

“The Truth and Reconciliation Commission Model within an Ongoing Process of Social Transformation”

The Truth and Reconciliation Commission (TRC) model, a justice model designed to investigate human rights violations, is a distinctive tool that emerged in the twentieth century to respond to realities of mass atrocities, political violence, and systematic injustice. It is a model that has taken varying forms based on the particular context in which it is implemented, but broadly speaking the TRC has played a unique role in publicly confronting the need for those who have been deemed voiceless in the midst of systemic injustice to be heard and to encourage social change. As the model of the TRC continues to attract attention in political, religious, and social spheres, it becomes important to reflect on the significance of the TRC model, to think about the lessons that have been learned from past commissions, and to put forth proposals for how such a model might continue to evolve in the future. In attempting to make both analytical and constructive steps, this paper will examine both scholarly conversations that have been taking place around justice paradigms and on-the-ground studies of the truth commission process, paying particular attention to the South African TRC process.¹

The Significance of the Truth and Reconciliation Commission Model within the Restorative

1 I have chosen to spend significant time researching the South African TRC process because of the particular role the religious community played in shaping and implementing the commission there. My specific interest in the religious community's involvement in the TRC process stems from my social location as a Christian social ethicist and as a member of the Poverty Initiative at Union Theological Seminary. The Poverty Initiative is an organization working to develop community and religious leaders who are committed to building a social movement, led by the poor, to end poverty.

*Justice Paradigm*²

“Restorative Justice is a process whereby all the parties with a stake in a particular offense come together to resolve collectively how to deal with the aftermath of the offense and its implications for the future.”³

Tony F. Marshall

The quest for reconciliation in the midst of deep social woundedness, systematic violence, and social conflict is a challenge that cannot adequately be addressed by a traditional legal justice system. Whether we are talking about mass atrocities that have been committed by oppressive government bodies or the structural abuses of systematic injustices like racism and poverty, the possibility for social restoration and transformation in such contexts require us to think more creatively about paradigms for justice. Traditional models of justice,⁴ particularly when talking about Western legal systems, operate within a retributive justice paradigm and purport the belief that, “the offender has to be punished to make atonement.”⁵ When examining the social context in which Truth and Reconciliation Commissions (TRC) have been used as a tool for justice making and social change, the retributive justice paradigm quickly appears deficient. In a context where gross human rights violations have taken place, where years of systemic violence has been enacted within a society, and where the “offender” has multiple faces, a different paradigm for enacting justice is needed.

The TRC model, which continues to gain popularity across the world, has a clear affinity

2 I use the expression “restorative justice paradigm” rather than “restorative justice model” based on the work of Marinetta Cannito Hjort. Hjort explains that we should understand restorative justice as a paradigm rather than a model, because restorative justice is a lens used to understand justice in a particular context rather than a model that can be reproduced. Marinetta Cannito Hjort, class lecture given on March 8, 2010.

3 Michael Hadley, *The Spiritual Roots of Restorative Justice* (Albany, NY: State University of New York Press, 2001), 9.

4 Here, I am drawing from Howard Zehr's *Changing Lenses: A New Focus for Crime and Justice*, to define “traditional” paradigms of justice within the Western legal system as retributive justice.

5 Lyn S. Graybill, “South Africa's Truth and Reconciliation Commission: Ethical and Theological Perspectives.” *Ethics and International Affairs* 12 (1998): 59.

