

Records, national identity and post-apartheid South Africa: the role of Truth Commission records in nation building

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The South African Truth and Reconciliation Commission (TRC) was established by an act of parliament in 1995. It was the twenty-first¹ in a series of truth commissions that had characterised nations transitioning from repression to democratic rule. The main aim of the South African TRC was to promote national unity and reconciliation. The other objective of the commission was to usher in a new value system or culture of national identity, national pride, institutional accountability, transparency and respect for human rights. However, what is also of great interest is the fact that for the first time in the life of truth commissions the South African commissioners placed its records right at the centre of these new core values. This paper,

extracted from the author's doctoral dissertation, aims to highlight the often overlooked role of records in nurturing a culture of national identity, national reconciliation, institutional accountability and transparency.

Introduction

A paper designed to deliberate on truth commission records, national identity and nation building in a post-apartheid South Africa exposes the writer to immediate definitional problems. This is because throughout the ages the definition of what constitutes a nation, national identity, nation building and nationalism have been mired by ambiguities. The word 'nation' immediately conjures images of sovereignty and state, while one cannot think of national identity and nation building without some reference to ideology, a common culture, and nationalism. In some instances, national identity, nation building and nationalism have been used interchangeably. Therefore, forgive me if I also use the terms synonymously. Some twenty years ago, while lecturing to us on the evils of tyranny, despotism and authoritarian regimes, my history professor told me that nationalism, national identity and nation building were terms used to refer to a collective response by the oppressed against standards imposed from outside. This definition not only excited my imagination but also informed my conceptual understanding of nationalism for some time. A decade or so down the line, my research on the records of the South African truth commission unearthed some new definitions of national identity and nationalism. Here, I discovered that national identity is not always triggered by external factors as some of my mentors led me to believe but can be engineered from within by a given government to achieve its objectives of nation building and reconstruction. The post-apartheid government that commissioned the South African truth commission is a good example of a form of nationalism that was inward looking, rather than outward looking, and used ethnic integration and national building as its core values. If the aim of all truth commissions is to build better nations for their citizens, then, what is so compelling about the South African truth commission? In other words, how did the South African truth commission distinguish itself from the rest of other truth commissions in terms of its treatment of records and nation building?

The Uniqueness of the South African Truth and Reconciliation Commission

Compared to the other twenty-three or so truth commissions held worldwide, the South African Truth and Reconciliation Commission (TRC) excelled, firstly, in representing all sectors of the society, and secondly, in its determination to hold to account perpetrators of human rights atrocities – accountable politically and historically by way of permanent recording. Its choice of commissioners was unlike any other. The South African TRC officials were selected in public interviews. This method was strikingly different from other countries where such bodies were established through presidential decrees. The habit of using ‘the people’ to appoint the commissioners gave this body a broad political and public backing. Furthermore, Priscilla Hayner notes that only a ‘few truth commissions in the past have been created through national legislation, as in South Africa.’²

The most distinct difference between the South African TRC and other commissions was that it was the first to be given the power to grant amnesty to individual perpetrators. No other state had combined the quasi-judicial power with the investigative task of a truth-seeking body. Linda Van De Vijver remarked that South Africa’s amnesty process ‘placed the onus on perpetrators to apply for amnesty, and demanded the full disclosure of all relevant facts before it could consider granting amnesty to applicants. In this regard it is unique, and differs from the blanket amnesties that were granted in, for example, Latin America.’³ The Latin American truth commissions frustrated individual identification of perpetrators of violence. On the contrary, the South African TRC used the amnesty process to uncover details of past crimes and thus made it probably the first country in the world to hear detailed testimony directly from the perpetrators themselves. The perpetrators’ accounts, together with victims’ accounts, and those from representatives of non-governmental organisations (NGOs),⁴ schools, hospitals, security forces, the business community and the civil service, resulted in the accumulation of a unique record unparalleled in the annals of any known truth commission. The provision for the protection of perpetrators, once amnesty had been granted, was broad and unconditional. This had the effect of encouraging many perpetrators to come forward and reveal their stories.

