shadows*, p. 279.

<sup>290</sup> Boraine, “The Third Way,” p. 154.

<sup>291</sup> Hayner, “Same Species, Different Animal,” p. 33.

<sup>292</sup> *Ibid.*, p. 39-40.

While the achievement of this lofty goal is debatable, and difficult to measure, the point is that through the practice of historicity by the TRC as a modern reflexive institution, the potential for this impact—even if only a fraction of it—is conceivable.

More generally, in his foreword to the TRC Final Report, Chairman Tutu writes, “And we have tried, in whatever way we could, to weave into this truth about our past some essential lessons of the future of the people of this country.”<sup>293</sup> Through the use of the past to influence the future, the focus on the connection of self and society through both its structure and process, narrative and content, and its intentional (if not in name) use of its own reflexive capabilities to shape its outcome, the TRC was a uniquely modern institution capable of a broad sociopolitical impact. The point here is not to measure the nature of that impact, but to conceptualize how it was possible—through its modern functions, the TRC was able to draft a new national script based principles of inclusion and human rights—the beginnings of a long and sorted process of mitigating the historically rooted identity conflict and thereby steering the South African transitional (and post-transitional) juggernaut.

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<sup>293</sup> Tutu, “Chairperson’s Forward,” Paragraph 19.

## Chapter 6:

## Conclusion

“Mrs. Hashe disagreed. ‘Don’t we want peace for South Africa? How are we going to find peace if we don’t forgive? My husband was fighting for peace for all of South Africa. How can you correct a wrong with a wrong?’”<sup>294</sup>

The purpose of this argument is to provide a new way to conceptualize the potential impact of the TRC on the broad sociopolitical conditions of the New South Africa—to place the TRC within the context and consequences of modernity to understand how it might influence one of the key problems facing the new dispensation: the persistence of conflict and mistrust generated by the country’s history of violence and oppression. The vertically entrenched identity categories created by the apartheid regime required renegotiation in the transitional era, and at least the framework of a new sense of horizontal/national affiliation were needed to suit the new political needs of the newly inclusive democracy. By addressing issues of history and continuity that are also the foundation of, for instance, Benedict Anderson’s formulation of the “imagined community,” the TRC’s overarching narrative sought to connect individuals with the nation and thereby establish the foundations of a new national script. Whether or not this script had much purchase in society is another study—the goal here is to conceptualize how that script was made, whether it was intentional or not.

Indeed, many concerns arise out of the TRC’s relationship with South African society in general. Extensive and legitimate concerns arise over the purchase of symbols and lofty rhetoric of healing and reconciliation with most South Africans: “It would be politically naïve, or expedient, to adopt the displays of reconciliation between individual

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<sup>294</sup> Hayner, *Unspeakable Truths*, p. 3.

victims and their torturers, and the expressions of relief that those encounters produced, as manifestations of an idealized resolution of the country's racial and political conflicts....It is worth cautioning, therefore, against too glib a celebration of national healing on the back of imagined personal healing."<sup>295</sup> Additionally, some argue that through the practice of historicity and the use of history as a sort of tool, the TRC potentially undermined its own human rights ideology. According to Wilson, the "redefinition" of human rights to equate to amnesty and reconciliation conflicted with society's idea of justice and with state's obligation to prosecute—essentially, it deems social stability higher than individual rights.<sup>296</sup> Truth commissions can therefore undermine the rule of law when they "appropriate" human rights for the use of the nation-building project and identify human rights principles with those of forgiveness and reconciliation.<sup>297</sup> In fact, Wilson cites research in South African townships that shows a "higher salience" of retributive justice, "leaving open the possibility of legal action would have made the category of citizenship more meaningful in practice."<sup>298</sup>

But if the persistence of potentially violent identity-based conflict was threat to the South African transition, use of human rights language—which stand in stark contrast to the exclusive and oppressive apartheid ideology—to suit the political realities of the negotiated transition was not an unreasonable tactic. If the goal is to move from a history marred by violence and division and establish peace in the present and for the future, the use of human rights discourse as a tool for nation-building, or writing a new national script, seems logical. Conceptions of human rights are commonly used in democratic

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<sup>295</sup> Young, "Narrative and Healing."

<sup>296</sup> Wilson, *Politics*, p. 25-6.