with a restorative justice paradigm. Often implemented as a tool of transitional justice⁶ in countries emerging from years of deep social conflict like Chile, Uganda, the Philippines, and Rwanda, the TRC model has been used as a means to confront past abuses and to seek healing through a truth-seeking processes. José Zalaquett, a professor of ethics and human rights at the University of Chile, explains that “Truth commissions help to create a consensus concerning events about which the community is deeply divided... The purpose of truth is to lay the groundwork for a shared understanding of the recent crisis and how to overcome it.”⁷ Within the TRC model, a belief exists that healing and reconciliation cannot take place unless the truth of past abuses is disclosed. The TRC model stretches beyond the confines of retributive justice and its notion that law equals justice and moves toward a paradigm that engages political, spiritual, and social realities with a goal of social transformation. The South African TRC offers one clear illustration of the intersections between political and theological/ethical influences in the construction and implementation of the TRC. Peter Storey, who was a leader in the Methodist Church of South Africa and the South African Council of Churches during the South African TRC process, explained that while South Africa had a secular constitution through which the TRC mandate was set forth, South Africans are not secular people and did not believe that laws alone would be enough to heal their country of the oppression and violence experienced during the years of apartheid.⁸ The possibility of restoration would require a new and dynamic model of justice that could recognize the complexities of injustice and attempt to create a space in which

6 Transitional justice, “... refers to those transitional processes through which radical transformations of a given social and political order are carried out. In these processes, the need of equilibrating the contradictory demands of peace and justice is present.” Rodrigo Uprimmy Maria Paula Saffon. “Transitional Justice, Restorative Justice and Reconciliation: Some Insights from the Colombian Case,”

http://global.wisc.edu/reconciliation/library/papers_open/saffon.html Accessed February 15, 2009.

7 Greg Grandin and Thomas Miller Klubock, *Radical History Review: Truth Commissions: State Terror, History, and Memory* Winter (2007): 3.

8 Peter Storey class lecture given March 1, 2010.

the whole of society would be involved in the process of truth telling and reconciliation. It is here, in creating the potential for genuine social transformation, that the significance of the TRC model exists.

A Brief Description of the TRC Model

“Unlike a court, the Commission does not aim at a conclusion so much as a process. This process was designed not for the purposes of recrimination but instead aimed at confronting the injuries and injustices of the past and coming to terms with them. It is in this light that a picture emerges of a new kind of institution which has achieved what a court could never achieve.”⁹

Richard Penwill, an advocate of the South African TRC

While the TRC model is always shaped by the particular context in which it is set, there are several basic elements that repeatedly appear in TRC processes that have taken place across the world: 1) they are committed to the task of truth telling in a process of reconciliation, 2) they are confined to an established time frame, 3) they are charged with an ethical accountability to go beyond mere “fact finding” and to uncover a broader account of past abuses, 4) they are organized in relation to national or international human rights laws, and 5) they are used to put forth particular recommendations that help guide a divided society toward engaging in a process of reconciliation.

1) The Responsibility of Truth Telling and the Possibility of Reconciliation

A defining element that grounds the use of the TRC model is the general goal of the TRC process: “promoting reconciliation and revealing the truth of the past.”¹⁰ Often emerging in response to violence and conflict that have taken place in a given context, the TRC model

9 Alex Boraine, *A Country Unmasked* (Capetown, South Africa: Oxford University Press South Africa, 2000), 344.

10 Castillejo-Cuéllar, Knowledge, Experience, and South Africa's Scenarios of Forgiveness.” In *Radical History Review: Truth Commissions: State Terror, History, and Memory*. Greg Gradin and Thomas Miller Klubock eds. Winter (2007): 12.

suggests that truth telling be used as a means for documenting mass violence and human rights abuses. Those who adopt the TRC model see public truth telling as a means to provide victims of such abuse the necessary space to expose violations that have been enacted and often silenced. Through a collection of these memories, the TRC works to build a shared understanding of the violence that has taken place and to establish a social accountability for the abuses committed. It is upon this foundation that the possibility for reconciliation can be established.

2) The Time Frame for the TRC

Another element that consistently appears when the TRC model is implemented has to do with establishing a time frame to govern the TRC process. A truth commission is often established for a pre-determined period of time, during which a group of commissioners are chosen to investigate and document a pattern of human rights abuses that took place over a particular period of time. Note, two time frames are established in this process to provide parameters for the investigation : 1) the time period during which the human rights violations took place and 2) the period of time that the commission will meet to carry out its investigation and develop recommendations for the future action.

