

Reimagining National Community through Truth and Reconciliation: A Rhetorical Analysis of  
Truth Commissions in South Africa, Kenya, and the United States

By

© 2020

Lindsay Harroff  
M.A., University of Kansas, 2014  
B.A., Furman University, 2012

Submitted to the graduate degree program in Communication Studies and the Graduate Faculty  
of the University of Kansas in partial fulfillment of the requirements  
for the degree of Doctor of Philosophy.

---

Chair: Dave Tell, Ph.D.

---

Jay P. Childers, Ph.D.

---

Beth Innocenti, Ph.D.

---

Scott Harris, Ph.D.

---

Byron Santangelo, Ph.D.

Date Defended: April 10, 2020

The dissertation committee for Lindsay Harroff certifies that this is the approved version of the following dissertation:

Reimagining National Community through Truth and Reconciliation: A Rhetorical Analysis of Truth Commissions in South Africa, Kenya, and the United States

---

Chair: Dave Tell, Ph.D.

Date Approved: April 10, 2020

## Abstract

This dissertation studies the rhetoric of truth commissions to reimagine configurations of national community and modes of belonging. Following the international attention and acclaim received by South Africa's Truth and Reconciliation Commission (TRC), truth commissions have become *the* principle mechanisms of transitional justice. They are now nearly ubiquitous in societies seeking to address histories of past violence or transition from authoritarian regimes. With no doubt, their popularity is in part due to the abstract but widely appealing key terms of their mandates: terms such as truth, reconciliation, justice, accountability, and national unity. The wide appeal of these terms is too easily mistaken for universal meaning. They are interpreted according to the values and assumptions of Western liberal democracy, which are assumed to have universal referents across the disparate contexts in which truth commissions are established. Drawing on decolonial and rhetorical perspectives, I study truth commissions in South Africa and Kenya and a proposed commission in the United States. In each case, a particular key term—truth, reconciliation, and justice—orients my analysis of how the commission understood and pursued national unity. My analysis demonstrates how the various configurations and mobilizations of these key terms reimagine national community and belonging in ways that decenter Western liberal democratic forms.

## Acknowledgments

This dissertation is about how we imagine community and the relations that constitute and sustain it. It is the product of a community defined by supportive relationships that are far from abstract. When I began this project and the larger journey of my graduate study, I could not yet imagine all who would comprise my community or the many ways they would sustain me and this project, any more than I can imagine now being at this point without them. Each member of that community has substantively influenced the story I tell here, the story of my graduate education, and my personal story. My gratitude and the extent of your contributions cannot be sufficiently conveyed within the confines of these pages.

Dave, my advisor, my mentor, and my friend, thank you for your enduring support and endless encouragement. Your curiosity and intellect are both boundless and contagious. Thank you for the conversations that continually and continuously re-energize and excite me. Thank you for indulging my endless questions and requests while also challenging me to move forward more confidently on my own. I know I was not always so willing in the moment! But I also know that by the end of this project, I felt more confident letting my own voice come through, and when I did that, writing became more enjoyable than it ever was before. Thank you for giving me the confidence and encouraging me to do that. Finally, thank you for teaching me to tell a good story!

Jay, thank you for your guidance and support as I navigated this project and continue to navigate my place in academia. Thank you for keeping me grounded and reminding me to remember my question. Thank you for your reassurances and reminders that a good dissertation is first and foremost a done dissertation. Thank you for being frank and honest, in mentorship and friendship. And thank you for trusting me with Berkeley and sharing him with me.

Everyone on my committee has provided invaluable insight that shaped this project. Byron, thank you for your ceaseless encouragement and support of my work and this project. Thank you for putting that FLAS flyer on my desk one day and encouraging me to apply. Thank you for helping me develop the language and perspectives to articulate commitments that are central to my work. I owe much of my understanding of decoloniality to you, Glenn, and the other students in the decolonizing knowledge seminar. It was far and away one of the best and most influential experiences of my graduate studies. Thank you, Beth and Scott, for your support of this project. Thank you both for challenging me, as you both ask such difficult but important questions.

Kundai, thank you for the countless hours you've spent talking through ideas with me and inspiring new ones. You always know exactly what I'm trying to say, if you're not already two steps ahead of me. Thank you for your confidence in me, enthusiasm for my work, and unrelenting support. As Dave has observed, sometimes I just need some Kundai time. Most importantly, thank you for your friendship. Hallelujah!

Thank you to the Kansas African Studies Center. You have been an intellectual home for me and provided perspectives essential to my work and development as a scholar. Liz, Hannah, Katie, Glenn, Mwalimu Peter, Mwalimu Hannington, and Mwalimu Mburu, asante sana.

This dissertation would also not have been possible without the love and support of my friends and family. Although I normally make decisions from the head instead of the heart, I ultimately decided to come to KU because of an indescribable feeling that I belonged here. So, this journey would have been completely different from the start had it not been for my fellow Jayhawks in the Communication Studies Department. Thank you for the fun and for the support

when things weren't so fun. You have made this journey both possible and worthwhile, and I will treasure my memories with each of you.

To my running family, thank you for keeping me going, and I don't just mean in terms of miles. I have often compared writing a dissertation to training for and running a marathon. I would have never done that without you, and I could not have done this without you either. Thank you for keeping balance in my life, for listening to my many frustrated rants about my dissertation and the job market, for meeting up with me at Decade after long runs to make sure we'd work instead of crawl back into bed (Sarah and Lauren), and for the many, many fun memories! My friends, my family.

Alice, thank you for giving me a home, not just a place to live, for the last two years. You have nourished my body and soul. You have held me in light, and, when you knew I needed it, you have physically held me too. And you daily inspire me to see and understand the world in new ways. Thank you, my friend.

Finally, thank you to my family. To all my parents (and I am grateful to have so many!) thank you for your lifelong support, encouragement, and confidence in me. Lauren, your love and support sustains me, and you continually inspire me to be and do better. Braiden and Carson, it has been hard watching you both grow up from so far away, but out of that has come a deep appreciation of our family and the love we share. Whether it's been your intention or not, I thank you for that.

## Table of Contents

Abstract .....	iii
Acknowledgments.....	iv
Table of Contents .....	vii
List of Figures .....	ix
Chapter 1 – Decolonial Rhetoric and the Study of Truth Commissions.....	1
Literature Review: Truth Commissions in Transitional Justice and Rhetorical Studies .....	7
Transitional Justice .....	8
Rhetorical Scholarship on Truth Commissions .....	14
Decoloniality and the Rhetorical Study of Truth Commissions .....	18
Chapter Overviews .....	24
Conclusion .....	31
Notes .....	33
Chapter 2 – Truth: South Africa’s Truth and Reconciliation Commission .....	51
The TRC’s Final Report .....	56
Antjie Krog’s Country of My Skull.....	67
The Global Arts Corps’ Truth in Translation .....	80
Conclusion .....	92
Notes .....	95
Chapter 3 – Reconciliation: Kenya’s Truth, Justice, and Reconciliation Commission .....	108
A Truth Commission in Kenya.....	113
Promoting National Unity through Reconciliation, Truth Telling, and Ethnic Belonging.....	115
The TJRC’s Reconciliation Model of National Community .....	134

Notes .....	140
Chapter 4 – Justice: Senator Patrick Leahy’s Proposal for a U.S. Truth Commission.....	152
The Past and Present Political Context for Leahy’s Commission .....	158
Leahy’s Proposal for a U.S. Truth Commission.....	161
Conclusion .....	181
Notes .....	186
Chapter 5 – Conclusion.....	201
Review of Chapters and the Key Terms of Truth Commissions .....	202
The Rhetoric of Truth Commissions: Looking Beyond the Institutional Form .....	203
Reimagining National Unity and Belonging: Decentering and Articulating Alternatives to Rhetoric’s Citizenship Narrative .....	205
The De/Coloniality of Truth Commissions: Implications, Limitations, and Opportunities for Future Study.....	208
Notes .....	210



**List of Figures**

Figure 1. TRC, <i>Report</i> , 5:130 .....	62
Figure 2. TRC, <i>Report</i> , 2:220. ....	62
Figure 3. TRC, <i>Report</i> , 7:20. ....	63
Figure 4. Krog, <i>Country of My Skull</i> , 48.....	72
Figure 5. Krog, <i>Country of My Skull</i> , 39.....	73

## Chapter 1

### Decolonial Rhetoric and the Study of Truth Commissions

In 1993, after almost a decade of negotiations, South Africa passed an interim constitution to facilitate its transition from apartheid to democracy. The interim constitution established the nation's new democratic principles, including a framework for elections, structure for government, parameters and rights of citizenship, and procedures for writing the final constitution. In its postamble, it also called for further action:

This constitution provides a historic bridge between the past of a deeply divided society characterised by strife, conflict, untold suffering and injustice, and a future founded on the recognition of human rights, democracy and peaceful co-existence and development opportunities for all South Africans, irrespective of colour, race, class, belief or sex. The pursuit of national unity, the well-being of all South African citizens and peace require reconciliation between the people of South Africa and the reconstruction of society. The adoption of this constitution lays the secure foundation for the people of South Africa to transcend the divisions and strife of the past.<sup>1</sup>

Although the interim constitution provided “a historic bridge” or a “secure foundation . . . to transcend the division and strife of the past,” achieving the bright future envisioned by the postamble required more; it required “reconciliation between the people of South Africa and the reconstruction of society.”