<sup>297</sup> *Ibid.*, p. 26.

<sup>298</sup> *Ibid.*, p. 27.

transitions, and not just recently, as Wilson suggests—the Declaration of Independence of 1776, the founding document of the American Revolution list of grievances is testament to “inalienable” rights held by people upon which a government cannot infringe. While the language of human rights has significantly evolved, the use and purpose here is similar.

However, Wilson’s argument is that the meaning of human rights cannot be bent to suit just any purpose. But there is a thin line between this definitional relativism and extreme rigidity that renders a concept useless. As Giddens comments regarding the interplay of local situations and the forces of globalization:

Moral conviction pursued without reference to the strategic implications of action may provide the psychological comfort which comes from the sense of worth that radical engagement can confer. But it can lead to perverse outcomes if not tempered by the realization that, with high-consequence risks, the minimizing of danger must be the overriding goal.<sup>299</sup>

This stance requires flexibility in the application of certain principles, including with concepts such as human rights and their application—the question remains, to what extent and what manifestations of this flexibility are acceptable?

### **Truth, Justice, Reconciliation and the “Imagined Community”**

Though discussions of the concepts of truth, justice, and reconciliation as deployed by the TRC were not part of the argument of this thesis, it is worth noting their concordance with the themes of historical reckoning for the creation of the “imagined community” as well as the self-society connection of the TRC as a modern institution. Susan Sharpe’s “social contract theory of restorative justice” is particularly useful for the formulation of principles of restorative justice in the transitional context. For Sharpe, justice is “a state

<sup>299</sup> Giddens, *Consequences of Modernity*, p. 155.

of balance—a system of social cooperation that supports and encourages peaceful co-existence,”<sup>300</sup> based on John Rawls’s theory of “justice as fairness.” According to Rawls, justice is a “fair system of social cooperation, in which:

- people regulate their behavior on the basis of widely accepted rules, which are
- seen as being fair and reciprocal, applying to and benefiting everyone in society equally, and which
- gives each person equal opportunity to act for the sake of their own good.”<sup>301</sup>

Sharpe defines this notion of justice as a social contract of behavioral norms, “a fluid and personal experience;” justice exists “between us as long as, and to the extent that, our interactions allow each of us equal opportunity to seek what is important to our own good. When once of us has more such freedom than the other, there is injustice between us.”<sup>302</sup> Injustice, the suspension of “a functional social contract, limiting a person’s quality of life and the ability to get his or her needs met,” engenders the desire for redress and rectification of the imbalance.<sup>303</sup>

This amounts to a conception of justice as a *social relationship*, an interpersonal condition that relies on a “non-infringement” policy between citizens regarding equal rights and freedoms, a condition that exists *between* individuals in a community. Howard Zehr, a pioneer of the restorative justice field, states that the essence of restorative justice is respect; “the value of respect underlines restorative justice principles and must guide and shape their application.”<sup>304</sup> The key values of restorative justice are thus “inclusion, democracy, responsibility, reparation, safety, healing, and reintegration.”<sup>305</sup> Most

<sup>300</sup> Susan Sharpe, “How Large Should the ‘Restorative Justice Tent’ Be?” in Barbara Toews and Howard Zehr, et al., *Critical Issues in Restorative Justice*. (NY: Criminal Justice Press, 2004.) p. 22.

<sup>301</sup> *Ibid.*, p. 2-3. Paraphrasing John Rawls.

<sup>302</sup> *Ibid.*, p. 23.

<sup>303</sup> *Ibid.*, p. 24.

<sup>304</sup> Quoted in Sharpe, “Restorative Justice Tent,” p. 19.

<sup>305</sup> Sharpe, “Restorative Justice Tent,” p. 19.

fundamentally, restorative justice reflects values and is thus not limited in practice; “restorative justice is not only about restoration; it is also about ‘justice’ broadly defined.”<sup>306</sup> Similarly, Maalouf calls for a “moral contract” between members of multi-cultural societies, not an intellectual consensus but a “code of conduct,” based on reciprocity, awareness of own identity and respect for others.<sup>307</sup> This broad definition of justice entails the concept of a social relationship, and is vital to understanding the role, as discussed below, of restorative justice in the transitional context, and its relationship to the project of drafting a new national script.