3) An Ethical Charge to Construct a Collective Memory

The notion that the TRC process is not only a “fact finding” mission, but an explicit acknowledgement of abuses that have been long ignored by those in power is another element that has weaved through the TRC model. Priscilla Hayner explains that commissions are established with an intention that the commissions, “[In] leaving an honest account of the violence prevents history from being lost or re-written, and allows a society to learn from its past

in order to prevent a repetition of such violence in the future.”¹¹ When a truth commission process is established, a general appeal exists that the human rights abuses will be acknowledged and that the whole community will make a commitment to a process of reconciliation and transformation. It requires more than the production of a list of past abuses. Taking on the ethical challenge of truth telling establishes a commitment to uncovering stories that have long been silenced, manipulated, and overlooked with a hope that healing will emerge from within this process.

4) Using a Human Rights Framework

A TRC often turns to national and international human rights laws to establish a foundation upon which research and investigations of human rights abuses that have taken place within a particular context can occur. Grandin and Klubock explain that, “While rarely invested with the legal authority to indict or to prosecute perpetrators, commissions nonetheless usually conducted their investigations within a framework supplied by national or international human rights law...”¹² Appealing to a human rights framework offers a particular legitimacy and moral authority to the investigation process that is being undertaken by the commission.

5) Recommendations Put Forth by the TRC

Finally, as a result of the commission, it is often expected that commissioners will put forth recommendations that will help guide the community to move forward in a process of reconciliation and social transition. Based on the evidence that is gathering during the commission's investigation, the commission offers recommendations around legislative, structural, or other changes that should be taken to ensure that human rights violations and mass

11 Priscilla B. Hayner, “Fifteen Truth Commissions – 1974 to 1994: A Comparative Study.” In *Human Rights Quarterly* 16 (1994): 607.

12 Grandin and Klubock, 2.

violence do not take place again. The recommendations put forth by the commission are meant to establish accountability for past abuses and responsibility for the future social relations.

Reconciliation on Whose Terms: When Truth Remains Untold

Talk to us about reconciliation
Only if you first experience
The anger of our dying.

Talk to us of reconciliation
If your living is not the cause
Of our dying.

Talk to us about reconciliation
Only if your words are not products of your devious
scheme
To silence our struggle for freedom.

Talk to us about reconciliation
Only if your intention is not to entrench yourself
More on your throne.

Talk to us about reconciliation
Only if you cease to appropriate all the symbols
And meanings of our struggle.

J. Cabazeres – Filipino poet¹³

While we may agree with Richard Penwill's suggestion that the TRC model exists as a unique tool for justice that traditional legal systems cannot provide, the task of investigating the limitations of this model is also much needed. Various critiques of the TRC model do exist, often involving tensions around prosecution vs. amnesty and questions about whether reconciliation is privileged at the expense of justice. The critique I bring to this conversation around the viability of the TRC model has to do with understanding truth telling as a process in relation to a commission's goals for reconciliation.

13 Borraine, 361.

It is generally agreed upon by advocates of the TRC model that truth telling must be placed at the center of any process of reconciliation. Yet the mandates of a particular commission, including set time restrictions and the overarching desire to restore¹⁴ unity within the community, can place unintended limitations on the truth telling process and hinder the potential that may exist for reconciliation. Grandin and Klubock explain that in attempting to establish social solidarity, truth commissions tend to shape the stories revealed in the truth telling process in a very particular way in order to minimize discordance in the reconstructed history being told. They suggest that:

In order to avoid such divisive conclusions, truth commissions, for the most part, presented history not as a conflict of interests and idea within a context of unequal power, but as a parable of illiberal intolerance, distilling a nation's recently ideological feverish past into a useful moral, one that portrays terror as an inversion of a democratic society, a nightmarish alternative of what lies ahead if it does not abide by constitutional rules.¹⁵

The desire for social unity as a result of the truth commission process often neglects to leave space for the complexity of human memory and to recognize the possibilities for transformation that can take place in the midst of incongruity. The commission that took place in South Africa between 1995–1997 provides one representative example of issues that can arise when limitations to the truth telling process emerge.