Responding to the postamble's mandate for reconciliation, the South African parliament passed the Promotion of National Unity and Reconciliation Act (PNURA), establishing the now famous Truth and Reconciliation Commission (TRC). The PNURA tasked the TRC with the

primary objective of promoting “national unity and reconciliation in a spirit of understanding which transcends the conflicts and divisions of the past.”<sup>2</sup>

With such widely appealing ambitions as unity, reconciliation, peace, and democracy, the TRC has unsurprisingly captivated international attention.<sup>3</sup> The TRC was, according to Claire Moon, “a striking paradigmatic moment in the development of what has since emerged as a burgeoning industry, both in theory and praxis, as the politics of reconciliation. . . . Since the TRC’s highly publicized operation, reconciliation is now a popular and widespread discourse governing the various contexts within which regime change or transition from conflict occurs.”<sup>4</sup> Although truth commissions first developed in Latin America in the 1980s, the TRC has attracted greater international attention than any other truth commission, largely due to its highly public nature and ambitious mandate. The TRC’s appeal is evident in the proliferation of truth commissions in recent decades. Generally speaking, truth commissions are official bodies that investigate and report on a pattern of human rights abuses with the purpose of addressing the past and transforming the present and future.<sup>5</sup> Although they are not without their critics, truth commissions have become staple mechanisms of transitional justice and are celebrated the world over.<sup>6</sup> Transitional justice expert Priscilla Hayner writes, “In virtually every state that has recently emerged from authoritarian rule or civil war, and in many still suffering repression or violence but where there is hope for a transition soon, there has been interest in creating a truth commission.”<sup>7</sup>

Much of this celebration is surely due to the parallel language of truth commissions and language of Western liberal democratic culture. Liberalism, of course, is not a monolithic thing; it includes a complex array of moral, social, political, and economic ideas. However, as John Gray observes, there are four distinctive features that “give[] liberalism a definite identity which

transcends its vast internal variety and complexity,” each of which are relevant to this dissertation.<sup>8</sup> First, and crucially, it is *individualist*, meaning it asserts the primacy of the individual over the collective. Bhikhu Parekh argues, “The view that the individual is conceptually and ontologically prior to society and can in principle be conceptualized and defined independently of society, which we shall call individualism, lies at the heart of liberal thought and shapes its political, legal, moral, economic, methodological, epistemological, and other aspects.”<sup>9</sup> Second, it is *egalitarian*, meaning it asserts the equality of all individuals (although, as many critics of liberalism point out, the liberal tradition historically only included white, European men<sup>10</sup>) and minimizes the relevance of differences to the legal or political order. Third, it is *universalist*, meaning it “affirm[s] the moral unity of the human species” and diminishes the importance of “specific historic associations and cultural forms.”<sup>11</sup> Finally, it is *meliorist*, meaning it affirms the improvability of all people and social and political institutions. Liberal democracies combine these features of liberalism with institutions and forms of governance designed to preserve and protect individual rights, freedoms, and power. Finally, the *language* of Western liberal democratic culture I refer to is characterized by often abstract appeals to goods and values such as human rights, justice, democracy, accountability, and the rule of law that are—despite their abstract nature—predominately understood in relation to the tenants of democratic liberalism described above, a point I return to momentarily.

With this explanation in mind, consider again the postamble’s vision the TRC was designed to achieve—“a future founded on the recognition of human rights, democracy and peaceful co-existence and development opportunities for all South Africans.” Responding to the TRC’s own language, and to the language of its founding, scholars and practitioners have typically interpreted and evaluated the success of the TRC—and truth commissions more

generally—through the terms, parameters, and values of Western liberal democracy. Proponents of truth commissions suggest truth telling “promotes and strengthens democratic institutions, practices, and values.”<sup>12</sup> Priscilla Hayner argues, “A truth commission can play an important role in a transition, either by affirming a real change in the human rights practices of the government and a respect for the rule of law in the country, or by helping to legitimize or strengthen the authority and popularity of a new head of state, or both.”<sup>13</sup> By acknowledging the truth of past crimes and human rights abuses, truth commissions are seen as providing some measure of accountability and justice, especially in contexts in which trials and traditional forms of retributive justice are not possible. “By promoting justice,” David Mendeloff argues, “truth-telling helps consolidate the rule of law, the pillar of democracy.”<sup>14</sup> Truth commissions, according to this scholarship, facilitate transition by changing human rights practices, establishing the rule of law, and legitimizing democratic institutions and authorities.

The TRC has drawn the attention of rhetorical scholars precisely because of its contribution to South Africa’s transition to democracy, and it has largely been interpreted according to the values of deliberative democracy and through the lens of public sphere theory—the two subfields of rhetorical studies most aligned with Western liberalism.<sup>15</sup> Katherine Elizabeth Mack, for example, argues, “The TRC’s attempt to create a public for the new nation—one comprising individual citizens engaging in reasoning about the significance of South Africa’s recent past—reveals much about the relationship of language practices and the formation of publics.”<sup>16</sup> The TRC, according to Mack, was a “success” because it “provoked contentious debate and thus contributed to the creation of an agonistic deliberative public sphere.”<sup>17</sup> Phillipe-Joseph Salazar goes so far as to argue the TRC turned South Africa into an

“African Athens” and “offers a remarkable stage for a *replay* of the great themes of public deliberation and the rise of postmodern rhetorical democracy.”<sup>18</sup>

Because the TRC uses the language of Western democratic liberalism, it has been all too easy to map its assumptions, and the rhetorical theory based on these assumptions, onto the TRC.<sup>19</sup> Yet, as Eric Doxtader warns, when assessing the mechanics of transition, “appeals to such goods as collective interest, constitutionalism, justice, and natural rights may indicate theorists have presupposed precisely that which they seek to explain.”<sup>20</sup> In other words, captivated by the ostensibly self-evident virtue of terms such as “justice,” “unity,” and “democracy,” scholars have presupposed that such terms have universal reference, as if they do similar work in the context of apartheid, Athenian democracy, Western liberalism, and public sphere theory. For Salazar, the TRC is a “replay” of ancient Athens. This tendency gives expression to a colonial logic whereby phenomena in the majority world become knowable only by Western categories.<sup>21</sup> The TRC was meant to be transformative and, in Mack’s words, “quite literally world making,”<sup>22</sup> but interpreting its pursuit of a new society based on pre-determined conceptions of the practices, norms, and values that should define that society risks obscuring its transformative potential. To see truth commissions only as iterations of Athens, exemplars of a public sphere, or late expressions of liberalism is a profound misreading. It is a misreading grounded both in an inattention to the particularity of truth commissions and an over-confidence in the universal applicability of Western thought.

The stakes of this slippage between the particularity of truth commissions and the assumed universality of Western democratic liberalism are cast in bold relief by the theoretical perspective of decoloniality. While the formal period of colonialism ended through revolutions and independence movements throughout the nineteenth and twentieth centuries, the concept of

coloniality emphasizes that modern paradigms of knowledge and knowledge production are neither universal nor identity-neutral interpretations of an objective reality. Rather, they reflect and extend the power and epistemic violence of colonial domination. On this score, the presumed universality of Western liberalism, and the capacity to read the TRC as a replay of Athens or a paradigmatic instance of the public sphere, extends colonial logics. In addition to recognizing the coloniality of modern paradigms of knowledge, decolonial scholarship also seeks to articulate alternative concepts by privileging the epistemic perspectives of heretofore marginalized positions.<sup>23</sup>

Although the TRC frequently invoked the language of Western democratic liberalism, its practices do not map cleanly onto the liberal democratic framework. In this dissertation, I study the rhetoric of truth commissions in particular contexts—South Africa, Kenya, and a proposal in the United States—to better understand how they have contributed to the formation of new national communities. The practices of truth commissions, I argue, delink the concept of national unity from its dominant understanding in Western liberal democratic thought and within rhetorical scholarship; that is, as a nation constituted by individual citizens united by an attachment to democratic institutions, practices, and norms. Karma Chávez asks, “If we both delimit the political as the realm of (various kinds of) citizens, do we not preclude the lives, experiences, and practices of numerous collectives and individuals who have always engaged in practices that are justifiably called rhetorical *and* political, but that don’t conform to this norm?”<sup>24</sup> Walter Mignolo describes delinking as the “means to change the terms and not just the content of the conversation”; it means bringing “to the foreground other epistemologies, other principles of knowledge and understanding and, consequently, other economy [*sic*], other politics, and other ethics.”<sup>25</sup> In my analysis, I show how truth commissions reimagine

community and belonging based on how they articulated their contributions to and pursued national unity in relation to truth, reconciliation, justice.

I begin, in chapter 2, with South Africa's TRC and consider how the TRC's *truth* was constituted across various texts, which also became a mode of constituting belonging in the new national community. In chapter 3, I analyze how *reconciliation* guided the construction of national community in Kenya's Truth, Justice, and Reconciliation Commission (TJRC). Finally, in chapter 4, I turn to Senator Patrick Leahy's proposal in 2009 for a truth commission in the United States to investigate Bush-era surveillance and counter-terrorism policies established after 9/11 and to fortify the national community by restoring faith in the *justice* system. Before describing these chapters in more depth, I first describe the invention and rise in popularity of truth commissions within the field of transitional justice, review the contributions of rhetorical scholarship to the study of truth commissions, and describe the theoretical and methodological framework of my analysis.

### **Literature Review: Truth Commissions in Transitional Justice and Rhetorical Studies**

There has emerged an enormous and growing body of literature on truth commissions. Jonathan Tepperman remarked in a 2002 article in *Foreign Affairs* that "the truth business, in short, is booming" and "a new academic discipline has sprung up to study the commissions."<sup>26</sup> The study of truth commissions, in truth, spans numerous academic disciplines; however, it has largely been centered within the field of transitional justice.<sup>27</sup> Rather than attempting to survey the expansive literature on truth commissions, I begin this literature review by situating truth commissions within the evolution of transitional justice. I do so for two primary reasons. First, as mechanisms of transitional justice, truth commissions have largely been understood and evaluated according to the goals and values of this interpretive framework. Second, transitional



justice is a field of both practice and academic inquiry. As such, the study of truth commissions within this field most closely reflects and influences the practices of truth commissions. I then turn to scholarship on truth commissions within rhetorical studies. While both fields have made important contributions to understandings and practices of truth commissions, within both transitional justice and rhetorical studies, scholars and practitioners have primarily interpreted truth commissions as mechanisms intended to achieve a “transition to democracy.” Thus, in the next section I describe how the theoretical perspective of decoloniality guides my methodological approach, which seeks to delink from this paradigm.

