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Argumentation topoi and South Africa's Truth and Reconciliation Committee

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Title: Lessons from ten years of research in argument: implications for higher education

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1. INTRODUCTION

The South African Truth and Reconciliation Commission should surely be seen as one of the most significant institutions in the history of the "new" South Africa. It is a government sponsored body called together in order to put into motion a process, constructive in intent, to deal with a horrifying past and to promote unity and conciliation among the citizens of South Africa.

Reading the Commission's report, or studying media coverage of the TRC's activities, is a humbling and shaming experience. In an almost unprecedented way the suffering of thousands of people is documented and the awful impact of apartheid laid bare. Can *any* kind of response be adequate before such displays of inhumanity by some and, at the same time, before such expressions of courage and long suffering by others? It is not easy for us to engage in critical dialogue with the TRC.

And yet we must. In his foreword to the final report of the Commission Archbishop emeritus Desmond Tutu notes: "Others will inevitably critique this perspective — as indeed they must. We hope that many South Africans and friends of South Africa will become engaged in the process of helping our nation to come to terms with its past and, in so doing, reach out to a new future" (*Report* 1.1.6).¹ It is in this spirit that we critically analyse the texts produced by the activities of the TRC.

Precisely because the work of the TRC is important it is imperative that we engage these texts: by getting involved with the manner of argumentation of the TRC one can enhance the democratic process.

2. RELIGIOUS DISCOURSE, RITUAL AND THE TRC

(1) One of the most interesting aspects of the work of the TRC is the dominating role of religious language in its business. Many have commented on this (cf. Graybill 1998:109-11). Maluleke, for instance, analyses how various Christian traditions and theologies serve as a "resource" for the activities of the Commission, noting that the idea of a TRC is "in all probability, borrowed from the Roman Catholic model of penance, confession and absolution" (Maluleke 1997b:76-78).

A more skeptical viewpoint is taken by Commissioner Wynand Malan: "The danger of applying religious frames to phenomena in general should not be underestimated. I may as well comment briefly here on the use (or abuse) of religion in justifying apartheid thinking. ... I take a dim view of some clergy who, in their submissions on behalf of their institutions, confess their mistake of having trusted their political leaders too much or too unconditionally. It may well be said by some politicians, and with more credibility, that they uncritically accepted their religious leaders' (political) teachings of God's will. ... Most gross violations were committed, as has often been testified, because of a belief in the justness of one cause and the evil of another" (*Report* 5.9.Minority Position.16-17).

Even more critical is Marius Schoon, whose wife and daughter were killed by a parcel bomb. He strenuously resists the Commission's imposition of a Christian morality of forgiveness (cf. Villa-Vicencio 1997:36; *Report* 2.2.245).

Our concern, however, is not with the role or influence of certain Christian dogmas or convictions on the workings of the TRC even though such matters have influenced our history and society profoundly (cf. Vorster 1993 and 1997 esp. :403-8; Botha 1994 and 1998). We want to draw attention to some implications of the *use* of religious language *as such*. In other words, we perceive a number of disturbing problems residing in the way religious discourse infuses the work of the TRC.

Language is not simply the "packaging" for meaning, as if meaning were disembodied information which could somehow be extracted from its "container". A discourse is as much the creator of its social fabric as it is the product thereof. Our interest in the religious discourse in the activities of the TRC is an attempt to discern the bundles or patterns of relationships with which the Commission produced its interpretation.

So, despite some positive contributions, and the obvious personal value of Christianity to persons

involved with the TRC, we maintain that this Christian religious rhetoric is *also* a limiting factor with regard to the possibilities and/or the contribution of the TRC. This underlying discourse and terminology is instrumental in fashioning a *dichotomising* approach. It imposes several *constraints*, most visible when it comes to the Commission's perceptions of coping and rehabilitation. It is, among others, an assistant to a formalistic way of arguing about history and humanity.

We would also prefer to argue that any (political, social, cultural, violent) conflict is always *complex*. To the TRC the conflict in South Africa was fairly simple and straightforward — two opposing parties confronting each other. Religious discourse, inherently, allows one to operate with an objectivistic worldview. Religious discourse makes it very difficult to bring diverse and pluralistic communities together. A religious rhetoric facilitates thinking in absolute and ultimate terms; it struggles to acknowledge a plurality of truths.

(2) We see argumentation as a function of symbolic interaction. It is a mistake to circumscribe argumentation as concerned only with the ideational; argumentation is clearly more than the application of rigorous logic. Because argumentation involves cognitive, moral and emotional orientation and social identity the "meanings" of a "text" such as the work of the TRC is best discovered by focusing on it as a series of communicative *events*, as a ritualised expression of a distinct discourse embodying values, cultures, and perspectives.

We do not see "argument" as a mere *demonstrative* move to general acceptance, as a "yes/no" effort; the essence of argumentation is its use of "discursive techniques allowing us to induce or to increase the mind's adherence to the theses presented for its assent" (Perelman & Olbrechts-Tyteca 1969:4). *Topoi* are the tactical aids or moves used in the rhetorical situation oriented to the social values underlying the communicative event(s) (cf. Van Eemeren & Grootendorst 1987:65).