Peter Storey has suggested that the significance of the TRC in South Africa did not lie in the official documentation of human rights violations that were produced by the commission's final report, but resides in what happened to people through the process of truth telling.

¹⁴ I want to note that the language of restoration and reconciliation used within the TRC process do not often account for the reality that unity has never existed in many social contexts.

¹⁵ Grandin and Klubock, 3.

Reflecting on the role of people telling their stories and dignity that was restored through this process, Storey explains that, “out of the horrors of the past, the TRC makes space for grace, and the potential for newness in South Africa shines through.”¹⁶ Yet one of Storey's own critiques of the commission that took place in South Africa is that it did not create a structure in which truth telling could continue as an ongoing, localized process once the initial two year mandate established by the 1995 National Unity and Reconciliation Act came to a close.

It is here that Alejandro Castillejo-Cuéllar's analysis of the South African TRC becomes relevant. In his article, “Knowledge, Experience, and South Africa's Scenarios of Forgiveness,” Castillejo-Cuéllar explores the ways in which the time limitations and documentation objectives of the commission placed unintended limitations on the truth telling process. Castillejo-Cuéllar explains that while the first stage of the TRC hearings was dedicated to a victim-centered cathartic truth telling process, a process that acknowledged the long history of abuses that were experienced during apartheid, as the commission continued and the pressures of time and of producing a final report were felt, the methodology of the commission shifted from “truth telling” to “fact finding.” During the second stage of the commission's investigation, the process was driven by a need to systematize the finds of gross human rights violations and to legitimate sources of knowledge through forensic data. A data processor for the TRC in Johannesburg explained that, “When we started it was narrative. We let people tell their story. By the end of 1997, it was a short questionnaire to direct the interview instead of letting people talk about themselves. The questionnaire distorted the whole story altogether, it destroyed the meaning.”¹⁷ The decision to focus on gross human rights violations limited “authoritative” truth to “the

16 Peter Storey, “A Different Kind of Justice :Truth and Reconciliation in South Africa.” *Christian Century* 114:25 (1997): 793.

17 Castillejo-Cuéllar, 20.

violation of human rights through the killing, abduction, torture, or severe ill treatment of any person... which emanated from conflicts of the past... and the commission of which was advised, planned, directed, commanded, or ordered by any person acting with a political motive.”¹⁸ The larger context, history, and consequences of such violations - the systematic violence connected to issues of race and economics - were eliminated from the truth telling process as the fact finding mission shifted from public testimony to systematized questionnaires. John W. De Gruchy, Emeritus Professor of Christian Studies, University of Cape Town and someone who has written on the significance of reconciliation in South Africa explains that, “In hindsight the TRC by its very constitution and in terms of its mandate was incapable of uncovering the whole truth as experienced by the majority of apartheid's victims.”¹⁹ It is the whole truth, a longer history of the oppression experienced under apartheid, the psychological and economic effects that the legacy of apartheid continues to have on South Africa, that must continue to be revealed for the process of reconciliation to be a possibility today.

Those of us who study feminist, womanist, and liberationist theology and ethics know that we must be weary of attempts made to establish “authoritative knowledge” that privileges forensic evidence and produces a “documentable” history, while at the same time discounts the unrecorded memories that make up the lives of those living on the margins of society. We know too well the ways in which half-truths, sometimes-truths, and “recordable” truths perpetuate false-truths, stereotypes, and oppression in the lives of those living on the margins. While those living on the margins, those who have been victims of systemic violence and mass atrocities, are meant to be given priority in the truth telling process in the TRC model, it is often the case that