### **Transitional Justice**

While transitional justice includes “a range of legal regimes and mechanisms,” truth commissions have become central to this field of practice, study, and discourse.<sup>28</sup> The conceptual history of transitional justice has largely been shaped by international legal norms, global human rights discourse, and the goal of democratization. Thus, understanding how truth commissions developed within the broader evolution of transitional justice helps explain how they have been interpreted in terms of Western liberal democratic ends and why they have been understood as—or why there has been a push for them to be—global institutions.<sup>29</sup>

International law and transitional justice expert, Ruti Teitel locates the origin of transitional justice in the model of justice that emerged after World War II and the Nuremberg Trials.<sup>30</sup> This model is characterized, according to Teitel, by two innovations: the turn from national to international law, which was thought to be a better guarantor of the impartiality associated with the rule of law, and the extension of international law beyond the state to the individual.<sup>31</sup> Although truth commissions mark a drastic turn from Nuremberg-style tribunals, the legacy of this origin is still evident in contemporary practices of truth commissions and

transitional justice more broadly, particularly the emphasis on international legal norms and the rule of law. As Teitel notes, “The profound and permanent significance of the Nuremberg model is that by defining the rule of law in universalizing terms, it has become the standard by which all subsequent transitional justice debates are framed.”<sup>32</sup> Even as national mechanisms of transitional justice have become more common than international trials, “international legal norms serve to construct a perception of continuity and consistency in the rule of law.”<sup>33</sup> Additionally, Mahmood Mamdani describes the TRC’s “victims’ justice” and the model of “victors’ justice” inherited from Nuremberg as “one side of the same coin” because both focus on individual victims and perpetrators as the source of violence rather than the systemic issues that drive conflict, a point I return to in chapter 4.<sup>34</sup> Teitel and Mamdani both observe the dominance and universalization of legal norms such as the rule of law and individual accountability and particular understandings of violence within the framework of transitional justice.

Although the origins of transitional justice may be identifiable in the post-World War II era, the term “transitional justice” and the field as it is understood today emerged in the late 1980s and early 1990s—the period Samuel Huntington has described as the third wave of democratization—in debates over how new democratic regimes in Eastern Europe and Central America should address the human rights abuses committed by their authoritarian predecessors.<sup>35</sup> Paige Arthur explains, “These political shifts were understood as taking, or were hoped to take, a particular form: transitions to democracy.”<sup>36</sup> The understanding of transition as “transition to democracy,” Arthur argues, was “the dominant normative lens through which political change was viewed” and fundamentally “shape[d] the conceptual contents of [the] new field” of transitional justice.<sup>37</sup>

Arthur gives a detailed genealogical account of how this normative lens of “transition to democracy” developed and what it entails. For the purposes of this project, I will summarize how two major components of this normative lens—democracy and transition—shaped the field of transitional justice according to the colonial logics I described earlier and provide the impetus for delinking from this framework. First, the assumption that democracy is the end goal of transitional justice influences “the kinds of justice claims that [ar]e considered legitimate” in transitional contexts.<sup>38</sup> Given the political constraints and fragility of these contexts, transitional justice is understood as “imperfect and impartial.”<sup>39</sup> When forced to choose among imperfect options, the goal of democracy prioritizes reforming legal and political institutions, establishing the rule of law, and protecting the individual rights of citizens. In this view, truth commissions are interpreted as legitimate justice initiatives in so far as they support the rule of law by providing some accountability for the past, fulfill victims’ rights to truth, and make recommendations for future institutional reform. This model risks excluding, or at the least de-emphasizing, other types of justice claims, such as claims for distributive justice or broader social transformation. Paul Gready and Simon Robins argue that because transitional justice is linked to “a liberal state-building project that sees liberal democracy as its endpoint,” it prioritizes “the creation of institutions over a contextualized engagement with the welfare of the population, creating ‘empty’ institutions paralyzed by a lack of capacity rather than responding to the everyday needs of the new state’s citizens.”<sup>40</sup> One might imagine instead what types of claims and efforts would be pursued in a transition to socialism, for example, or—thinking beyond a particular form of government—a transition to peace, to equality, or to living together with compassion.

Second, the paradigm of *transition* focuses on a discrete period of time—the time of transition between regimes or establishing the stability of a new regime. The narrow focus on a transitional time obscures continuities of violence. Arthur points out that even “in many long-standing liberal democracies . . . there remain important questions of ‘historical justice,’ which is discussed typically in cases where there has been long-term, systematic marginalization, often over centuries.”<sup>41</sup> The legacies of slavery and structures of racism for Black Americans and of settler colonialism for Indigenous Peoples are notable examples. As transitional justice developed within the context of a wave of countries gaining independence from colonial powers, the focus on a discrete transitional time that marked a break between past and present obscured the enduring violence of coloniality. In addition to ignoring historic and structural violence, the focus on a transitional time also contributes to the emphasis, mentioned earlier, on immediate institutional reforms instead of a longer process of broader social reform. Gready and Robins observe, “Transitional justice mechanisms have not usually investigated structural inequalities that underpin poverty and conflict, nor provided remedies, redress or accountability for economic and social rights violations.”<sup>42</sup>

The advent and rise in popularity of truth commissions occurred within this context, along with debates that founded and shaped the field of transitional justice. Argentina’s National Commission on the Disappeared (Comisión Nacional para Desaparición de Personas, or CONADEP), established in 1983, was the first truth commission to receive international attention and became the basis for many future commissions, including the TRC in South Africa.<sup>43</sup> As described earlier, the South African TRC, established in 1995, was a “paradigmatic moment” in the development of truth commissions and evolving field of transitional justice, as it established a nexus between truth and reconciliation.<sup>44</sup> It was only the second truth commission

to use the term “reconciliation” in its name, following Chile’s National Commission for Truth and Reconciliation, established in 1990. Moreover, South Africa’s public hearings—the first of their kind—and controversial decision to offer amnesty in exchange for testimony threw it into the international spotlight. The South African TRC marked a “paradigm shift” in the field of transitional justice; the primary aim shifted from accountability to “a range of political and social goals,” most notably reconciliation, and truth commissions became central to the theory and praxis of transitional justice.<sup>45</sup>

Truth commissions have since become institutionalized at the global level.<sup>46</sup> Although the exact number of truth commissions established to date varies according to definitional criteria, approximately 30 to 50 truth commissions have been established across the globe.<sup>47</sup> Moreover, leading international human rights organizations, such as Human Rights Watch and Amnesty International, and the United Nations have officially endorsed and advocated for truth commissions in numerous cases. Yet, even as truth commissions represent the expansion of transitional justice to include “a range of political and social goals beyond accountability,” the *transition to democracy* framework continues to influence how transitional justice and its associated mechanisms are understood and evaluated.<sup>48</sup>

A brief analysis of how scholars within the field of transitional justice define truth commissions demonstrates the persistence of this framework. Without question, the most widely cited definition comes from leading transitional justice expert, co-founder of the International Center for Transitional Justice, UN human rights adviser and transitional justice expert, and consultant for several truth commissions, Priscilla Hayner.<sup>49</sup> Hayner defines truth commissions according to four parameters: “(1) truth commissions focus on the *past*; (2) they investigate a pattern of abuses over a period of time, rather than a specific event; (3) a truth commission is a

temporary body, typically in operation for six months to two years, and completing its work with the submission of a report; and (4) these commissions are officially sanctioned, authorized, or empowered by the state.”<sup>50</sup> For the purposes of this project, it is less relevant to establish a concrete definition to determine what does and does not count as a truth commission—Hayner herself is inconsistent in her application of these criteria—than it is to reflect on how these definitional criteria demonstrate the dominance of the transition to democracy framework of transitional justice.<sup>51</sup>

First, regarding Hayner’s first two criteria, truth commissions are established to investigate a pattern of abuses in the past. A focus on patterns of abuses, as opposed to a criminal trial’s focus on single acts or events, has the potential to illuminate systemic forms of violence. However, the focus on the past aligns with the notion of a discrete transitional time—a break between past and present, violence and democracy, conflict and post-conflict—and risks ignoring how patterns of abuses or the legacy of these patterns continues in the present and future. The very establishment of a truth commission is intended “to signal a clear break from the practices of the former regime and the new regime’s commitment to the rule of law”<sup>52</sup>

Second, Hayner describes truth commissions as temporary bodies that conclude with the production of a final report.<sup>53</sup> Again, the temporary nature of truth commissions confines them to a specific transitional time; they are understood as operating in the liminal time between a violent past and a new democratic future, as a stopgap until a more ideal system of justice can be established and pursued. Additionally, the understanding of truth commissions as temporary and concluding with the production of a final report emphasizes only the specific activities undertaken by the commission during its finite time of operation and ignores how its activities and legacy may continue to reverberate and shape a society beyond the life of the commission

itself. In chapter 2 I will challenge this emphasis on the final report as a truth commission's ultimate—read as both final and most important—product.