If restorative justice seeks to correct imbalances in the social relations of citizens in established democracies, societies that can arguably be referred to as fair and just, then restorative justice in the transitional context serves the imperative of *creating* a just and fair society, of assisting the transition from an oppressive and unjust society to one based on values of equal rights. In this context, “restorative justice emerges from this desire to create a new nation—the desire to reconstruct a just society.”<sup>308</sup> According to Mark Amstutz, “corrective” (retributive) justice can only be pursued “in a context of social and political order,” but the legacies of violence, division, and distrust characteristic of the unjust society require more.<sup>309</sup> Amstutz states, “Since offenses have resulted in a moral inequality between perpetrators and victims, restorative justice seeks to restore the moral equality of citizens not through the law but through the moral transformation of

<sup>306</sup> Sharpe, “Restorative Justice Tent,” p. 21. Quoting Brazemore and Walgrave.

<sup>307</sup> Maalouf, *Name of Identity*, p. 41.

<sup>308</sup> Robert Rotberg, “Truth Commissions and the Provision of Truth, Justice, and Reconciliation,” in Robert Rotberg and Dennis Thompson, et al, *Truth v. Justice: The Morality of Truth Commission*. (New Jersey: Princeton University Press, 2000.) p. 10.

<sup>309</sup> Mark R. Amstutz, *The Healing of Nations: The Promise and Limits of Political Forgiveness*. (Lanham, MD: Rowman & Littlefield Publishers, Inc., 2005.) p. 91-2.

people.”<sup>310</sup> This “moral transformation” can be seen, in the transitional context, as the establishment of just social relations between citizens, and thus a just social order. This concern with a just social order and relations has resonance with the establishment of horizontal/national affiliations for the new “imagined community,” and with the project of historicity as a means to use the past to shape the future.

The concept of reconciliation is tied, though often not fully explained, to the rhetoric of restorative justice in the transitional context. An understanding of the nature or character of reconciliation is thus integral to understanding the contributions to and value of restorative justice as a method of transitional justice. Amstutz asserts, “Fundamentally, reconciliation involves rebuilding of understanding and harmonious relationships. To become reconciled is to overcome alienation, division, and enmity and to restore peaceful, cooperative relationships based on a shared commitment to communal solidarity.”<sup>311</sup> This basic notion of reconciliation relies on the same vocabulary of social relationships as the restorative notion of justice outlined above.

While reconciliation in transition and post-transition societies necessarily involves many different levels of social relationships—personal, interpersonal, communal, and so on—the focus here is on national reconciliation as a particular project of transitional justice, and on the particular propensity for a restorative justice model to contribute this large-scale effort. With this in mind, the “civic trust model” of reconciliation, as advanced by the International Center for Transitional Justice, is particularly useful:

Trust involves more than relying on a person to do or refrain from doing certain things; it also involves the expectation of a commitment to shared norms and values. The sense of trust at issue here is not the profound sense of trust characteristic of relations between intimates, but rather,

<sup>310</sup> Amstutz, *Healing of Nations*, p. 111.

<sup>311</sup> *Ibid*, p. 97.

'civic' trust, which can develop among citizens who are members of the same political community but are nonetheless strangers to one another.

Civic trust includes 'horizontal' trust among citizens and also 'vertical' trust between citizens and their institutions....To trust an institution amounts to knowing that its constitutive rules, values, and norms are shared by participants and that they regard them as binding.

In this view, reconciliation is the condition under which citizens can once again trust one another as citizens. That means that they are sufficiently committed to the norms and values that motivate their ruling institutions; sufficiently confident that those who operate those institutions do so also on this basis; and sufficiently secure about their fellow citizens' commitment to abide by these basic norms and values.<sup>312</sup>

The social relationship that characterizes this model of reconciliation is thus similar to Sharpe's conception of restorative justice as a social contract, as it involves a sense of security in the fair and just behavior of fellow citizens and state institutions. It also relates to Giddens' writings on trust, as discussed in Chapter 4. If justice is a social relationship based on fair and equal opportunity, and a just society is one where all citizens have this equal opportunity, then civic/political reconciliation is the recognition of the establishment of this just society after the transition from authoritarian rule to democracy.