18 Graybill, 45.

19 John W. de Gruchy, *Reconciliation: Restoring Justice* (Minneapolis, MN: Fortress Press, 2002), 156.

the whole-truth, or what ethicist emilie townes calls the “true true,”²⁰ remains untold. In a pressing attempt to reconcile a nation or a community and to create a collective memory, the acknowledgement that truth telling is a social process that contains multiple layers of truth is forgotten. In a 2005 report Rosalind Shaw produced on the TRC in Sierra Leone for the United States Institute for Peace, she explains that, “ Because social memory is a process (and always a contested and debated one) rather than a specific and fixed set of facts, it is... deeply problematic for a national commission to produce a single “impartial” historical record—a definitive national memory—and to expect it to command agreement and heal social divisions.”²¹ If authentic reconciliation is to even be considered, an ongoing process of truth telling from the margins must continue to be given priority in the TRC model and must be sustained beyond the life of any one commission.

Examining the Possibility of Reconciliation

Understanding that truth telling is an ongoing process of the TRC model causes us to reevaluate the idea of reconciliation as the goal of the TRC process. If we take seriously a critique that has often been given of the TRC model, that the goal of reconciliation is desired at the expense of justice, then we must interrogate the role that reconciliation can play in creating social change. In fact, several commissions that have been convened to confront the structural violence of poverty and economic human rights abuses in the United States have turned the focus of the truth commission model to the process of truth telling as a tool for conscientization and

20 “True true” is a term developed by Patrick Chamoiseau and taken up by Womanist ethicist emilie townes to describe the weaving together of multiple layers of truths with the end goal of producing the true true. It requires truth telling that resides in both history and memory, stories told and untold. It requires a remembering and a re-remembering. *Womanist Ethics and the Cultural Production of Evil* (New York: Palgrave Macmillan, 2006)

21 Rosalind Shaw, “Rethinking Truth and Reconciliation Commissions: Lessons from Sierra Leone,” United States Institute of Peace, February 2005. <http://www.usip.org/resources/rethinking-truth-and-reconciliation-commissions-lessons-sierra-leone> Accessed April 12, 2010.

movement building over the goal of reconciliation.

Yet, within this methodological examination of the relationship that exists between truth telling and reconciliation and a desire to emphasize truth telling as an ongoing process necessary for social transformation, I argue that the possibility of reconciliation need not be eliminated, but rather reinterpreted. Here, I draw on a construction of reconciliation that emerges from the womanist tradition. Layli Phillips, in her explanation of the womanist project, suggests that, “Womanism is a social change perspective rooted in Black women's and other women of color's everyday experiences and everyday methods of problem solving in everyday spaces, extended to the problem of ending all forms of oppression for all people, restoring balance between people and the environment/nature, and reconciling human life with the spiritual dimension.”²² What we can learn from the womanist project is that in seeking social transformation, reconciliation can be pursued without aspiring unity, and instead embracing dynamic wholeness and difference. While the womanist project sees reconciliation as a necessary element in the process of social transformation, it does not suggest that reconciliation be the end goal that restores a harmony that has never existed. Instead, the *process* of reconciliation must be redefined as part of a *process* for social transformation that seeks to generate balance in the midst of tremendous inequality and injustice that is currently being experienced in our society.

In the South African Karios Document, released by a group of concerned Christians in South Africa in 1985, it was stated that, “it would be totally un-Christian to plead for reconciliation and peace before the present injustices have been removed. Any such plea plays into the hands of the oppressor by trying to persuade those of us who are oppressed to accept our oppression and to become reconciled to the intolerable crimes that are committed against us. This is not Christian

²² Layli Phillips, “Introduction,” *The Womanist Reader* (New York: Routledge, 2006), xx.

reconciliation, it is sin.”²³ Reconciliation cannot be understood as the end goal of the TRC model and cannot be imposed by an institutional body. Yet if genuine social transformation is to take place, the possibility for reconciliation cannot be completely eliminated. Further reflecting on the TRC process in South Africa, Erik Doxtader suggests that, “If civil society is to play a role in this work, if economic interest is to be derived from experience rather than sheer institutional (or International Monetary Fund) mandate, the communicative processes that compose reconciliation may have a role to play.”²⁴ In working to redefine the concept of reconciliation within the TRC model, it is essential to understand reconciliation as part of an ongoing process working toward a moral revolution of values and social transformation. In working to transform the physical and structural violence that have been allowed and enacted by those in power, reconciliation as an element of transformation cannot, as vividly illustrated in J. Cabazeres poem, be imposed. It must arise on the terms of those who have suffered the abuses of such violations and work to transcend the social stratifications that perpetuate oppression and exploitation in society.