Accordingly, the South African TRC had extraordinary subpoena, search, and seizure powers. None of the Latin American commissions had the powers to compel witnesses to come forward with evidence. The subpoena powers of the South African TRC led to more thorough internal investigations and direct questioning of witnesses than had been seen in previous commissions. The very public process of the South African TRC made it extraordinary. Unlike many other commissions which held their proceedings behind closed doors, such as those in Latin America, the South African TRC excelled in engaging the public to confront its ugly past. Both victims and perpetrators came forward in public to tell their stories.

The witness protection program that South Africa created was the first of its kind in Africa. Fearful witnesses, who would otherwise have shied away, took advantage of this provision to disclose much-needed information. The South African hearings also included aspects of inquiry not seen anywhere else, such as the sectoral and institution-focused hearings on churches, the medical establishment, the press, the business sector, and other areas.

It should be mentioned that the South African TRC operated in a very transparent fashion. Many international NGOs participated and monitored the work of this commission without any hindrance. Few recorded commissions had included such massive participation. Even though many truth commissions sought nation building as their goal, most had simply implied it. The South African TRC did not just presume that national reconciliation would come naturally. Instead, it aggressively framed its work around this goal.

Unlike other African and Latin American states that undertook truth commissions just for political expediency, post-apartheid South Africa had the political will-power to unearth the truth. This was demonstrated by a healthy budget compared to any other truth commission held so far in Africa and Latin America.

The proceedings of the South African TRC constituted a form of 'live archives' in the sense that both local and international television crews covered its work around the clock, much to the excitement of most university professors who had already initiated the debate in various forums held around the country about the need to establish a TRC

archive. The specific idea of a centre of memory to commemorate the TRC was a major innovation of South Africa.

Thirteen years after its inception the South African TRC can still claim to set the benchmark for all truth commissions so far. Subsequent truth commissions, namely, the Liberian truth commission and the Sierra Leonean truth commission, have fallen far short of South Africa's example. This is ludicrous given the fact that the Liberian and Sierra Leonean truth commissions to some extent used the South African TRC as a model. In fact, both of them relied to some degree on the experience and the human resource capital of the South African TRC. However, despite this fact both commissions fell far short of the standard set by South Africa. It is important to acknowledge the novel intentions and recommendations of the Liberian and Sierra Leonean truth commissions. But it is equally important to state that the financial and political stability of South Africa, along with its social cohesion, and the pedigree of its leadership, are factors that continue to give the country a competitive edge. Liberia and Sierra Leone are fragile countries that can return to war at anytime. South Africa on the other hand has demonstrated some degree of stability after three acclaimed, bruising, fair and transparent democratic elections. The political and economic stability of South Africa has allowed it to follow up on the promises made by its truth commission, and quantum leaps have been made, firstly in the compensation of victims, and secondly in the prosecution of perpetrators of violence. These simple goals have not been achieved in either Liberia or Sierra Leone. It is apparent from this that a well-oiled and well-functioning post-conflict state is a prerequisite for a successful truth commission. As long as Liberia and Sierra Leone are teetering on the brink of war their truth commissions will never achieve the kind of closure witnessed by South Africa. It is therefore crucial to emphasise that a state's legal, political and fiscal capacity to implement the recommendations of its truth commission is of equal importance to the work of the commission itself.

In the case of South Africa, what recommendations were made and how are they tied to the notion of nation building? Before the question of recommendations are addressed, it is first necessary to describe the salient attributes of the South African TRC records.