The South African Truth and Reconciliation Commission's approach to restorative justice was in part defined by the political context in which it operated—namely, the amnesty provision secured by the negotiated transition from the apartheid regime to the new democratic order. The legislation that created the TRC gave the commission the task of facilitating national unity and reconciliation, and the body subsequently adopted an ethos of restorative justice to pursue this end. While the rhetoric and rubric for this approach was mired by inadequacies, lacked crucial clarification of many concepts and expectations, and changed over time, the intent here is to focus on

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<sup>312</sup> International Center for Transitional Justice, [www.ictj.org](http://www.ictj.org).

what the restorative justice method, as pursued by the TRC, did achieve with regards to building a sense of nation-ness, whether the outcome was intended by the body or not.

In his book No Future Without Forgiveness, TRC Chairman Archbishop Desmond Tutu argued that the concept of justice is not confined to a retributive manifestation:

I contend that there is another kind of justice, restorative justice, which was characteristic of traditional African jurisprudence. Here the central concern is not retribution or punishment but, in the spirit of *ubuntu*, the healing of breaches, the redressing of imbalances, the restoration of broken relationships. This kind of justice seeks to rehabilitate both the victim and the perpetrator, who should be given the opportunity to be reintegrated into the community he or she has injured by his or her offence. This is a far more personal approach, which sees the offence as something that has happened to people and whose consequence is a rupture of relationships. Thus we would claim that justice, restorative justice, is being served when efforts are being made to work for healing, for forgiveness and for reconciliation.<sup>313</sup>

While Tutu and the TRC are often criticized for their frequent use of metaphoric language (rehabilitation, healing, etc)—a topic which needs its own essay to fully address—Tutu still conveys the central restorative justice aim at redressing harms done to victims of crime. The TRC Final Report further defines restorative justice as a process which seeks to redefine crime with a focus on “violations against human beings, as injury or wrong done to another person,” provide reparation in the sense of healing and restoration, involves all stakeholders in conflict resolution, and “supports a criminal justice system that aims at offender accountability, full participation of both victims and offenders and making good or putting right what is wrong.”<sup>314</sup> The report also recognizes the dual role of “restoring the human and civil dignity of victims” and the “need to restore the dignity of all South Africans” involved in its particular formulation of

<sup>313</sup> Desmond Tutu, No Future Without Forgiveness. (London: Rider, 1999.) p. 51-2.

<sup>314</sup> Truth and Reconciliation Commission of South Africa Report, Vol. 1 (1998), Ch. 5, Paragraph 82.

restorative justice.<sup>315</sup> This assessment characterizes the fundamental imperative of transitional justice: the need to pursue justice (correcting the imbalance in the social relationships) for victims of gross human rights violations as well as the national endeavor to create a just society and a new moral order.

In the TRC's approach, as laid out in the Final Report, restorative justice served victims of gross human rights violations by restoring their "human and civil dignity" through the process of telling their stories and receiving public recognition of their violations. Additionally, the information gleaned from the perpetrators at the amnesty hearings often led to a "greater understanding of events" surrounding the human rights violation and thus "helped restore dignity and dispel the lies they were told."<sup>316</sup> The TRC also submitted recommendations for monetary reparations for the victims to the government, but noted that these individual reparations cannot detract from larger social reparations necessary to correct the large scale, structural inequalities of the apartheid system.<sup>317</sup> Still, Amstutz notes that, in restorative justice, reparations are a form of accountability, in which "financial resources" are offered "as a symbol of a regime's culpability and as an aid to the restoration of communal relationships."<sup>318</sup>

Regarding the individual perpetrators of gross human rights violations, restorative justice as pursued by the TRC sought "political accountability as well as moral responsibility" by making amnesty conditional on full disclosure of the perpetrators involvement in the crimes.<sup>319</sup> Tutu notes that the public, televised hearings amounted to a "penalty of public exposure and humiliation," and these public confessions were often the

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<sup>315</sup> TRC Final Report, Vol. 1, Ch. 5, Paragraph 80.

<sup>316</sup> Ibid, Paragraph 89-91.

<sup>317</sup> Ibid, Paragraph 93.

<sup>318</sup> Amstutz, *Healing of Nations* p. 9.