Finally, Hayner defines a truth commission as officially sanctioned by the state.<sup>54</sup> As Eric Brahm observes, this criterion excludes numerous commissions that have been established by civil society groups.<sup>55</sup> Additionally, it unduly ties the practices and functions of truth commissions to strengthening the state. While the goals of transitional justice and of truth commissions may have expanded from a strict focus on accountability, “above all, truth commissions are [still] associated with multiple democratizing effects” and establishing the legitimacy of the new regime.<sup>56</sup> The common definitional parameters of truth commissions illuminate how the transition to democracy paradigm has led scholars and practitioners to interpret and evaluate truth commissions in diverse contexts according to Western liberal democratic values. Thus, it demonstrates the need to delink from this framework, which drives my methodological approach.

### **Rhetorical Scholarship on Truth Commissions**

While scholars and practitioners within the field of transitional tend to define truth commissions according to formal and structural characteristics and evaluate their success by the existence of democratic institutions, rhetorical scholars—along with scholars in linguistics, performance studies, English, sociology, and psychology, among others—concentrate on the role of language and performance.<sup>57</sup> Truth commissions are founded on a belief in the transformative and world-making capacity of language, which a rhetorical analysis places at its center.

Katherine Elizabeth Mack describes truth commissions as “rhetorical experiments, real-world efforts to enact change in the uncertain realm of contingent human affairs via our primary medium of exchange: language.”<sup>58</sup> Accordingly, Mack concludes “a rhetorical mode of analysis

is especially suitable for a rhetorical situation.”<sup>59</sup> Several rhetorical scholars, including Mack, Erik Doxtader, Philippe Salazar, Thomas Moriarty, and Richard Marback, have made important contributions to the body of literature on the TRC, and James Beitler and Laura Michael Brown have both studied the Greensboro Truth and Reconciliation Commission, a grassroots commission established in Greensboro, North Carolina in 2004.<sup>60</sup> These contributions work towards the theoretical and methodological approach I describe in the following section, but they also demonstrate the dominance of the Western liberal democratic paradigm beyond the field of transitional justice, even within rhetorical scholarship.

Erik Doxtader’s rhetorical history of reconciliation’s role in South Africa’s transition responds to the institutionalization and globalization of reconciliation in the TRC—the tendency of the international community to view truth commissions, modeled after the TRC, as one-size-fits-all solutions to bring about reconciliation. Doxtader traces how “reconciliation preceded, conditioned, and followed the transition from apartheid to constitutional democracy” in South Africa. He demonstrates that reconciliation did not begin or end with the TRC; nor can it be institutionalized and reproduced with truth commissions modeled after the TRC.<sup>61</sup> Reconciliation is a rhetorical practice that—like all rhetorical practices—changes with time and place, history, and political and social context. “We cannot do with the banal notion that reconciliation appeared out of thin air, a concept without deep roots or a practice that has not been thoughtfully contested on the South African landscape,” Doxtader contends.<sup>62</sup> James Beitler, in his analysis of the Greensboro Truth and Reconciliation Commission, demonstrates how the language of transitional justice has become “a transnational rhetorical tradition” that is used by truth commission advocates.<sup>63</sup> For Mack, recognizing “the TRC was a response to the particularities of a negotiated transition, not the realization of an abstract theory of truth and reconciliation,



helps explain the complexities and contradictions of its mandate and process.” Regarding the study of truth commissions more broadly, Mack argues that “analyzing the interplay between the generic form of the truth commission and the specific purposes that are ascribed to it in a given place and time can deepen our understanding of rhetoric in the era of transnationalism” and, I would add, our understanding of truth commissions as well.<sup>64</sup>

Doxtader admits “it is not clear how [the rhetorical practice of] reconciliation has addressed or engaged the material aftermath of apartheid.”<sup>65</sup> Nevertheless, a rhetorical perspective nuances evaluations of a truth commission’s success. The question of “success” has vexed scholars interested in the TRC and truth commissions more broadly. Across many disciplines, scholars look for “empirically verifiable effects [of] a truth commission.”<sup>66</sup> These studies use “rigorous and systematic social science methods” to assess how well a commission fulfilled its assigned duties and contributed to “substantive change,” most often in the form of democratic practices and institutions.<sup>67</sup> Others take a more philosophical and normative approach and question how well truth commissions fulfilled more abstract moral and political ideals, such as truth, justice, or reconciliation.<sup>68</sup> “Drawing on a rhetorician’s sensitivity to the productive and interpretive art of a range of argumentative modes and genres,” Mack “answers the question of the TRC’s ‘success’ by arguing that the Commission provoked contentious debate and thus contributed to the creation of an agonistic deliberative public sphere.”<sup>69</sup> Richard Marback argues that because vulnerability is inherent in any democratic society, a shared public life requires rhetoric for managing, rather than eliminating, vulnerability. Thus, while recognizing “the consequences of persistent material inequality on the quality of South African democracy,” Marback asserts we cannot “disregard . . . the contributions of language to the health of South

African society” because rhetoric is “a resource useful in the managing of experiences of vulnerability in South Africa.”<sup>70</sup>

Finally, rhetorical scholars also demonstrate the importance of looking beyond the institutional confines of a truth commission. Doxtader specifically focuses on how reconciliation shaped South Africa’s transition prior to the establishment of the TRC and how these many beginnings of reconciliation shaped the TRC’s practices and South Africa’s transition. Marback, Salazar, and Moriarty all study the TRC as only one part of South Africa’s transition. Moriarty focuses on the role of South African political leaders in creating a deliberative culture that “moved the country out of the realm of violent conflict and into the realm of rhetorical conflict.”<sup>71</sup> Mack argues “truth commissions demand attention to the full circuit of responses they generate.”<sup>72</sup> To do this, Salazar, Marback, and Mack all study a wide swath of “texts,” including typical foci of rhetorical scholars, such as political speeches, debates, legal documents, testimony at the TRC’s public hearings, and the TRC’s final report, but also more “imaginative texts,” as Mack calls them, such as glamour magazines, monuments, novels, movies, and photographs.

Truth commissions also have much to offer rhetorical theory. They renew a “faith in the works of words,” to use Erik Doxtader’s phrase.<sup>73</sup> Mack asserts, “The valuing of rhetorical deliberation in post-apartheid South Africa places it in the center of twenty-first-century rhetorical studies.”<sup>74</sup> According to Salazar, South Africa offers “a new political ecology of rhetoric”; it is “a test case for rhetoric” and “for the relevance of rhetoric studies in a postmodern democracy.”<sup>75</sup> For Moriarty, “South Africa’s transition from apartheid to democracy offers students of civic discourse a wealth of ideas to help fine-tune theories of civic discourse and the public sphere.”<sup>76</sup>

Within these exclamations, however, we begin to see the limits of using a model that “remains centered firmly in Western canonical texts and practices” to make sense of truth commissions, the vast majority of which have occurred in other contexts.<sup>77</sup> Understanding South Africa as “an African Athens” that can help us “fine-tune” our theories and serve as a “political model for integrating differences within social deliberation” and working towards “the common good” obscures its transformative, world-making potential, as it assumes to know what that world will or should look like. Salazar, for example, concludes, “South African society is nurturing a political model for integrating differences within social deliberation. This has a name in the tradition of democratic thought: It is called the common good.”<sup>78</sup> Even more so, using South Africa to re-affirm the values and concepts at the heart of the traditional rhetorical canon and impose these values in other contexts is, in the words of Wim van Binsbergen, akin to another colonial “hegemonic assault” on the African continent, “this time in the name of Aristotle and rhetoric.”<sup>79</sup> While the contributions of rhetorical scholarship demonstrate some advantages of a rhetorical approach to the study of truth commissions, these significant limitations demonstrate the need to delink this approach from the dominant rhetorical tradition and the transition to democracy paradigm of transitional justice.

### **Decoloniality and the Rhetorical Study of Truth Commissions**

In the conclusion of a special issue of *Quest: An African Journal of Philosophy* dedicated to “rhetorical approaches to democratic deliberation in Africa and beyond,” in which South Africa’s TRC is a central focal point, van Binsbergen writes:

The application of Aristotle in a contemporary African context could never be a one-way process, conducted by scholars who know all about Aristotle, nearly all about formal legal texts as produced in formal, bureaucratic legal settings under the aegis of the

transcendent state—and virtually nothing about the life worlds, the cosmologies, the languages, kinship systems, political and legal institutions, day-to-day struggles, pastimes, religious, artistic, culinary, sexual expressions, etc., of the African people whose life is greatly affected . . . by such formal settings. . . . The continued relevance of African models for African life, and the potential relevance of comparative Africanist models, not only to other parts of Africa but also to the rest of the world, need also be admitted, and explored in concrete terms.<sup>80</sup>

Van Binsbergen presents a warning for rhetorical scholars interested in the TRC, but he does not wholly reject a rhetorical perspective. Rather, he argues rhetorical scholars must “sort out how such a perspective could be combined with other valuable perspectives such as the anti-hegemonic and comparative Africanist one.”<sup>81</sup> Such an approach would, among other things, help us identify and appreciate “African forms of reconciliation,” “technologies of sociability, and “ways of going about democracy.”<sup>82</sup> In this section, I take up this task and outline a methodological approach that combines a rhetorical perspective with that of decolonial theory.

Van Binsbergen echoes a common critique forwarded by decolonial scholarship against the elevation of dominant ways of knowing to universal ways of knowing. Decolonial theorists use the concept of coloniality to identify the “long-standing patterns of power that emerged as a result of colonialism, but that define culture, labor, intersubjective relations, and knowledge production well beyond the strict limits of colonial administrations.”<sup>83</sup> “Decoloniality,” Walter D. Mignolo explains, “is a double-faced concept.”<sup>84</sup> It requires both recognizing coloniality and imagining alternatives to the modern order formed by and through coloniality. The latter is the work of delinking. For academics, and particularly in the context of discussing theory and method, the coloniality of—and associated task of decolonizing—knowledge is particularly

relevant. Decolonizing knowledge requires a delinking from dominant epistemic traditions that “brings to the foreground other epistemologies, other principles of knowledge and understanding and, consequently, other economy, other politics, other ethics.”<sup>85</sup> Mignolo writes, “Without decolonizing knowledge and changing the terms of the conversation, the rules of the game would be maintained and only the content, not the terms of the conversation would be disrupted.”<sup>86</sup> From this perspective, rather than merely attempting to expand the contextual scope of rhetorical scholarship by applying rhetorical theory to study truth commissions in non-Western contexts, I study truth commissions within their particular contexts to expand the theoretical scope of rhetorical scholarship and our understanding of truth commissions and their operating terms.