(3) In order to understand its actions and conclusions we recontextualise the TRC within the context of ritual. In a number of ways the TRC can be seen as a process of ritualisation (cf. Maluleke 1997b:84–85). For example, certain activities, usually associated with what is regarded as religious ritual occupy the agenda of the TRC. These include the commencement of its activities with prayer, songs that are sung, specific seating arrangements within venues, the selection of symbols (such as a white candle with red cross), the reading of the names of those deceased or disappeared, the greeting of the victims, and the allocation of certain assistants (Gallagher 1998; Krog 1998:26, 59; Storey 1997:793; De Gruchy 1997:374).

Though not to be underestimated, these elements dispose us only to the ceremonial level of ritualisation. Ritualisation within a community is, however, something more radical and far reaching than ceremony or routinised exemplars. Ritual does not merely encode ideas that could be expressed otherwise; it also produces categories of human behaviour.

Functioning within the sanctioning and legitimating power of an institution, ritual is usually seen as the symbolic representation of a belief system that can be expressed in various modes of performance. Underlying this view of ritual lies the Cartesian distinction between mind and body, between thought and action, whereby ritual is seen to represent the body or bodily action, reflecting, symbolising or representing some kind of belief system which is supposed to be more "conceptual" in nature. Such a view on rituality neglects an important dimension, namely the role ritualisation plays in the *creation* or *construction* of networks of meaning.

Ritual is the fusion of act and idea, contrary to the conventional understanding of ritual which distinguishes between belief system and action. Bell (1996) indicates that rituality not only functions to *reflect* a thought *in* an action, but that it also *bridges* the gap *between* thought and action. She proposes that the strategic character of ritualisation be taken into account. Instead of reflecting, representing or simply maintaining a value system, ritualisation functions strategically in the creation of a world; it is as such a political process.

3. THE TRUTH AND RECONCILIATION COMMISSION OF SOUTH AFRICA

3.1 Institution and composition

In November 1994 the newly elected government of South Africa introduced the Promotion of National Unity and Reconciliation Bill, which was to become Act No 34 of 1995 (*Report* 1.4.1–23; Borraine 1997;

Asmal, Asmal & Roberts 1997:14–27). The adoption of this Bill made the institution of the Commission possible. During December 1995, following a process of consultation, 17 commissioners were appointed, with Desmond Tutu as Chair. Four subcommittees were instituted.² The Commission held its first meeting on December 16, traditionally known as the "Day of Reconciliation".

In brief, the Commission was given four basic tasks in order to advance national unity and reconciliation:

- * To analyse and describe the "causes, nature and extent" of gross violations of human rights that occurred between 1 March 1960 and 10 May 1994. This includes the identification of individuals and organisations responsible for such abuses.
- * To make recommendations to the President on measures to prevent violations of human rights in future.
- * To contribute to the restoration of the human and civil dignity of victims of gross human rights violations through testimony and recommendations concerning reparations for victims.
- * To grant amnesty to persons who made full disclosure of relevant facts relating to acts associated with a political objective.

More than 21 000 statements were collected by the Commission — these statements form the basis for the Commission's conclusions about the cause and nature of the conflict. Deponents came to the Commission of their own volition. In other words, the information gathered came from people who wished to tell the Commission about the human rights violations they had experienced. The *Report* notes a total of 37 672 violations reported, of which 9 980 were "fatal." Most violations reported by deponents took place during the period 1990–1994 (after the unbanning of political parties).³

At all times men were the most common victims of violations reported. "Six times as many men died as women and twice as many survivors of violations were men" (*Report* 1.6.Appendix 2.23). In response to criticism that an unrealistically small number of women had testified before the Commission, a number of special hearings devoted exclusively to women were held, and some effort was made to train commissioners on gender related issues (cf. Graybill 1998:112–13).

Amid great controversy the Commission presented its report to President Nelson Mandela on October 29, 1998. It is still continuing with its activities.

3.2 Modus operandi, style and approach

The Commission views itself as an agency to effect national unity and reconciliation. This becomes clear in its self-descriptions as a "tool in the transformation of South African society", as "part of the bridge-building process" (*Report* 1.4.2), as a "pathway", a "stepping stone". It clearly denies itself the status of a tribunal or a court of law, seeking rather its identity in the form of a commission of enquiry. It does not seek retribution or revenge, does not bring to judicial justice, but wishes to be a forum where the tortured voices of the past, violently silenced, can be allowed to emerge. Its objective is to participate in a process where ethnic boundaries can be transcended, where longstanding, culturally inculcated differences, hostilities and enmities can be resolved.

The Commission has chosen the road of "restoring memory and humanity" (*Report* 1.5.37) by placing the story-telling and stories of the sufferers under apartheid, the Commission claims, centrally. Their approach is to give a voice to the voiceless victims.

3.3 Mandate

Central to the mandate of the TRC is the objective to determine the causes, nature and extent of gross violation of human rights and the identities of persons or institutions that were involved in these activities. The scope of what can be regarded as "gross violation of a human rights" is restricted to "killing", "abduction", "torture" and "severe ill treatment". Forced removals, the disowning of land, the systematic disadvantage of ethnic groups, biased police brutality et cetera are all activities excluded from its mandate.