<sup>319</sup> TRC Final Report, Vol. 1, Ch. 5, Paragraph 96.

first time community and family members “heard that these people were, for instance, actually members of death squads or regular torturers of detainees in their custody.”<sup>320</sup> Amnesty thus did not amount to impunity, because it was only granted to “those who plead guilty, who accept responsibility for what they’ve done.”<sup>321</sup> Steve Biko’s killers, for example, were refused amnesty because “they denied that they had committed a crime.”<sup>322</sup> Tutu argues that “the process in fact encourages accountability rather than the opposite. It supports the new culture of respect for human rights and acknowledgement of responsibility and accountability by which the new democracy wishes to be characterized.”<sup>323</sup> The TRC thus promoted the acceptance of accountability as a key component of the overall goal of transitional justice: the creation of a just society. TRC Report recognizes, however, the problem of the lack of perpetrator “contribution to the restoration of the well-being of their victims,”<sup>324</sup> which is a key commitment of the restorative justice movement.

In his forward to the TRC Final Report, Tutu makes the link between truth, justice, and reconciliation when he states, “We could not make the journey from a past marked by conflict, injustice, oppression, and exploitation to a new and democratic dispensation characterized by a culture of respect for human rights without coming face to face with our recent history.”<sup>325</sup> Of the four types of truth delineated by the Commission, “restorative truth” is the most important for understanding the role of restorative justice in the pursuit of civic reconciliation. Restorative truth, “the kind of

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<sup>320</sup> Tutu, *No Future Without Forgiveness*, p. 48.

<sup>321</sup> *Ibid.*, p. 51.

<sup>322</sup> *Ibid.*

<sup>323</sup> *Ibid.*

<sup>324</sup> TRC Final Report, Vol. 1, Ch. 5, Paragraph 100.

<sup>325</sup> Desmond Tutu, “Chairperson’s Forward,” Paragraph 20.

truth that places facts and what they mean within the context of human relationships—both amongst citizens and between the state and citizens,<sup>326</sup> is identified in the TRC Final report as central to Commission’s mandate to “help establish a truth that would contribute to the reparation of the damage inflicted in the past and to the prevention of the recurrence of serious abuses in the future.”<sup>327</sup> This definition implies that a lack of restorative truth would impede the potential of the restorative justice model to contribute to the pursuit of civic reconciliation in the transition to democracy.

The realm of restorative truth also provided the context for the “role of acknowledgement”:

Acknowledgement refers to placing information that is (or becomes) known on public, national record. It is not merely the actual knowledge about past human rights violations that counts; often the basic facts about what happened are already known, at least by those who were affected. What is critical is that these facts be fully and publicly acknowledged. Acknowledgement is an affirmation that a person’s pain is real and worthy of attention. It is thus central to the restoration of the dignity of the victims.<sup>328</sup>

Du Toit refers to this phenomenon as “truth as acknowledgement,” which ends the “double violation” of the former regime’s refusal to recognize gross human rights violations.<sup>329</sup> The value of the TRC’s truth-centered approach to restorative justice is not just end result (the report) but in the process of uncovering the truth as well. If restorative justice rests on the idea of justice as a condition or social relationship, the Kiss’s statement that “justice requires that we treat people as an ends in themselves” holds significant weight. The process of survivor testimonials themselves thus becomes a

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<sup>326</sup> TRC Final Report, Vol. 1, Ch. 5, Paragraph 43.

<sup>327</sup> Ibid, Paragraph 44.

<sup>328</sup> TRC Final Report, Vol. 1, Ch. 5, Paragraph 45.

<sup>329</sup> Du Toit, “Moral Foundations,” p. 133.

means of doing justice<sup>330</sup>—specifically, “justice as recognition,” defined by du Toit as “justice involved in the respect for other persons as equal sources of truth and bearers of rights.”<sup>331</sup> The same public forum that elicited accountability from the perpetrators also gives space for victims to “have their suffering acknowledged and their dignity affirmed.... We affirm the dignity and agency of those who have been brutalized by attending to their voices and making their stories a part of the historical record.”<sup>332</sup> While the process of expounding restorative truth acts as a mechanism of individual restorative justice, the recording of that testimony as part of the larger history of apartheid serves the purposes of broader social reconciliation by identifying the injustices of the past and thereby distinguishing the new moral order of the future.