A rhetorical approach is especially suited for engaging with decolonial theory as it pays particular attention to ways coloniality is diffused through language.<sup>87</sup> Ngũgĩ wa Thiong’o describes language as “both a means of communication and a carrier of culture.”<sup>88</sup> The concept of coloniality emphasizes that colonialism did not occur simply through armed conquest and political rulings, but was manifest at the level of national culture and discourse—the level that rhetorical analysis places at its center.<sup>89</sup> Darrel Wanzer-Serrano—who describes the theoretical framework of his book *The New York Young Lords and the Struggle for Liberation* as “coloniality with a rhetorical inflection”—argues that where decolonial theorists are “often stuck making bigger theoretical arguments justifying their shifts in perspective,” a rhetorical orientation can add a level of specificity through its attention to “practices of radical contextualization, sociohistorical contingency, and the situatedness of public discourses and activism.”<sup>90</sup> Given the decolonial resistance to abstraction, the specificity offered by a rhetorical approach is an essential contribution to decolonial scholarship.

The decolonial drive also complements the “global turn” in rhetorical studies and the evolution of comparative, transnational, and cultural rhetoric(s).<sup>91</sup> Over two decades ago, Raka Shome called for a “postcolonial intervention” in rhetorical studies.<sup>92</sup> “The solution,” Shome argued, “is not merely to do more rhetorical studies on nonwhite people . . . for that only becomes a matter of extending, instead of displacing or challenging, the canon by adding ‘others.’ Rather, the solution is to critically examine and challenge the very value system on which the rhetorical canon and our scholarship is based.”<sup>93</sup> Cultural rhetorics scholars identify decolonial practices as central to their work. Working from “a desire to change the traditional narratives, canons, and ways of operating in the discipline in order to explicitly open academia to ideas and intellectual affordances from a much broader range of continental and global cultures,” the cultural rhetorics project seeks to “build meaningful theoretical frames from inside the particular culture in which they are situating their work.” Such work requires a deep understanding of the culture’s beliefs and practices, as well as relationships to other cultures, including examinations of power.<sup>94</sup>

I draw on these various literatures to form a decolonial rhetorical approach as the theoretical and methodological framework of this dissertation. This practice entails four central commitments. First, as a rhetorical scholar, I center the meaning-making symbols and practices of truth commissions in my analysis. In some cases, these are traditional texts of civic deliberation, including legal documents, reports, speeches, and congressional debates. In others, I analyze more “imaginative texts,” to use Mack’s term, including Antjie Krog’s memoir *Country of My Skull* and the Global Art Corps’ theatrical production *Truth in Translation*.

Second, I situate my analyses within their particular contexts. While it may seem mundane and unnecessary for a rhetorical scholar to identify contextualization as a key

methodological component (of course rhetoric is situated!), a central intervention of decolonial theory is the assertion that all knowledge is geopolitically situated; knowledge cannot be abstracted from the context in which it is produced. While resisting the universal pretensions of Western thought—and particularly the Western rhetorical canon—it is essential to focus on “discourses in their contexts” to “avoid overgeneralizing and making universal claims of our own.”<sup>95</sup> I, therefore, rigorously study the contexts of my cases prior to and along with my analysis. As Belinda Stillion-Southard explains, this contextualization must be multilayered; it must include “contexts shaped by local, national, regional, and global vectors of power.”<sup>96</sup> While I include context along with my written analysis, my analysis also reflects far more than I can practically include in a single written document. Such rigorous contextualization is all the more necessary because of my own limited perspective and privilege as a white academic, living in the West and trained by Western institutions. Yet, for the very same reason, it will always be partial and incomplete. Acknowledging both the limits and perils resulting from my position, I approach my study with both care and trepidation. I approach the communities and rhetoric I study with, as Wanzer-Serrano describes, “an openness . . . that challenges sedimented ways of understanding and acting in the world.”<sup>97</sup> Nelson Maldonado-Torres writes, “The first and most basic gesture of the critique of Eurocentrism lies in listening to what the peoples on the periphery have to say about truth, justice, love, critique, community life, and so forth.”<sup>98</sup> The contextualization of a decolonial rhetorical approach “seeks to be able to listen to what has been silenced.”<sup>99</sup> Darrel Wanzer-Serrano and Lisa Flores both similarly argue an ethic of “loving listening” (Wanzer-Serrano) or a “love-and-listen framework” (Flores) is essential for advancing a decolonial rhetoric.<sup>100</sup>

Such listening is essential for my third commitment: I engage in what Mignolo describes as “epistemic disobedience” and privilege the cultural and epistemological positions of the contexts I study while decentering traditional rhetorical theories.<sup>101</sup> This does not mean that I wholly reject existing rhetorical theory or, for decolonial theorists, Western modernity writ large; rather, I reject its privileged position. Rather than using rhetorical theory to explain the contexts and rhetoric I study, I foreground the rhetoric and voices from those communities. As a result of this practice, in the chapters that follow, the rhetorical theory appears some throughout my analysis, but much of it does not come until the end. If foreground it, it is primarily for the purpose of demonstrating where my analysis will diverge from it. Additionally, I engage in the “double movement” of denaturalizing dominant knowledge paradigms while “simultaneously affirming the modes and principles of knowledge that have been denied” by coloniality.<sup>102</sup> To reject absolutely Western modern thought, including the rhetorical canon, “would be to use the same logic and pretend that a different universalism will be better than the one that is today hegemonic and dominant.”<sup>103</sup> Moreover, it would ignore the influence of coloniality, even as it attempts to identify and challenge it. A decolonial approach, Mignolo explains, “presupposes border thinking or border epistemology in the precise sense that the Western foundation of modernity and of knowledge is on the one hand unavoidable and on the other highly limited and dangerous.”<sup>104</sup> This perspective is important for grappling with the oftentimes contradictory rhetoric of truth commissions as they operate within colonial structures of power and understanding and often invoke the values of Western liberal democracy, while also offering new understandings of key concepts.

Finally, I attempt to see new ways of interpreting the key operating terms of the truth commissions—truth, reconciliation, and justice—and of imagining community and relations of



belonging. Decolonization is a “double-faced concept” that includes both “the analytic of coloniality” and “building decolonial futures” by imagining alternatives to the modernity/coloniality paradigm.<sup>105</sup> Mignolo admits the second impetus is “utopian,” and I admit that my analysis may at times seem idealistic. Thus, it is essential to remember that part of my purpose is to begin to imagine alternatives, even as these alternatives operate within the matrix of coloniality and, thus, cannot be fully realized.

### **Chapter Overviews**

My three case studies are organized chronologically and build on each other thematically. In the first case, I analyze three texts bearing witness to South Africa’s TRC. This chapter refigures understandings of truth—how the TRC conceptualized truth and what truth it provided—and its contribution to national unity. The second focuses on Kenya’s TJRC, established as a condition in the agreement ending the 2007/2008 post-election violence in Kenya but with the intention of investigating a much longer history of human rights abuses in Kenya. I analyze how reconciliation guided the TJRC’s approach to national unity and consider how a community formed through reconciliation might be counterpoised to theories about national community and belonging within rhetorical scholarship. Third, I study Senator Patrick Leahy’s proposal for a truth commission to investigate the Bush administration’s post-9/11 counterterrorism and surveillance policies. While Leahy used rhetoric that is common among truth commissions, his focus on restoring faith in the U.S. justice system oriented his commission not towards reconciliation and repair for the victims of the abuses he sought to investigate, but towards further empowering the U.S. nation-state and consolidating its national community. In each case, I consider how the term guiding the pursuit of national unity—truth, reconciliation, and justice—shaped the form the national community might take. Doing so also

refigures the meanings and practices associated with these concepts in the work of the truth commissions.

### **Truth: South Africa's Truth and Reconciliation Commission**

In chapter 2 I study three accounts of South Africa's TRC—the TRC's final report, Antjie Krog's memoir *Country of My Skull*, and the Global Art Corps' theatrical production *Truth in Translation*—to better understand how *truth* contributed to national unity. Truth and acts of truth telling were central to the TRC's pursuit of national unity and reconciliation. The TRC's public hearings were novel among truth commissions at the time; previously, truth commissions had only held hearings behind closed doors. The hearings provided a platform for South Africans to narrate their experiences, adding “meaning to the multi-layered experiences of the South African story.”<sup>106</sup> Catherine Cole writes that “for many South Africans,” the hearings “were the commission.”<sup>107</sup> Though the public hearings were central while the TRC was active, they were ephemeral. Now that the TRC has concluded its activities, its final report bears the burden of carrying its legacy. The requirement to produce a final report is common among truth commissions, and many scholars of transitional justice argue it is essential for achieving a commission's goals. Teresa Phelps observes, “The international community has become so enamored with truth reports that they are being seen as the sole requisite remedy in reckoning with the past.”<sup>108</sup>

Within the report itself, however, the TRC's Chairperson Desmond Tutu argued it should not be understood as comprehensive and final. The report, Tutu argued, could not “capture the many nuances and unspoken truths” presented to the TRC. Tutu urged South Africans to read the report, “add to it, correct it and ultimately share in the process that will lead to national unity through truth and reconciliation.”<sup>109</sup> In this chapter, I attend to the ways South Africans have

taken up Tutu's call. Each text I analyze both actively reflects on what truth means in the context of the TRC and pursues truth in its own way. The TRC's truth and the national unity it was intended to foster, I argue, is constituted across and between these texts.