The Commission is not unaware of this problem and in its report repeatedly emphasises its

acknowledgement of the wider, dehumanising effects of the apartheid system (e.g. *Report* 1.4.44–59). Except for the category "severe ill treatment", the scope is rather specific and this causes a problem for a commission designed to participate in the construction of national unity. Such a narrow focus does not allow properly dealing with the (many) factors contributing to and the complicated history underlying the tragic disunity of our society. The Commission attempts to resolve something of this tension in its adoption of an all-inclusive approach. This is evident, for example, by seeing the problem of "gross violations of human rights" to have developed from a clearly identifiable system that can be labelled a "crime against humanity". However, the inclusivity has to be restricted. Casting the net of victims too wide may make the possibility of compensation illusionary. For that reason the Commission restricts itself to "specific acts, resulting in severe physical and/or mental injury" or what can be termed as a violation of "bodily integrity rights" (*Report* 1.4.56).

4. RELIGIOUS *TOPOI*

4.1 Truth and Reconciliation

Built right into its name, the use of the two words "truth" and "reconciliation" already suggests a specific ontology, expressing its ritual nature informed by a particular religious belief system. "Truth" refers to a belief system, "reconciliation" refers to the performative act ensuing from what has been established as "truth". This dichotomy pervades the policies, structures and activities of the TRC. Within the Human Rights Violations Committee, the focus is on the establishment of what is called "shared truth"; although the Amnesty Committee is also concerned with truth, its existence is a reconciliatory gesture, just as is the case with the Reparation and Rehabilitation Committee. This dichotomy can also be seen in Mandela's comments on the activities of the TRC: "to forgive and forget means that we should know what actually happened" (quoted by Maja-Pearce 1996:49).

The Christian belief that once "sins" have been identified and confessed, forgiveness and reconciliation may follow strongly informs the rationale of the TRC's policies and structure. The basic idea is well expressed by, for example, Jones (1998:20): "if truth telling and amnesty are to be linked to reconciliation, then the whole truth must be confessed. This requires a willingness to examine our own hearts, minds, and lives..."; also "there can be no healing of the past without truthful confession" (:22). Gallagher (1998:23) quotes John De Gruchy (a prominent and influential South African theologian) to illustrate these assumptions: "The Christian understanding of repentance, forgiveness, and reparation is of fundamental importance in shaping a national consciousness that can heal the land, achieve genuine reconciliation, and build a moral and democratic culture". It is in this context that Maluleke (1997b:82) can speak of "hi-jacked Christian symbols".

The metaphor of body politic also informs the scene. The nation is seen as a body with "indelible scars" and these scars conceal "festered wounds that needed to be opened up to allow for the cleansing and eventual healing of the body politic" (*Report* 1.5.47).

Since "truth" seems to be the generating topos behind the TRC and since there seems to be a very close relationship between what is regarded as "truth" and a particular belief system we need to pay closer attention to the TRC's views on truth. The TRC functions with what Vatz (1973:154) calls and criticises, a realist philosophy of meaning. A realist philosophy of meaning locates meaning, "out there", in reality itself; meaning emanates, as it were, from the things of reality. A situation consequently consists of clearly identifiable objects, events and relations and it becomes possible to establish what is real or what actually or factually happened in a situation. Truth is as such an independent reality.

Although the TRC distinguishes four kinds of truth, namely a factual or forensic, a personal, a social and a healing truth, each type presupposes a factual situation and functions as an independent, objective reality. In the case of "factual truth" the TRC is compelled by the Act on the Promotion of National Unity and Reconciliation to support its documentation with "factual and objective information and evidence" (*Report* 1.5.31); in the case of "personal and narrative truth", truth is again linked to the "uncovering" of facts (*Report* 1.5.43–45).⁴ Despite the possibility opened by quoting Judge Albie Sachs that a distinction should be made between "microscope truth" and "dialogue" truth, the latter being established through interaction, discussion and debate, the framework seems to be that once all motives and perspectives have been taken into account, it should be possible to establish social truth. The problem is perhaps best illustrated by the brief description of "healing and restorative truth". The notion that only two types of truth exist, namely on the one hand, a factual, objective and on the other hand a subjective truth is rejected and it is stated that the role of "acknowledgement" should be emphasised. However, the

view on truth as something independent from human interference again surfaces when acknowledgement refers to the placement of information on public record. This placement of information is concerned with "basic facts"; they may be known, but they have not yet publicly been acknowledged as "truth" (*Report* 1.5.45). The presumed sensitivity for truth, therefore, does not seem to be a sensitivity for the problem of truth as such, but is more likely a sensitivity that what counts as truth may have certain socio-political effects and the positive summation of these effects are then seen to be equated with the notion of truth. This "adding up" quality can also be seen in the references to "quantity" (of evidence). When this is again linked to the metaphor of the body, the possibility of a "national memory" appears on the horizon (*Report* 1.5.37).