The TRC thus operated on the belief that “uncovering the facts—the truth—of the past was a necessary if not sufficient state that could prepare the new South Africa to be reconciled, and whites and blacks reconciled to one another.”<sup>333</sup> The TRC Final Report is careful to note the difference between inter-personal and political notions of reconciliation, stating that, at the national level, the goal of reconciliation is not to “require everyone to agree or become friends,” but to establish a “culture of human rights and democracy,” with “respect for common human dignity and shared citizenship,” and “the peaceful handling of unavoidable conflicts.”<sup>334</sup> TRC’s view of its contribution to national unity and reconciliation:

- a. The democratic, transparent, inclusive process of the Commission and the extensive public debates surrounding its work attempted to nurture and promote the central values of open debate and democratic culture.

<sup>330</sup> Kiss, “Moral Ambition,” p. 73.

<sup>331</sup> Du Toit, “Moral Foundations,” p. 136.

<sup>332</sup> Kiss, “Moral Ambition,” p. 73.

<sup>333</sup> Rotberg, “Truth Commissions,” p. 7.

<sup>334</sup> TRC Final Report, Vol. 1, Ch. 5, Paragraph 19-20.

- b. The Commission made significant progress in establishing ‘as complete and reliable a picture as possible of past violations.’
- c. The Commission facilitated the official, public acknowledgement of these violations. In so doing, it sought to restore the dignity of those who had suffered.
- d. By holding accountable not only individuals, but also the state and other institutions, and by making recommendations aimed at preventing future violations, the Commission sought to help restore trust in these institutions. Such trust is necessary for the functioning of a healthy democratic system.<sup>335</sup>

In the restorative justice process pursued by the TRC, the concepts of truth, justice, and reconciliation are thus intrinsically tied together. Through the public space and acknowledgement accorded to victims and the public admissions of responsibility of the perpetrators, *truth* served the understanding of *justice* as a condition of social relationships by highlighting and seeking to correct, through acknowledgement and recognition, the imbalances endemic to the unjust society of the past. This in turn positions society towards the civic trust model of *reconciliation* by contributing to the construction of a new moral order for a just society in which citizens can be secure in their equal rights and freedoms.

If the ultimate goal of a transitional justice program is to facilitate the creation of a just society, and “the task of creating a just society is one of moral reconstruction” with the “overriding goal the creation of conditions in which all citizens are accorded dignity and respect,”<sup>336</sup> then affirming a discontinuity with the past in terms of collective memory—and thereby establishing a framework for public discourse for the present and future—is a necessary component of creating a discontinuity with the unjust society of the past more generally.

Consider Mark Osiel’s definition of collective memory as “the stories a society tells about momentous events in its history, the events that most profoundly affect the

<sup>335</sup> TRC Final Report, Vol. 1, Ch. 5, Paragraph 22.

<sup>336</sup> Kiss, “Moral Ambition,” p. 80.

lives of its members and most around their passions for long periods.”<sup>337</sup> Collective memories, under this conception, will inevitably influence discussion within a society, as the past relates to both the present and the future. Additionally, du Toit notes, “While the politics of memory and history is *locally and nationally* rooted, the norms of moral responsibility and political accountability as well as the emergent principles of transitional justice are *transnational and international*.”<sup>338</sup> For transitional justice, and truth commissions more specifically, both the local and international dimensions are important in this equation, as local experience gives meaning to “general issues of truth and justice.”<sup>339</sup> Accordingly, in the realm of transitional justice, truth commissions serve a middle ground in pre-empting use of local memory for sectarian purposes “by framing local memory in terms of more universal norms of truth and justice.”<sup>340</sup> By providing a general framework for local memory, truth commissions change the way that collectivities talk about the past and thus establish a framework for public discourse about the past, present, and future—and, most importantly, the interrelation of the three.

The TRC consequently was not only a “historical founding project,”<sup>341</sup> but a founding *catalyst* motivating the pursuit of broad ideals of transitional justice (as the establishment of a fair and just society) and civic reconciliation (the recognition of and trust in the just society) beyond the scope of its limited lifespan. It is in this function that the TRC had the potential to mitigate sectarian conflict, write a new national script, and set the foundation for the creation of horizontal affiliation of the new “imagined

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<sup>337</sup> Mark J. Osiel, “How Prosecution Assists Collective Memory and How Memory Furthers Social Solidarity,” Part I of *Ever Again: Legal Remembrance of Administrative Massacre*. (University of Pennsylvania Law Review, Vol. 144, 1995.) p. 475.