The salient attributes of the South African TRC

In her book *Final Acts: A Guide to Preserving the Records of Truth Commissions*, Trudy Peterson has described the South African TRC records as being of 'a wide variety of physical types, from paper to audiotape and videotape, photographs, electronic documents and databases.'⁵ According to the *Guide to Archival Resources Relating to the Truth and Reconciliation Commission*,⁶ the South African TRC produced multimedia and multi-genre records⁷ documenting all processes about the commission's functional structure. These records included administrative, management, and operational reports of the commission's three statutory committees. Also, under the heading 'Archiving Commission Material ...',⁸ the commissioners state that the TRC's records, 'in the form of documents, video and audio tapes, pictures and photographs as well as computerised database, are a national asset which must be both protected and made accessible.'⁹ Furthermore, the guide also informs us that 'the national broadcaster, the South African Broadcasting Corporation (SABC) was tasked with televising, recording and broadcasting all the public proceedings of the TRC. SABC broadcast all the hearings in each of the eleven official languages, thereby ensuring that the people who did not have access to the print media would not be denied access to information about the TRC.'¹⁰ The records audit of the South African History Archives has established that the National Archives of South Africa has 245 videotapes totaling 334 hours of special hearings records,¹¹ covering areas such as the activities of the armed forces, business, labour, the former regime's biological and chemical weapon's program, political parties, the situation of women and children under apartheid, and the activities of the State Security Council.¹²

The records audit also confirmed that the National Archives of South Africa has tapes of Human Rights Violations Committee (HRVC) hearings, constituting 435.5 hours of testimony starting with the first public hearing held in East London on 15 April 1996 and ending in Cape Town on the 11 June 1997.¹³ The audit also states that, of the three statutory committees of the TRC, the amnesty videotapes recorded by the SABC are the most comprehensive, and the most extensive,¹⁴ starting with the first amnesty hearing held in Pietermaritzburg

on 23 July 1995 and ending in Durban on 12 May 2000.¹⁵ Among the amnesty videotapes are 'the amnesty applications of Eugene de Kock of Vlakplaas, of perpetrators in the Bisho massacre, of perpetrators of the likes of Craig Williamson for various crimes such as the bombing of the ANC diplomatic mission in London and in Lusaka, the murder of Ruth First, and Jeanette Schoon and her daughter. They include amnesty applications for "third force" destabilization such as the Boipatong killings, the murder of the Gugulethu 7, the Motherwell 4, Pebco 3 and Cradock 4.'¹⁶

In addition, the TRC also launched a website in 1996 as part of the commission's media strategy.¹⁷ It contained all the transcripts of the HRVC and amnesty hearings, amnesty decision transcripts, press releases and news reports from the South African Press Agency. It also contained an interactive register of reconciliation that users were able to sign.¹⁸ Finally, the *Truth and Reconciliation Commission of South Africa Report*, vol. 6,¹⁹ reveals that all the information collected by the commission was captured electronically on the commission's database.²⁰ This information included victim statements, their contacts, testimonies taken in all the hearings, in-camera hearings, submissions made by faith communities, the security establishments, NGOs, the media and the business communities.²¹ Having deliberated on the nature and characteristics of the records of the commission, we will now turn our attention to what the commission had to say about these records.

The recommendations of the South African TRC regarding its records

In the *Truth and Reconciliation Commission of South Africa Report*, vol. 5,²² the key recommendation made by the commission regarding its records was that they be kept and managed by the National Archives of South Africa.²³ For instance, the codicil to the final South African TRC report (that is, volume 6) recommended that 'that the database be owned, managed, and maintained by the National Archives and Records Services of South Africa.'²⁴ The National Archives of South Africa must take responsibility for ensuring that the database forms the cornerstone of an electronic repository of historical materials concerning the work of the commission, is enriched by electronic multimedia facilities to

support audio-visual and other graphic materials, is in a format that allows for distribution to schools, other educational institutions and the general public by means of CD-ROM or other portable electronic formats, and that it uses language that is accessible to a majority of South Africans.²⁵ The *Truth and Reconciliation Commission of South Africa Report*, vol. 5,²⁶ also instructed the National Archives of South Africa to take over the commission's website from the Department of Justice (DOJ) and to continue to make the existing material, including the reports of the commission, available to the public locally and internationally through the website.²⁷ Also, the commission expected the archives to expand the website in creative ways by taking into account the fact that many commission records are stored in computer files.²⁸