Ignatieff (1996:111), referring to Tutu's aims for the TRC as "the promotion of national unity and reconciliation...the healing of a traumatised, divided, wounded, polarised people", aptly formulates the problem: "Look at the assumptions he makes: that a nation has one psyche, not many; that the truth is one, not many; that the truth is certain, not contestable; and that when it is known by all, it has the capacity to heal and reconcile. These are not so much assumptions of epistemology as articles of faith about human nature: the truth is one and if we know it, it will make us free". It is as if truth is something external to the body politic, something like medicine, something that can be administered to the body politic and will have remedial effects. One cannot but once again detect the connotation of magic in the role of truth. However, the problem of truth as construction, its subversion brought about by its own linguisticity and the confusing world which difference, uncertainty and instability offer, are not considered. The metaphor of the body, perhaps also borrowed from the religious world with its notions of ultimacy, perfection and "one-ness", leads compellingly to a monistic view of the body politic.

We should not be misunderstood. The traditional argument of adherents of the previous regime will consistently emphasise that the stories recounted by victims and perpetrators will deepen divisions in an already deeply divided country. Taking into account the power of stories to create worlds, there is some legitimacy in this fear. However, the stories also have cathartic effect and owing to the long tradition of distorted information, concealment, and lies that South Africans have experienced, the *people* must have the opportunity to share the "truths" they have created to help them interact and cope with an inhuman situation. The problem is therefore not the act of creating a world by symbolisation. The problem is rather that these narratives are cast within a context in which there can ultimately be only one perspective and where such narratives which do not fit this perspective, are not and cannot be "acknowledged".

In such a context, the necessity of criticism, accompanying and involving itself with the development of communities, by exposing and undermining the "will to power", is seen to be "unhealthy" and negative. It would be more than shortsightedness, in fact, it would be folly, to entrust issues such as truth, guilt, history, memory, responsibility and justice into the hands of bureaucrats and governmental bodies.

There is a further problem, namely the assumption that *information* can achieve national unity. Proper, reliable information fosters dialogue, it allows and enables conversation. Or, as the "information" at stake here deals with our history we can say — and the Habermasian resonance is quite intended — that history should be posited as an intentional, purposeful and organised process of identity formation that remembers the past in order to understand ourselves in a way that meets the requirements of reason arrived at by consensus and persuasion. Not, as the TRC claims, in order to exclude and close down.

4.2 Strategy of victimisation

The Commission adopts a "victim-centred approach". As such it gives expression to the Bill on the Promotion of National Unity and Reconciliation (cf. *Report* 1.4.21) and despite some reservations concerning the terminology "victim", the term was retained as a way of guiding the mechanisms of the Commission (*Report* 1.4.37–39). Although the Commission's report makes the intention and the action of the perpetrator conditional to the process of "victimisation", it is questionable whether victimisation can be derived from the intention of the perpetrator. Conditional to what a victim may be are the linguistic entitlements of certain actions. Within the context of the Commission's mandate these have been specified as "killing, torture, abduction and severe ill treatment" and interpreted as acts where "severe physical and/or mental injury" resulted, where a violation of "bodily integrity rights" can be determined (*Report* 1.4.55–56).

The question that concerns us is the manner in which the strategy of victimisation functions as a technique of argumentation. Related to this is the question what the effect or effects of such a strategy

could be not only within the objectives of the TRC, but also within a context of strategies concerned with the resolution of conflict.

The strategy of victimisation takes its point of departure in the ritualising of pain. The verifying of the identity of victims, the determination of the causes, nature and extent of gross violations of human rights, as well as the identification of what a violation of human rights is constituted of, namely killing, torture, abduction and severe ill treatment, are all activities generated on the assumption that pain can be symbolised, that it can be expressed. We have already seen that the TRC summarises its mandate in what can be termed a violation of "*bodily integrity rights*" (1.4.56) and this refers to "specific acts, resulting in severe physical and/or mental injury". The TRC therefore has to hear evidence from persons who have directly or indirectly experienced pain. That "pain" features very prominently on the agenda of the TRC can also be seen in the almost consistent use of bodily metaphors pertaining to the experience of pain.⁵

The question we need to ask is to what extent it is possible to communicate "pain", to share pain. Scarry (1985:4–5) argues that despite the individual and private certainty which the overwhelming and undeniable presence of pain imposes on the body, "hearing about pain" may exist as the primary model of what it is "to have doubt". This paradox in the experience of pain comes about owing to the impossibility that the sufferer of pain cannot *not* be aware of the pain; pain has the potential to usurp the body, to invade the body and lay siege to every fibre of corporeality. However, the "other", the onlooker, cannot be aware of, cannot be grasped and incarcerated by the sufferer's pain. The ensuing uncertainty creates the potential for doubt. When dealing with the question of the communication of pain we need to be aware of the impotence of the "other" in sharing pain. It is possible to describe this impotence of the "other" in sharing the pain of the sufferer as a bodily resistance to pain.