<sup>338</sup> Andre Du Toit, “The South African Truth and Reconciliation Commission: Local History, Global Accounting,” (2002) p. 6.

<sup>339</sup> Ibid.

<sup>340</sup> Ibid., p. 7.

<sup>341</sup> Du Toit, “Moral Foundations,” p. 123.

community.” Through a restorative justice process—which was itself heavily engaged in public discourse—that sought to publicly acknowledge and assign accountability for the gross human rights violations that occurred within the context of the unjust system of apartheid—the evils within the evil—the TRC managed to articulate important dimensions of a new moral order and a human rights culture. If at least one manifestation of justice and reconciliation resides in the condition of social relationships characterized by equal opportunity and equality, and the ultimate goal of transitional justice is facilitating a just society based on this principle, then TRC played a key role in the larger process of laying the foundations for a just society, reconciled according to the civic trust model, by establishing a framework for collective memory and public discourse. The TRC’s dual process of a backward-looking effort to “deal with the past” and a forward-looking in aim of establishing a new moral and political order—“[dealing] with the past not for its own sake but in order to clear the way for a new beginning”<sup>342</sup>—involved a complex integration of truth, (restorative) justice, and (civic) reconciliation. Essentially, these processes involved the use of historicity, as discussed previously, for the purposes of addressing key concerns of nationalism, most notably the continuity of past, present, and future.

### **Conclusions**

The TRC’s focus on truth—on a more accurate historical record—helped to counter the dangerous “distortions and disinformation” often prevalent in deeply divided societies.<sup>343</sup> However, an official shared history does not necessarily mean that everyone is pleased or accepting. In fact, a significant portion of South African society was

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<sup>342</sup> Du Toit, “Moral Foundations,” p. 125.

<sup>343</sup> Kiss, “Moral Ambition,” p. 72.

dissatisfied at the end of the TRC process,<sup>344</sup> and few signs were apparent apart from individual examples that the “cause of reconciliation had been advanced.”<sup>345</sup> A newspaper article from March 2004 reviews differing perspective on ten years of democracy, noting, “As South Africa marks the 10<sup>th</sup> anniversary of the formal end of apartheid on April 27, it remains a country largely defined by race and divided by intolerance.”<sup>346</sup> However, the unnamed author also remarks, “Still, South Africa today is a kinder, gentler country. The police state is gone. Dissent no longer is crushed by murder, torture and imprisonment. South Africans of all colours now live, if not in harmony, at least largely at peace.”<sup>347</sup> Telling of a significant achievement, Hayner also observes, “In South Africa, very few people will now defend or try to justify the system of apartheid, or question the fact that egregious practices, such as widespread torture in police stations, were used to keep apartheid in place.”<sup>348</sup> Thus, though race may remain as “one of the main organizing principles of social life,”<sup>349</sup> the violent conflict that often resulted from those divisions has largely past.

Additionally, Maalouf writes, there is an extent to which the world belongs to “those who want to make a place for themselves in it,”<sup>350</sup> and thus people will still withdraw from and reject the new dispensation. The goal should be that this rejection is non-violent and non-threatening to democratic stability. Perhaps this state of non-violent

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<sup>344</sup> Meredith, *Fate of Africa*, p. 307.

<sup>345</sup> *Ibid*, p. 323.

<sup>346</sup> “Apartheid can be forgiven, but no forgotten,” [www.iafrica.com](http://www.iafrica.com), 22 March 2004. (Accessed 26 July 2007)

<sup>347</sup> *Ibid*.

<sup>348</sup> Hayner, “Same Species, Different Animal,” p. 7.

<sup>349</sup> Mads Verstergaard, “Who’s Got the Map? The Negotiation of Afrikaner Identities in Post-Apartheid South Africa,” *Daedalus*, Vol. 130, 2001. ([www.questia.com](http://www.questia.com) 24 June 2007)

<sup>350</sup> Maalouf, *Name of Identity*, p.

is what unites South Africans in a new national script—the horizontal affiliation based on a shared desire for peace, which was highlighted and lobbied for by the TRC process.

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