On the big question of access, the *Truth and Reconciliation Commission of South Africa Report*, vol. 6,²⁹ instructed the DOJ to ensure the National Archives of South Africa protect and make the commission's records accessible to the public.³⁰ The report authoritatively commanded that 'all commission records be accessible to the public, unless compelling reasons exist for denying such access, bearing in mind that the individual's right to privacy, confidentiality and related matters must be respected. In this regard particular attention needs to be given to the release or withholding of details of human rights violations statements in cases where individuals feel their safety is prejudiced.'³¹

The South African TRC went further and developed guidelines for how the National Archives of South Africa were to administer access to such records. The *Truth and Reconciliation Commission of South Africa Report*, vol. 5,³² stated that, in the case of closed-door hearings, the National Archives was supposed to refer all requests for access to the DOJ.³³ In the case of all other records categories, the commission instructed that a policy of unrestricted public access should be applied.³⁴ Furthermore, it advised that the following information which was already in the public domain, 'be made available as soon as practically possible to the public: transcripts of hearings; reasons for amnesty decisions; public statements issued by the commission; all other material already available to the public on the Commission's internet website.'³⁵ In the final section, we will reflect on the truth commission records, the search for truth, nation identity and nation building in a post-apartheid South Africa.

Some thoughts on TRC records, the search for truth, national identity and nation building in post-apartheid South Africa

It should be remembered that there have been countless cases in the world where human rights records have been critical to the rendering of an account. The immense role of records in the prosecution of human rights violators during the Nuremberg trials is a case in point. In this special instance, records generated by the Nazis were used as evidence to prove that the persecution of Jews, Gypsies, and homosexuals was not accidental but followed a state-sanctioned policy of racial cleansing and genocide. These records included the names and numbers of most of those murdered, raped, and tortured.³⁶ Hayner informs us that, in Germany, a truth commission, relying largely on the declassified records of the former East German regime, unearthed harrowing details of human rights abuses by the Socialist Unity Party.³⁷

While it is widely accepted that records can aid nation building, it should also be mentioned that the premature disclosure of information in states emerging from warfare can hamper efforts towards nation building. Maybe it was the concern for stability that motivated the apartheid government to destroy massive volumes of police and intelligence community records on the eve of Mandela's first government in 1994. In his recent book *Archives and Justice: A South African Perspective*,³⁸ Verne Harris informs us that despite this massive purge of records, enough information detailing the stolen rights of black South Africans was left intact.³⁹ Harris further says that during the course of his investigations for the South African TRC he saw several files that could create severe difficulties for people now prominent in the public and other sectors.⁴⁰ At one point, Harris recalls one of his colleagues telling him that it would have been better if all these files had been destroyed.⁴¹

It should also be remembered that when the East German archives were opened to the public after German reunification, a nation went to war with itself. Who knows whether the South Africa government is delaying access to some TRC records for fear that it can reverse the progress made so far in nation building. Could it be for the same reasons of nation building that the United Nations has until the present day been reluctant to release the truth commission records of Peru, El Salvador, Sierra Leone, and Guatemala, all of which it holds in its New

Jersey and New York archives? For me the potential of human rights records to build or to destroy national cohesion has much to teach us about the power of records, and the power of those entrusted with their preservation and custody, and also explains why I chose records management as a career.

This brings us to the issue of truth commission records and national reconciliation. Can truth commission records aid national reconciliation? The answer is a 'yes' and 'no'. Much will depend on what is released and how it is released. Much will also depend on the militancy of the people to whom these records will be released. Sometimes releasing records that are too close to traumatic events can aid feelings of vengeance and retribution. To avoid such ugly scenarios a responsible government may be forced to withhold some records for some time to allow the nation to heal. At the same time, withholding records that are necessary for the pursuit of truth can actually delay national reconciliation. While some might not need to know the truth immediately in order to heal, others need to know the truth and nothing but the truth before they can forgive and forget. Having engaged in these polemics, an avid reader might want to know whether the South African TRC records achieved its short-term goal of nation building or not. Students of nation building and nationalism in general will readily tell that nation building is not a one-time event. Actually, nations take hundreds of years to build and crystallise. It follows, therefore, that fifteen years is a very short time in the life of any nation, including post-apartheid South Africa. The passage of time is needed to study the full impact of the records of the South African TRC on nation building. However, to the extent that no case of violence has been reported so far despite current access guarantees, it can be safely concluded that the records of the South African TRC, up to the time of publishing this paper, have aided rather than undermined nation building, the search for truth, national identity and political accountability.