I first attend to the TRC's final report. I demonstrate how the text's status as a final, legal report results in an emphasis on impartiality and objectivity that constrains the truth it provides. Although the report gestures towards a complex, multi-layered understanding of truth in its introductory and framing sections, it ultimately focuses on a forensic account that flattens and subjugates the voices and experiences shared at the public hearing to support its findings. Additionally, to support the pretense of objectivity, the report's authors obscure their own voices and interpretations within the report and thereby set themselves apart from the national community it and its truth was meant to promote.

In contrast to the final report, Krog's *Country of My Skull*—described as a “hybrid work, written at the edges of reportage, memoir, and metafiction”<sup>110</sup>—is deeply personal and laden with affect. Krog problematizes any attempt to present a singular narrative of the past. She describes her selection and representation of witness testimonies as fundamentally rhetorical, influenced by her identity, purpose, and audience. Krog presents a truth layered with and shaped by numerous witness accounts, affect, and her own subjective experience and identity. By doing so, Krog claims to constitute her belonging in a reconciled post-apartheid South Africa. Yet, the takeaways from *Country of My Skull* about truth, witnessing, belonging, and the TRC are double-sided. Krog also appropriates and exploits the witnesses and testimonies she includes to support a narrative of healing and reconciliation that masks the sustained legacies of apartheid. Ultimately, she conflates her own belonging with the accomplishment of national belonging; the country of her skull stands in for the whole country.

Finally, in *Truth in Translation*, the Global Art Corps tells the story of the interpreters who worked for the TRC. Recognizing that the English language has historically been a standard form of exclusion in South Africa, the TRC committed itself to allowing witnesses to testify in any of the 11 official languages recognized by South Africa's new constitution. As a result, interpreters played a vital role in the TRC's hearings and in making the official transcriptions that are available in the TRC's archives. *Truth in Translation* vividly depicts the interpreters' struggles to remain professional and uninvolved, as they were instructed, while giving voice in the first person to horrific stories recounted to the TRC with overwhelming emotion. The concepts of translation and interpretation are central in *Truth in Translation*. Ambivalence between understandings of these terms illuminates a "paradox between objectivity and emotional involvement" that pervaded the interpreters' work and yields insights about essential relations among affect, identity, listening, and witnessing.<sup>111</sup> Moreover, while Krog's memoir is inward-looking, toward the country of Krog's skull, *Truth in Translation* engages in an other-centered ethic and practice of listening that extends the TRC's rhetorical practices of community-building and belonging outward and is central to the decolonial project, including the decolonial rhetorical approach I outlined above.

This chapter demonstrates the TRC's truth is constituted across numerous texts. It includes not just the "widest possible compilation" of individual perspectives and experiences, but also a compilation of different understandings of truth, modes of engagement, and forms of belonging. The TRC's truth also requires us to look beyond the institution, to understand it within its local context and to consider how its activities have been taken up, extended, and circulated by members of its community.

### **Reconciliation: Kenya's Truth, Justice, and Reconciliation Commission**

In chapter 3, I study the founding legislation and final report of Kenya's TJRC alongside an understanding of the importance of ethnic solidarity and its political mobilization in Kenya.<sup>112</sup> The TJRC, like South Africa's TRC, joined its goal of promoting national unity, or constructing a "new Kenya," with reconciliation. In the case of Kenya's TJRC, the articulation of these goals was striking. Indeed, in its final report, the term "national unity" rarely appears independently of "reconciliation."<sup>113</sup> In this chapter, I analyze how *reconciliation* guided the TJRC's construction of its new national community. I argue the TJRC pursued national unity through a reconciliation model that can be productively counterpoised to the citizenship model proposed by rhetorical scholars.<sup>114</sup> This chapter builds on the previous chapter, as truth telling—the TJRC's term to describe the act of testifying—is central to the reconciliation model.

The analysis not only provides a new perspective on how the TJRC pursued national unity and reconciliation but also works towards decolonizing traditional rhetorical theories by suggesting an alternative understanding of national community. Rhetorical scholars have long been interested in rhetoric's contribution to constructing and maintaining national identity and community. Working within an undeniably Western-dominated tradition and almost exclusively studying Western democratic contexts, however, this scholarship produces a narrow conception of national community and the rhetoric that constitutes it. Specifically, theories suggest communities are formed and maintained through rhetorics of shared political beliefs, values, and practices that define individuals' identities and roles as citizens.<sup>115</sup> According to this citizenship model, the national community is constituted through individuals' abstract attachments to the nation-state.

The shift from a citizenship model to a reconciliation model decenters national citizenship as the primary mode and locus of belonging and is defined by four principal moves. First, the reconciliation model not only makes room for individual experiences and group identities within the national community but understands these as constitutive of the national community. Second, the reconciliation model shifts the primary attachment from abstract attachments of individuals to the nation-state—or the beliefs, values and practices it represents—to relational attachments among the nation’s community members. Third, whereas the national narrative of the citizenship model defines the standards of inclusion and exclusion from the national community, inclusion in the reconciliation model is achieved through participation in constituting the narrative. Finally, the reconciliation model is attuned to the material conditions of everyday life and centers the social and moral obligations that structure immediate relations and interactions among community members. Studying the role of truth telling within the TJRC and in relation to the particular cultural and political context in which it operated offers a new conceptual and theoretical framework that contributes to decolonizing scholarship on rhetoric’s role in constituting national community and belonging and offers the potential for thicker bonds of community through relational attachments and participatory inclusion.

### **Justice: Senator Patrick Leahy’s Proposal for a U.S. Truth Commission**

In chapter 4, I study Senator Patrick Leahy’s proposal for a truth commission in the United States to investigate the Bush administration’s counterterrorism and surveillance policies established after 9/11. I demonstrate how Leahy’s goal of restoring trust in the *justice* system ultimately shaped his proposal. Leahy used rhetoric common among truth commissions and specifically invoked the TRC as a model in his proposal. Jamie Rowen argues the discourse of transitional justice “includes vague but appealing terms such as reconciliation, truth, reparation,

and even justice” that actors can draw on to promote various goals and policies, but there are benefits and liabilities to the malleability of this discourse.<sup>116</sup> Rowen explains that “it may be easy to support a truth commission” using the discourse of transitional justice, but “the support may be shallow, and mobilizing around one may actually reproduce the social and political divisions that actors seeking accountability, survivor well-being, and the prevention of future violence hope to alleviate.”<sup>117</sup> Leahy’s proposal casts these liabilities into bold relief.

Through an analysis of Leahy’s initial proposal, interviews with several news media outlets, a *Huffington Post* blog article, and a Senate Judiciary Committee hearing on the proposal, I describe how Leahy understood and configured three key concepts in the rhetoric of truth commissions—truth, reconciliation, and justice.<sup>118</sup> My analysis reveals numerous contradictions within Leahy’s proposal, both internally, between the goals associated with his key terms, and externally, between his proposal and the rhetoric he appropriated to support it. These contradictions may help explain why Leahy failed to gain enough support to establish his commission. More urgently, however, I argue Leahy appropriated the TRC’s rhetoric of truth, reconciliation, and justice to support a commission designed to protect and promote the well-being of the beneficiaries and perpetrators while reproducing and extending the very values, political systems, and power relations responsible for the violence the commission was intended to investigate and prevent. Specifically, Leahy intended his commission to reconcile the American people through a shared faith in the U.S. justice system. It, thus, maintained and reaffirmed the citizenship model of national community described above. My analysis of Leahy’s proposal illuminates the violent exclusions that attend this model of national community.

Although Leahy's proposed commission was never established, his proposal is nevertheless important. It sheds light on an increasingly popular discourse within the United States suggesting a truth commission might be fruitful here. Additionally, it helps us better understand how the rhetoric of truth commissions has been used—and abused—to promote truth commissions in disparate contexts and demonstrates the importance of attending to the practices, moral commitments, and political implications associated with the language of truth and reconciliation. Finally, although it is tempting to view Leahy's proposal as a counter-example to my other case studies, it demonstrates how the coloniality of the transitional justice framework—which, like Leahy's proposal, is committed to affirming and extending Western liberal principles of justice—constrains the transformative and emancipatory potential of truth commissions.

### **Conclusion**

This dissertation has several theoretical and pragmatic ramifications for how we understand truth commissions. Although they are typically understood as mechanisms of transitional justice, my dissertation suggests we might better understand their potential contributions to the societies in which they operate by breaking from the framework of transitional justice and, further, that the transitional justice framework itself requires transformation. It also demonstrates the extent to which our common models of democracy remain situated in colonial frameworks and, as a way forward, offers alternative interpretations of such essential democratic concepts as national unity, justice, and identity.

Finally, this is a dissertation about truth commissions, but ultimately my aim is less to learn *about* truth commissions and more to learn *from* truth commissions new ways of being together in community. I resist both uncritically celebrating truth commissions as solutions for societies grappling with violent pasts (and presents) and rejecting them for failing to be cure-all



solutions. Ultimately, I believe truth commissions help us *begin* to imagine the world otherwise, to imagine new formations of community and modes of belonging that displace, and thereby resist, the colonial violence and exclusions of the nation-state. They also challenge us to consider and reimagine how rhetoric contributes to these other modes of belonging and relationality and the social and moral obligations they entail.

## Notes

---

<sup>1</sup> Parliament of South Africa. *Constitution of the Republic of South Africa, Act 200 of 1993*, passed April 24, 1994, accessed March 10, 2020, <https://www.gov.za/documents/constitution/constitution-republic-south-africa-act-200-1993>.