Understanding Truth and Reconciliation within a Process of Social Transformation

“The Commission with its quest for truth, has not healed my wounds.
It has opened one I never knew I had.”²⁵

South African Journalist

“... it is readily conceded that it is not possible for one commission, with a limited time-span and resources, on its own to achieve reconciliation against the background of decades of oppression, conflict and deep divisions.”²⁶

Alex Borain

23 “The Challenge to the Church – the Karios Document, 1985: A Theological Comment on the Political Crisis in South Africa.” *South African History Online*, <http://www.sahistory.org.za/pages/library-resources/official%20docs/kairos-document.htm>.

24 Erik Doxtader, ““Works of Faith, Faith of Works: A Reflection on the Truth and Justification of Forgiveness,” *Quest: An African Journal of Philosophy* 16, no 1-2 (2002), 59.

25 Boraine, 343.

26 Boraine, 341.

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Alex Boraine, who was appointed as the deputy chair of the South African Truth Commission by President Nelson Mandela, explains that the Truth Commission never claimed to have the ability to reconcile South Africa, but suggests that, “reconciliation is a process that has to be achieved by the entire South African community.”²⁷ This is a point that must be discussed as we examine what it means to take up the TRC model as a tool of transformative justice.²⁸ The TRC model must not be used as an end in itself, but should be seen as part of an ongoing process of truth telling and reconciliation that is working to transform society and the oppressive environments in which human rights violations continue to take place. If utilized within a larger transformative justice paradigm, the TRC model can provide a space where truth telling can be initiated and legitimized as a step in creating a collective memory²⁹ that is necessary if the process of reconciliation is to be engaged. Reflecting on the TRC process in South Africa, one journalist commented that, “the Commission with its quest for truth, has not healed my wounds. It has opened one I never knew I had.”³⁰ Her reflection helps us to understand that the truth and reconciliation process, within a transformative justice paradigm, is not a process of forgiving and forgetting. If a collective memory is to be formed, the pain and raw truth revealed in untold stories through the TRC process must tear open the half-truths that have been perpetuated to

27 Ibid, 345.

28 Marinetta Cannito Hjort explains that like restorative justice, transformative justice sees crime as a social conflict that requires a social obligation to restore equilibrium. However, what distinguishes transformative justice from the restorative justice paradigm is that transformative justice is evoked as a response in contexts where long histories of exploitation and oppression have taken place. March 8, 2010.

29 H. Richard Niebuhr explains that, “Where common memory is lacking, where people do not share in the same past, there can be no real community, and where community is to be formed common memory must be created.” Cited in Lyn S. Graybill, “South Africa’s Truth and Reconciliation Commission: Ethical and Theological Perspectives,” 49.

30 Boraine, 343.

maintain oppressive systems of domination. It is through this process of revelation that room for a new reality will be birthed. De Gruchy states that, “Reconciliation is not an ahistorical idea or an academic theory but a tangible experience of living together in community. Theologically speaking, this refers to the sacramental embodiment of the new humanity.”³¹ Reconciliation cannot take place as long as systems that perpetually oppress members of our human family continue to be maintained. For the TRC model to be acknowledged as a viable tool for justice making, it must be situated within the paradigm of transformative justice – a paradigm working not to restore a harmony that never existed, but to create a new equilibrium where oppression and exploitation are overcome.

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31 de Gruchy, 5.

- Perspectives.” *Ethics and International Affairs* 12 (1998): 43-62.
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