Scarry argues that pain therefore can also resist language. She writes: "Physical pain does not simply resist language but actively destroys it, bringing about an immediate reversion to a state anterior to language, to the sounds and cries a human being makes before language is learned" (1985:4). The agonising scream brought about by excruciating pain takes leave of the carefully embodied grammatical rules incorporated over years of bodily development and returns the body to its initial linguistic stages. Complaining about pain should not be seen as an expression of pain, but should also be understood within pain's resistance to language. In torture the tendency of pain to destroy the capacity for language can be seen in exaggerated form (cf. Scarry 1985:54).

There is another aspect that needs our attention. The bodily resistance of pain and its resistance to language do not imply an escape from language. As with all bodily experiences, pain has also been drawn into the processes of human symbolisation. But the possibility of symbolising pain opens the possibility of persuasion by a discourse of pain. Bodily pain is put into discourse: it becomes "enlanguaged" and by becoming discursive it acquires the possibility to become a locus for political meaning. The tendency to the inexpressibility of pain, its lack of a referent "permits political and perceptual complications of the most serious kind. The failure to express pain...will always work to allow its appropriation and conflation with debased forms of power; conversely, the successful expression of pain will always work to expose and make impossible that appropriation and conflation" (Scarry 1985:14).

Via a strategy of victimisation pain is ritualised by the activities of the TRC. As the symbolising of pain can be political, the strategy of victimisation should not be seen as an attempt to acquire a complete or comprehensive picture via the collection and facilitation of information; neither should it be seen as process intent on the establishment of truth. The objective is not to establish whether what is being told has in fact happened; the purpose is not judicial justice. If the ritualisation of pain serves political objectives, the strategy of victimisation does not have the intention to represent, but rather to persuade to a particular political conviction. Our question is whether the ritualisation of pain via a strategy of victimisation concurs with the mandate of the Commission, whether it indeed serves the process of reconciliation and national unity, whether the human dignity of the sufferer is really restored and whether it serves to prevent and inhibit future gross violations of human rights.

The process of victimisation by means of which pain is ritualised consists firstly of the identification of the victim. Gallagher (1998:23), emphasising the liturgical fashion of the actual process of hearing, correctly indicates that the questions posed by a commissioner before the commencement of the testimony are not simply "a strategic ploy to put the victim at ease", but serves to locate the victim as "a person in the fullest African sense — with a family, a community, a place". The significance of providing the victim with an identity can also be seen in the effort the Commission has made in compiling a list of victims and cautiously keeping the option open of including more names (cf. *Report 5.2*). The construction of the victim's identity does not only pertain to the informational, but functions to elevate to

the status of society's heroes. The infliction of pain on the victim depersonalised that person; it restricted the victim spatially and temporally to the intense experiences of the body inflicted by the "other", thereby blurring the possibility of being out there and preventing the consciousness of traversing past and future. Leder (1990:75) formulates aptly: "Physical suffering constricts not only to the spatial but the temporal sphere. As it pulls us back to the *here*, so severe pain summons us to the *now*". The spatiotemporal constriction to the body decontextualises and isolates the person. The process of victimisation does not only attempt to reverse the depersonalisation and decontextualisation of the victim, but via the ritualistic questioning process of either the victim her-/himself or those testifying on her/his behalf, provides the victim with a public status and role not always previously occupied. The victim becomes a societal role model.

Besides the identification of the victim as a means to empowerment, the ritual treatment of victims also serves to construct a person endowed with status. Not only are the audiences of the hearings requested to rise as the victims and their families enter, but the commissioners also leave their positions to physically greet them. Gallagher (1998:23) observes: "In typical court settings, spectators would rise when the judge comes in; here we rose for the victims". The analogy is appropriate; judges usually occupy extreme positions of power within societies — here the victims are empowered by the performance of a similar action albeit in a different institutional context.

The empowerment of the victim is further enhanced by the opportunity to tell their stories of pain. Although the TRC's specific mandate is to determine the "gross violations of human rights", their narratives are not subjected to cross-examination; evidence is not tested. On the contrary, victims are assisted by psychologists as the accounts of pain force their way into the present human experience. Providing the opportunity to victims or those who act on their behalf to voice their stories, an attempt is made to remove the obstacles that pain's resistance to language has caused. The past obviously plays an enormous role in these stories, but the past functions to serve *ethos* — it serves to construct "person". A variety of acts function to infuse the person of the victim with value, but in the *Report* they all find their value in the notion of resistance. The instability that was assigned by a previous regime to the notion of resistance is now inverted and it functions to establish the stability of person (cf. Perelman & Olbrechts-Tyteca 1969:297) — victims are clothed with prestige as martyrs who had the moral courage to resist and sacrificed themselves to liberate their people. The constant flow of these narratives in the *Report* is a powerful mechanism toward the creation of social and political solidarity. People exposed to these stories are invited to identify and share the same commitment. As such the stories of the victims are not reported simply as a means of providing information, neither are they meant as restorative only in an individual sense. The mechanism of allowing the victims to narrate their painful experiences serves to establish a reservoir of values with which people can identify. It is this collective ideal that makes the sacrifices of the victims possible.