<sup>2</sup> Parliament of South Africa. *Promotion of National Unity and Reconciliation Act, 1995*, July 26, 1995, accessed March 10, 2020, <http://www.truth.org.za/legal/act9534.html>.

<sup>3</sup> A bibliography compiled by The Historical Papers Research Archives at the University of Witwatersrand and South African History Archive includes a 43-page list of “select” articles, books, book chapters, and theses published on the TRC as of 2006. This does not include the numerous news articles, creative works, and other popular commentary on the TRC, nor anything published in the last decade. The bibliography is available at:

[http://www.saha.org.za/resources/docs/PDF/Projects/trc\\_bib.pdf](http://www.saha.org.za/resources/docs/PDF/Projects/trc_bib.pdf).

<sup>4</sup> Claire Moon, “Narrating Political Reconciliation: Truth and Reconciliation in South Africa,” *Social & Legal Studies* 15, no. 2 (2006): 258. James Beitler and Jamie Rowen similarly observe the existence and proliferation of a “rhetorical tradition” or discourse of transitional justice. See James Beitler, *Remaking Transitional Justice in the United States: The Rhetorical Authorization of the Greensboro Truth and Reconciliation Commission* (New York: Springer, 2013); Jamie Rowen, *Searching for Truth in the Transitional Justice Movement* (New York: Cambridge University Press, 2017).

---

<sup>5</sup> Priscilla Hayner's definition is the most frequently cited within the literature on truth commissions. She defines a truth commission according to four criteria: "(1) truth commissions focus on the *past*; (2) they investigate a pattern of abuses over a period of time, rather than a specific event; (3) a truth commission is a temporary body, typically in operation for six months to two years, and completing its work with the submission of a report; and (4) these commissions are officially sanctioned, authorized, or empowered by the state." Priscilla Hayner, *Unspeakable Truths: Confronting State Terror and Atrocity* (New York: Routledge, 2002), 14, emphasis in original. This definition originally appeared in Priscilla Hayner, "Fifteen Truth Commissions—1974 to 1994: A Comparative Study," *Human Rights Quarterly* 16 (1994): 597-655.

<sup>6</sup> Indeed, many proponents of truth commissions also discuss their weaknesses and failures and suggest truth commissions should be one part of a more comprehensive strategy. For an example of this position, see Sharon F. Lean, "Is Truth Enough? Reparations and Reconciliation in Latin America," in *Politics and the Past: On Repairing Historical Injustices*, ed. John Torpey (Lanham, MD: Rowman & Littlefield), 169-191. Mahmood Mamdani provides a striking and perceptive critique of the TRC: Mahmood Mamdani, "Amnesty or Impunity? A Preliminary Critique of the Report of the Truth and Reconciliation Commission of South Africa (TRC)," *Diacritics* 32, no. ¾ (2002): 32-59. While Michal Ben-Josef Hirsch, Megan MacKenzie, and Mohamed Sesay do not aim to either promote or criticize truth commissions, they argue there is a need for "more critical, interactive, and inclusive mechanisms" to assess the impacts and successes of truth commissions. Michal Ben-Josef Hirsch, Megan MacKenzie, and Mohamed

---

Sesay, "Measuring the Impacts of Truth and Reconciliation Commissions: Placing the Global 'Success' of TRCs in Local Perspective," *Cooperation and Conflict* 47, no. 3 (2012): 386-403.

<sup>7</sup> Hayner, *Unspeakable Truths*, 17.

<sup>8</sup> John Gray, *Liberalism* (Minneapolis: University of Minnesota Press, 1986), xii.

<sup>9</sup> Bhikhu Parekh, "The Cultural Particularity of Liberal Democracy," *Political Studies* 40, no. 1 (1992): 161.

<sup>10</sup> See, for example, Charles W. Mills, *The Racial Contract* (Ithaca, NY: Cornell University Press, 1997).

<sup>11</sup> Gray, *Liberalism*, xii.

<sup>12</sup> David Mendeloff, "Truth-Seeking, Truth-Telling, and Postconflict Peacebuilding: Curb the Enthusiasm?," *International Studies Review* 6 (2004): 361.

<sup>13</sup> Priscilla Hayner, "Commissioning the Truth: Further Research Questions," *Third World Quarterly* 17, no. 1 (1996): 22.

<sup>14</sup> Mendeloff, "Truth-Seeking," 361.

<sup>15</sup> The titles of several of these works are indicative of this: *An African Athens: Rhetoric and the Shaping of Democracy in South Africa, From Apartheid to Democracy, Managing Vulnerability: South Africa's Struggle for Democratic Rhetoric*, See: Philippe-Joseph Salazar, *An African Athens: Rhetoric and the Shaping of Democracy in South Africa* (Mahwah, NJ: Lawrence Erlbaum Associates, 2002), xviii; Katherine Elizabeth Mack, *From Apartheid to Democracy: Deliberating Truth and Reconciliation in South Africa* (University Park, PA: The Pennsylvania

---

State University Press, 2014); Richard C. Marback, *Managing Vulnerability: South Africa's Struggle for Democratic Rhetoric* (Columbia: The University of South Carolina Press, 2012); Thomas A. Moriarty, *Finding the Words A Rhetorical History of South Africa's Transition from Apartheid to Democracy* (Westport, CT: Praeger, 2003).

<sup>16</sup> Mack, *From Apartheid to Democracy*, 8.

<sup>17</sup> Mack, *From Apartheid to Democracy*, 9.

<sup>18</sup> Salazar, *An African Athens*, xviii. Emphasis added.

<sup>19</sup> Mack, for example, notes that the language of the PNURA echoed “the Sophistic emphasis on the role of human perception as the primary source of knowledge, on the significance of speaking before others, and, finally, on the necessity of group deliberation.” Mack, *From Apartheid to Democracy*, 7-8.

<sup>20</sup> Doxtader, “Making Rhetorical History in a Time of Transition: The Occasion, Constitution, and Representation of South African Reconciliation,” *Rhetoric & Public Affairs* 4, no. 2 (2001): 224; See also David Howarth, “Paradigms Gained? A Critique of Theories and Explanations of Democratic Transitions in South Africa,” in *South Africa in Transition*, ed. David Howarth and Aletta J. Norval (New York: St. Martins, 1998), 184; Donald L. Horowitz, *A Democratic South Africa?: Constitutional Engineering in a Divided Society* (Cape Town: Oxford University Press, 1991).

<sup>21</sup> I use the term “majority world” instead of others such as “third world” (which is historically outdated and inaccurate) or “developing countries” (which invokes a hierarchy of developing and

---

developed countries and may imply “developing countries” are developing or want to develop along the same track as those “developed countries”) to call attention to the fact that countries and cultures typically thought of as part of “the west” are a small minority. Many decolonial scholars use the term “global south.” On using “global south,” see Jean Comaroff and John L. Comaroff, *Theory from the South: Or, How Euro-America is Evolving Toward Africa* (New York: Routledge, 2016), 45-49; Caroline Levander and Walter Mignolo, “Introduction: The Global South and World Dis/Order,” *The Global South* 5, no. 1 (2011): 1-11.

<sup>22</sup> Mack, *From Apartheid to Democracy*, 7.

<sup>23</sup> See: Nelson Maldonado-Torres, “On the Coloniality of Being: Contributions to the Development of a Concept,” *Cultural Studies* 21, no. 2-3 (2007): 250-270; Walter Mignolo, “Delinking: The Rhetoric of Modernity, the Logic of Coloniality and the Grammar of De-Coloniality,” *Cultural Studies* 21, no. 2-3 (2007): 449-514; Aníbal Quijano, “Coloniality and Modernity/Rationality,” *Cultural Studies* 21, no. 2-3 (2007): 168-178.

<sup>24</sup> Karma Chávez, “Beyond Inclusion: Rethinking Rhetoric’s Historical Narrative,” *Quarterly Journal of Speech* 101, no. 1 (2015): 165.

<sup>25</sup> Mignolo, “Delinking,” 459, 453.

<sup>26</sup> Jonathan Tepperman, “Truth and Consequences” *Foreign Affairs* 81, no. 2 (2002): 128.

<sup>27</sup> Though this field is interdisciplinary, it is understood by many as a distinct field. It has its own journal (the *International Journal of Transitional Justice*, established in 2007) and professional organization (the International Center for Transitional Justice, established in 2001) and is taught

---

in special courses and programs at many universities. Christine Bell actually pushes against the characterization of transitional justice as a distinct field, arguing instead that it is “a cloak that integrates diverse practices with quite different normative implications” (24). In doing so, though, she also establishes the popular characterization of transitional justice as a field and recognizes the utility of this characterization. Christine Bell, “Transitional Justice, Interdisciplinarity and the State of the ‘Field’ or ‘Non-Field’,” *The International Journal of Transitional Justice* 3 (2009): 5-27. See also, Paige Arthur, “How Transitions Reshaped Human Rights: A Conceptual History of Transitional Justice,” *Human Rights Quarterly* 31 (2009): 321-367; Ruti G. Teitel, “Transitional Justice Genealogy,” *Harvard Human Rights Journal* 16 (2003): 69-94; Neil J. Kritz, “Where We Are and How We Got Here: An Overview of Development in the Search for Justice and Reconciliation,” in *The Legacy of Abuse: Confronting the Past, Facing the Future*, ed. Alice H. Henkin (Washington, DC: The Aspen Institute, 2003), 21-45.

<sup>28</sup> Bell, “Transitional Justice,” 8.

<sup>29</sup> For a more thorough analysis of the development of transitional justice, see Arthur, “How Transitions Reshaped Human Rights”; Bell, “Transitional Justice”; Kritz, “Where We Are”; Teitel, “Transitional Justice Genealogy.”