Conclusion

Post-apartheid South Africa has recognised that the proper preservation and access to records of its TRC is critical to its nation building vision of a democratic and accountable government. It is a paradox, and an irony

of the human condition, that records which represent so much pain and division can also carry so much potential for unity and healing. The South African government, through its national archives, continues to make more and more of its TRC records available to the public. So far indications on the ground suggest a united nation that has excelled in international rugby competitions and is even set to host the FIFA world cup in 2010. Past experience suggests that the organisers of these big world tournaments only prefer the safest, most stable and most united nations or countries as venues for these historic events.

Endnotes

¹ Johnny De Lange, 'The Historical Context, Legal Origins and Philosophical Foundation of the South African Truth and Reconciliation Commission', in Charles Villa-Vincencio and Wilhelm Verwoerd (eds), *Looking Back, Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa*, University of Capetown Press, Capetown, 2000, p. 14.

² Deborah Posel and Graeme Simpson, 'The Power of Truth: The South African Truth and Reconciliation Commission in Context', in Deborah Posel and Graeme Simpson (eds), *Commissioning the Past: Understanding South Africa's Truth and Reconciliation Commission*, Witwatersrand University Press, Johannesburg, 2002, p. 39.

³ Linda Van De Vijver, 'The Amnesty Process', in Wilmot James and Linda Van De Vijver (eds), *After the TRC: Reflection on Truth and Reconciliation in South Africa*, Ohio University Press, Athens, 2001, p. 130.

⁴ The abbreviation NGOs will be used throughout to refer to non-governmental organisations.

⁵ Trudy Peterson, *Final Acts: A Guide to Preserving the Records of Truth Commissions*, John Hopkins's University Press, Baltimore, 2005, p. 43.

⁶ *Guide to Archival Resources Relating to the Truth and Reconciliation Commission*, SAHA, 2004.

⁷ *ibid.*, p. 12.

⁸ *Truth and Reconciliation Commission of South Africa Report*, vol. 5, CTP Book Printers, Cape Town, 1998, p. 343.

⁹ *ibid.*

¹⁰ *ibid.*, p. 146.

¹¹ *ibid.*, p. 68.

¹² *ibid.*

¹³ *ibid.*, p. 69.

¹⁴ *ibid.*

¹⁵ *ibid.*, p. 70.

¹⁶ *ibid.*

¹⁷ Visit the original TRC website at <<http://www.truth.org>>, accessed 30 April 2007.

¹⁸ *Truth and Reconciliation Commission of South Africa Report*, vol. 6, CTP Book Printers, Cape Town, 1998, p. 748.

¹⁹ *ibid.*, p. 578.

²⁰ *ibid.*

²¹ *ibid.*

²² *Truth and Reconciliation Commission of South Africa Report*, vol. 5, p. 344.

²³ *ibid.*

²⁴ *Truth and Reconciliation Commission of South Africa Report*, vol. 6, p. 729.

²⁵ *ibid.*

²⁶ *ibid.*, p. 344.

²⁷ *ibid.*

²⁸ *ibid.*

²⁹ *ibid.*

³⁰ *ibid.*

³¹ *ibid.*, p. 344.

³² *ibid.*

³³ *ibid.*

³⁴ *ibid.*

³⁵ *ibid.*

³⁶ *ibid.*, p. 156.

³⁷ Priscilla Hayner, *Unspeakable Truths: Facing the Challenge of Truth Commissions*, Routledge, New York, 2001, pp. 61-2.

³⁸ *ibid.*

³⁹ Verne Harris, *Archives and Justice: A South African Perspective*, Society of American Archivists, Chicago, 2007, p. 306.

⁴⁰ *ibid.*

⁴¹ *ibid.*