The objective of the strategy of victimisation is stated as to restore human dignity. The assumption is that the human body is a source or a container and something that is inherently or essentially part of the body has been removed. The infliction of bodily pain by another is the act by means of which this essential bodily dimension has been removed. However, human dignity belongs to the notion of "person" and being a person is concerned with the symbolic construction of the body. The restoration of human dignity, considered from the perspective of the symbolical, means to re-integrate the body into those networks of meaning that have constituted its dignity in the first place. It means to invalidate those actions that have severed the body from its world, those actions that have unmade the body. This process of restoration needs to be public, not only because of the communal nature of symbolic patterning of the body, but also because the actions that have severed the body from its symbolic context were institutionally sanctioned. As with all symbolic functions, the act of restoring should not be seen literally as "re-storing", because the action is itself creative and constructive and it constitutes a different state. It is in this sense that the ritualistic nature of this process should be acknowledged, because it is ritual that can contribute to re-integration.

The strategy of victimisation undoubtedly succeeds in restoring human dignity. We have seen that various ritual mechanisms have ensured that the status of victims not only be restored but that they acquire the status of heroes upon which an alternative morality should be modelled. In this respect the hearings of the TRC have been particularly successful. However, the choice for restorative justice based

on a morality built up with religious terminology may prove to problematise some of the other objectives of the TRC.

The option for a victim-oriented approach should be appreciated, but it becomes problematic when it is seen as a mechanism for conflict resolution and nation building. Institutional facilitation and management

of the construction of discourse could invite identification, but it could also enhance division and opposition (Burke). Where the construction of discourse is infused with an objectivistic philosophy with dichotomy reigning supreme, and where this discourse is launched in a country within which separatism has been pushed to its extremes and where value-systems have been developed within the confines of political isolationism, the possibility of a simple redrawing of boundaries looms on the horizon.

It is not difficult to detect in the TRC's strategy of victimisation a very conscious shifting of boundaries. It was and is undoubtedly clear that those who have been unjustly criminalised in the past should and must acquire a restored status. The extent, however, to which a class of deviants created in this restoration aligns closely with ethnic separatistic tendencies must raise questions. An example is appropriate: the structural violence incorporated in the apartheid system found its culmination in the almost licentious abuse of power by members of the so-called security forces. In many instances submissions to appear before the Commission have been made simply in order to obtain information concerning the identity of torturers, abductors and killers. However, instead of the construction of a class of deviants based on behaviour regarded as deviant by all the communities of South Africa, the possibility has been created that an identification of deviancy with the Afrikaner community (seen as a homogeneous entity), can be established. In several of the quotations from the stories of the victims taken up by the *Report*, the police and the *boere* (=slang for Afrikaners) are equated. This identification made among the oppressed communities can be explained because of the predominant presence of Afrikaners in the then governing National Party, but the question is whether the heterogeneity internal to the communities within South Africa allows this type of identification. It is seriously to be questioned whether the ideals of national unity and nation building via the stories of victims can be served when those portions of stories are highlighted which incline towards the creation of deviancy among ethnic lines.

4.3 Strategy of assigning guilt

The mandate of the TRC obliged the Commission to identify not only the perpetrators of gross violations of human rights, but also "authorities, institutions and organisations..." and this was taken to mean that the Commission should go beyond those that have actually committed these crimes (*Report* 1.4.137, but cf. also 1.4.31[4.a] and 1.4.40). Although the Commission is only empowered to make recommendations on reparations as far as the victims are concerned, it was given the power to grant full amnesty as far as the perpetrators are concerned. Acquiring full amnesty meant immunity against any further judicial prosecution. The only requirements for obtaining full amnesty are the "full disclosure" of what happened as well as proof of political intent (*Report* 1.4.31[4.c]).

Where the Human Rights Violations Committee functioned through a strategy of victimisation, the Amnesty Committee functions via the ritual of confession. The confessional nature already manifests itself in the fact that perpetrators have to formally apply to make a submission. To a certain extent this is already an admission of guilt. The Committee only sends out notices informing would-be perpetrators that allegations of concern to the perpetrator will be made and furnishes them with support documentation (cf. *Report* 1:179-190). However, the principle involved is admission of guilt. A decision

made in favour of the applicant does not imply that a gross violation of human rights was not committed, but it discharges the applicant from any accountability. Except for the public nature of these decisions the process seems to be the same as confession and absolution, the confession and pardoning of sins found in religious discourse.

The procedure of confession also happens by means of story-telling. Cross-examination is allowed in this ritual as is legal representation. Since "full disclosure" is one of the criteria for successful amnesty, the self-confessed perpetrator is inclined to a detailed presentation of violent deeds. Since "political motivation" is the second criterion, levels of command, shifting of blame and bureaucratic tyranny feature prominently in the presentation. Krog (1998:85) writes: "So there are actually two stories: the story and the under-story, the matrix, the propelling force determining what is left out, what is used, how it is used. And at the heart of this force are the amnesty conditions. Today they give rise to long descriptions of who gave orders — to create a context for political motivation. And then the gory finer details of the murders — to create the impression of full disclosure". This observation is important because what is at stake here is less the perpetrator than those institutions that have created the space within which it was possible to commit atrocities. To a certain extent the ritualisation of pain does not end with the victim; the confession of the torturer also ritualises pain, but its ritualisation takes place as a form of transposition. Legitimising the actions of the torturer is the political power of a previous state; and as a matter of fact the torturer can be seen as simply an extension of political power. It is political power that justifies the acts of the torturer.

Although the criterion of "full disclosure" functions as a condition for amnesty, the incitement to confess serves not the total picture nor moral issues, but functions to expose and undermine the immoral abuse of a previous regime's political power. Consequently, the transposition, because the political power of the previous regime was predominantly located within a specific group, places the atrocities committed as situated within a group. Not the torturer, but the group is finally required to confess. For that reason the confession has to be a public event. The spectacle enacted by the ritual of confession is meant for the nation — for that reason also the necessity to have the media, written as well as electronic, constantly present.

Via the process of confession, collective guilt is assigned to a segment of the nation. The

assignment of collective guilt poses various problems, but it functions first and foremost as an obstacle to national unity. Ignatieff (1996: 115) argues that "(t)he essential function of justice in the dialogue between truth and reconciliation is to disaggregate individual and nation; to disassemble the fiction that nations are responsible like individuals for the crimes committed in their name". The reason why it is so important to achieve this disassembling is because of negative stereotyping. Ignatieff (:115) indicates that the atrocities committed by representatives of a specific political community are seen to reveal the essential identity of that specific community. Dworkin (1996:139–140) agrees but adds that this removal from guilt assigned to the nation as such cancels the influence of the perpetrators and "makes it easier for voices of reconciliation to be acknowledged."⁶ Irrespective of the fact whether the torturer be an Afrikaner, English or even a Black person, as a representative of a predominantly Afrikaner regime, the scapegoat will have to be that segment of the nation itself. The preference to collectivise guilt instead of individualising it may create a scapegoat (and maybe this is necessary), but it does not satisfy those who have really suffered, who want to know why their loved ones have been tortured and killed. In an interview the widow of Steve Biko, Ntsiki expresses the problem: "To me it is an insult [to be asked to go before the Commission] because all that is needed is to have the perpetrators taken to a proper court of justice. Having gone through the trauma, through the suffering...It has not been an easy thing"

(Brittain 1996b:68; cf. also Friedman 1996:58–60).

By not individualising guilt, but unreflectively using the confession to assign collective guilt, deviancy has been assigned to a segment of the nation and instead of being recipients of anti-hero status, the probability exists that the wrong individuals may be hailed as heroes.

4.4 Certainty (or, a strategy of simplifying the complex)

The discussion of scapegoating gives cause to reflect on another strategy determining the activities of the TRC, namely a disconcerting certainty of true identification.

Scapegoating is a way of dealing with *them*, the "other". Scapegoating does not attempt to understand; it is a strategy of simplification and avoidance, it denies self-criticism and ends conversation. It does not contribute to insight and meaningful change. And it is only effective within a context of certainty: one must be sure, absolutely sure; so sure one's identification is almost "nonconscious" so to speak (adopting an insight of Girard 1987:78).

We should not be misunderstood. Historical knowledge is possible, and the guilty can and should be found. What bothers us is the easy generalisations and reductionistic interpretations evident in the findings and arguments of the TRC.

By way of illustration: the book by Asmal, Asmal and Roberts (1997) provides an historical and political background to the developments that led to the TRC. The authors also present, among others, the case for decriminalising the resistance to apartheid and explicate the morality and justification of what they call "armed resistance". Reading the book, however, reveals an abnormal simplification of South African history; the diversity of resistance to apartheid is reduced to the "heroic" and "humane" activities of the African National Congress (currently the governing political party). Though more comprehensive, and more nuanced, the *Report* often leaves one with the same impression.

Although the TRC does not hesitate to indicate that gross violations of human rights were also committed by the ANC (e.g. *Report* 2.4.2), great care is taken to emphasise the "context" of "recognised liberation movements conducting legitimate struggles".

In religious pedagogy, certainty functions with regard to what cannot really be known. Similarly, a strategy

in religious parlance, certainly functions with regard to what cannot really be known. Similarly, a strategy of claiming credibility or validity which cannot be perceived directly can be detected in the activities of the TRC. Certainty simplifies the impossible or the very complex to an acceptable, simple statement. In various ways we note simplification in the interpretations made by the TRC.

It is of extreme importance to realise that there is no single or clear-cut "enemy" in the history of South Africa. The assumption implicit in the activities of the TRC is that there have been two sides to the conflict and that there have been two main categories of protagonists, namely victims and perpetrators. The reality is, as the work of the TRC itself demonstrates, a complex set of relationships and roles. We do not simply have two opposing forces but a spectrum of alliances and associations. In fact, the TRC has been singularly inattentive to the thousands of individuals, from all sides of the political spectrum, who are *both* victims and perpetrators. A good example is the Black youth of the early 1990s who were involved in intra-community conflict. This group has had limited interactions with the TRC, often due to individuals' dual roles as supervisors and perpetrators of violence in the past (cf. Hamber 1998:19). We

can also refer to the perception of many Afrikaners (particularly of those who are not members of the African National Congress) of having been victims, and who see the liberation of Black people also as their own liberation.

The complexities of the debate concerning "just war" is best left outside the scope of this discussion, but as the Commission has justified the (at times extremely) violent resistance along such lines (e.g. *Report* 5.6.71), a comment is in order. It is worth pointing out that when others (some generals, and other applicants for amnesty) argue that *they* were engaged in a just war, the Commission reports this as "such rhetoric" (*Report* 5.7.131). "Rhetoric" is here meant pejoratively, as the Commission claims that "the other side [the liberation movements], with greater legitimacy ... could justify violence as a means to a greater end".

We draw attention to the assumption that it is supposedly possible to see evidence of evil, "badness" or wrongness in one terrible act, whilst another terrible act can reveal evidence of justice and goodness. It is not the acts, nor even the context, but the interpretation; and such interpretations are only possible when one *knows* the truth. Certainty can be a dangerous *topos*. We believe the terrible things in life to be more complex. Rather have doubt and consequently reticence towards violence.

By removing doubt, distance becomes possible and South Africans can become spectators. These clear-cut, certain identifications have the potential to reduce the rest of us into mere observers of "the poor victims" and "the terrible perpetrators". Conversely, focus on apartheid as *the* crime deftly displaces other liberationist issues, such as racism, sexism, economic discrimination, poverty and physical abuse. These issues are rampant in our current society (cf., e.g., Schoeman 1999:138–139).

5. CONCLUDING REMARKS

The strength of the TRC, writes Lyons (1997:7), "is that it offers victims of human rights violations a state created forum in which to be publicly acknowledged, and fixes in historical memory the social context in which these violations occurred. But in so doing, it cannot avoid the intrinsic tension between the Commission's objective to achieve national unity and reconciliation as well as the just resolution of individual human rights violations." The Commission, simply put, is an institution replete with contradictions.

The role of a truth commission, to our minds, is to provide a clear indication to the public of how the boundaries of behaviour have shifted, to explicate what will not be tolerated by society in future.

We suspect that the role of certain religious *topoi* in the discourses of South Africa's TRC is a limiting and distorting one and that the danger exists that our Commission will not enhance reconciliation but inhibit it.

Of concern is the neglect of the heterogeneity so evident in our society. We, South Africans, urgently need to learn that we must deal with many truths, with many (cultural and social) identities; that diversity is not simply the spice of our lives, but the essence thereof.

ENDNOTES

¹ As all paragraphs in the Report are numbered, we cite accordingly. That is "Report 1.1.6" refers to

1As all paragraphs in the Report are numbered, we cite accordingly. That is Report 1.1.6 refers to Truth and Reconciliation Commission of South Africa Report Volume 1, Chapter 1 paragraph number 6.

2The Human Rights Violation Committee, The Amnesty Committee, The Reparation and Rehabilitation Committee and the Investigation Unit. See Report 1.3.1-6 for member allocation. To date more than 400 persons have been employed by the Commission.

3The Report states that the "lower number of reported violations in early periods is partly a consequence of the different political climate during those years, but is also partly due to the fact that people from that time were either too old to come to the Commission, or had passed away" (Report 1.6.26). More to the point, however, is the clear implication that violence and terror cannot be resolved or removed through a simple political step.

4At first glance there seems to be a sensitivity toward the possibility of "perspective" because the quotation of Tutu's words seems to allow for the possibility of more truths. He is quoted as to have said: "the creation of a 'narrative truth'", seems to support the notion of a diversity of perspectives (Report 1.5.35). However, what is at stake in the Report is rather parts or many sides of the "truth" and the possibility that all these truths could be compiled into one objective truth. For that reason the Commission envisages the possibility of a comprehensive picture.

5A sample of impressions: Maluleke (in an article *Dealing lightly with the wound of my people*) requires that the "whole nation" must feel the "victims' pains" (1997a: 68) and again in the footsteps of Ackermann (1997) he writes that "especially White South Africans" need to "publically...lament the injustice and pain of the past..." (Maluleke 1997a: 77). In an interview of Steve Biko's widow, Ntsiki by James Brittain, what is remembered is Biko's physical condition when he emerged from a prison in Pretoria "a ragged man with all dents in his face and body" (1996b: 68) and critical comments on the role of the TRC "it is just opening the wounds for nothing" (:68). Maje-Pearce (1996: 48) refers to the process as "binding the wounds" and Bishop Tutu in an interview also refers to the work of the TRC as the "healing" of a "traumatised, divided, wounded, polarised people" (1996: 39). These examples should be sufficient to indicate that bodily metaphors with the notion of pain as basic circulate to describe the mandate of the Commission.

6Dworkin (1996: 140) indicates that the participation in atrocities may have been so widespread that it becomes almost impossible to root out all the perpetrators and proposes instead an order of responsibility. The point remains however, that the collective assignment of guilt functions more as an obstacle to reconciliation than a strategy to achieve this and the individualising of guilt has a greater degree of probability in achieving reconciliation.

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