<sup>30</sup> Teitel, “Transitional Justice Genealogy,” 73. Teitel literally wrote the book *Transitional Justice*. See Ruti G. Teitel, *Transitional Justice* (New York: Oxford University Press, 2000).

<sup>31</sup> Teitel, “Transitional Justice Genealogy,” 73.

---

<sup>32</sup> Teitel, “Transitional Justice Genealogy,” 76.

<sup>33</sup> Teitel, “Transitional Justice Genealogy,” 76.

<sup>34</sup> Mahmood Mamdani, “Beyond Nuremberg: The Historical Significance of the Post-Apartheid Transition in South Africa,” *Politics & Society* 43, no. 1 (2015): 80.

<sup>35</sup> Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norman, OK: University of Oklahoma Press, 1991). On the origins of transitional justice in this time period, see Bell, “Transitional Justice” and Arthur, “How Transitions Reshaped Human Rights,” 321-367. These debates included “interactions among human rights activists, lawyers and legal scholars, policymakers, journalists, donors, and comparative politics experts” and also occurred within a series of international conferences: the 1988 Aspen Institute conferences, “State Crimes: Punishment or Pardon”; the 1992 Charter 77 Foundation conference, “Justice in Times of Transition”; and the 1994 Institute for Democracy in South Africa conference. See, Arthur, “How Transitions Shaped Human Rights,” 324.

<sup>36</sup> Arthur, “How Transitions Reshaped Human Rights,” 336.

<sup>37</sup> Arthur, “How Transitions Reshaped Human Rights,” 325. 324. Paul Gready and Simon Robins argue more pointedly, “Transitional justice has become part of a hegemonic discourse that links development and peacebuilding to a liberal statebuilding project that sees liberal democracy as its endpoint.” Paul Gready and Simon Robins, “From Transitional to Transformative Justice: A New Agenda for Practice,” *The International Journal of Transitional Justice* 8, (2014): 341.

<sup>38</sup> Arthur, “How Transitions Reshaped Human Rights,” 357.



---

<sup>39</sup> Teitel, “Transitional Justice Genealogy,” 76.

<sup>40</sup> Gready and Robins, “From Transitional to Transformative Justice,” 341.

<sup>41</sup> Arthur, “How Transitions Reshaped Human Rights,” 362.

<sup>42</sup> Gready and Robins, “From Transitional to Transformative Justice,” 346.

<sup>43</sup> The 1974 Commission of Inquiry in the Disappearance of People in Uganda since 25 January, 1971 is now widely regarded as the first truth commission, but it received little attention at the time. The commission was established by Idi Amin to investigate disappearances committed by his own military forces. As a result of working under the very government it was investigating, the commission was backed by little political will, none of its recommendations were implemented, and its report was never published. Consequently, the commission largely forgotten at the time. Bolivia also established a truth commission prior to Argentina, in 1982. However, it also suffered from a lack of political will and resources and had little visible influence, including no final report. See Hayner, “Fifteen Truth Commissions,” 611-615.

<sup>44</sup> Moon, “Narrating Political Reconciliation,” 258.

<sup>45</sup> Bell, “Transitional Justice,” 9.

<sup>46</sup> Rowen describes this process of institutionalization of truth commissions in detail. See Rowen, *Searching for Truth*, 32-56.

<sup>47</sup> For a more comprehensive overview of prominent commissions, see Hayner, *Unspeakable Truths*. For lists of cases, see Amnesty International, *Commissioning Justice: Truth Commissions and Criminal Justice* (London: Amnesty International Publications, 2010), available at

---

<https://www.amnesty.org/download/Documents/40000/pol300042010en.pdf>; Eric Brahm, “What is a Truth Commission and Why Does it Matter?” *Peace and Conflict Review* 3, no. 2 (2009): 1-14; Geoff Dancy, Hunjoon Kim, and Eric Wielbelhaus-Brahm, “The Turn to Truth: Trends in Truth Commission Experimentation,” *Journal of Human Rights* 9 (2010): 45-64; Hayner, *Unspeakable Truths*.

<sup>48</sup> Bell, “Transitional Justice,” 8, 9.

<sup>49</sup> Eric Brahm provides an overview of how several scholars have adopted this definition, some with slight modifications or elaborations. See Brahm, “What is a Truth Commission?”

<sup>50</sup> Hayner, *Unspeakable Truths*, 14, emphasis in original. This definition originally appeared in Hayner, “Fifteen Truth Commissions.”

<sup>51</sup> For comprehensive overviews and discussions of these definitional discussions and debates see Brahm, “What is a Truth Commission?” and Dancy, Kim, and Wielbelhaus-Brahm, “The Turn to Truth.”

<sup>52</sup> Hirsch, MacKenzie, and Sesay, “Measuring the Impacts of Truth and Reconciliation Commissions,” 387.

<sup>53</sup> In the second edition of *Unspeakable Truths* Hayner revises this criterion to state that a truth commission *aims* to conclude with a final report. Hayner, *Unspeakable Truths*, 11.

<sup>54</sup> While Hayner’s definition allows some ambiguity, as a state could informally authorize or empower a commission, other scholars who have used variations of Hayner’s definition that

---

specifically require the commission to be established by an official authority. Brahm, “What is a Truth Commission?”

<sup>55</sup> Brahm, “What is a Truth Commission?,” 6.

<sup>56</sup> Hirsch, MacKenzie, and Sesay, “Measuring the Impacts of Truth and Reconciliation Commissions,” 387.

<sup>57</sup> See, for example, Zannie Bock, “Language has a Heart’: Linguistic Markers of Evaluation in Selected TRC Testimonies,” *Journal of Multicultural Discourses* 3, no. 3 (2008): 189-203; Catherine Cole, *Performing South Africa’s Truth Commission: Stages of Transition* (Bloomington: Indiana University Press, 2010); Belinda Bozzoli, “Public Ritual and Private Transition: The Truth Commission in Alezandra Township, South Africa 1996,” *African Studies* 57, no. 2 (1998): 167-195; Pumla Gobodo-Madikizela, “‘Language Rules’: Witnessing about Trauma on South Africa’s TRC,” *River Teeth: A Journal of Non-Fiction Narrative* 8, no. 2 (2007): 25-33; Moon, “Narrating Political Reconciliation”; Mark Sanders, “Truth, Telling, Questioning: The Truth and Reconciliation Commission, Antjie Krog’s *Country of My Skull*, and Literature After Apartheid,” *Modern Fiction Studies* 46, no. 1 (2000): 13-41.

<sup>58</sup> Mack, *From Apartheid to Democracy*, 5.

<sup>59</sup> Mack, *From Apartheid to Democracy*, 9.

<sup>60</sup> Beitler, *Remaking Transitional Justice*; Laura Michael Brown, “Region and Remembrance: Public Memories of Civil Rights in Greensboro, North Carolina” (PhD diss., The Pennsylvania State University, 2016); Erik Doxtader, *With Faith in the Works of Words: The Beginnings of*

---

*Reconciliation in South Africa, 1985-1995* (East Lansing, MI: Michigan State University Press, 2010); Mack, *From Apartheid to Democracy*; Salazar, *An African Athens*; Marback, *Managing Vulnerability*; Moriarty, *Finding the Words*.

<sup>61</sup> Erik Doxtader, *With Faith in the Works of Words*, 4.

<sup>62</sup> Doxtader, "Making Rhetorical History," 254.

<sup>63</sup> Beitler, *Remaking Transitional Justice*, 6. Rowen makes a similar argument about the discourse of transitional justice in Rowen, *Searching for Truth*.

<sup>64</sup> Mack, *From Apartheid to Democracy*, 15.

<sup>65</sup> Doxtader, "Making Rhetorical History," 254.

<sup>66</sup> Eric Brahm provides a succinct overview of these trends in the literature. See Eric Brahm, "Uncovering the Truth: Examining Truth Commission Success and Impact," *International Studies Perspectives* 8 (2007): 16-35.

<sup>67</sup> James L. Gibson, *Overcoming Apartheid: Can Truth Reconcile a Divided Nation?* (New York: Russell Sage Foundation, 2004), 3; Brahm, "Uncovering the Truth," 18. See also Dancy, Kim, and Wielbelhaus-Brahm, "The Turn to Truth; Audrey R. Chapman and Hugo van der Merwe, eds. *Truth and Reconciliation in South Africa: Did the TRC Deliver?* (Philadelphia: University of Pennsylvania Press, 2008); John Ishiyama and Oluwagbemiso Laoye, "Do Truth Commissions Promote Trust in the Judiciary in African States?," *Journal of Asian and African Studies* 51, no. 5 (2016): 528-544.

---

<sup>68</sup> Brahm, “Uncovering the Truth,” 19. See Theresa Phelps, *Shattered Voices: Language, Violence, and the Work of Truth Commissions* (Philadelphia: University of Pennsylvania Press, 2004); Claire Moon, *Narrating Political Reconciliation: South Africa’s Truth and Reconciliation Commission* (Lanham: Lexington Books, 2008); Charles Villa-Vicencio and Erik Doxtader, eds., *The Provocations of Amnesty: Memory, Justice, and Impunity* (Claremont, South Africa: David Phillip Publishers, 2003).

<sup>69</sup> Mack, *From Apartheid to Democracy*, 9.

<sup>70</sup> Marback, *Managing Vulnerabilities*, 12, 11.

<sup>71</sup> Moriarty, *Finding the Words*, 4.

<sup>72</sup> Mack, *From Apartheid to Democracy*, 126.

<sup>73</sup> Erik Doxtader, *With Faith in the Works of Words*.

<sup>74</sup> Mack, *From Apartheid to Democracy*, 11.

<sup>75</sup> Salazar, *An African Athens*, xvii, xviii.

<sup>76</sup> Moriarty, *Finding the Words*, 121.

<sup>77</sup> Phil Bratta and Malea Powell, “Introduction to the Special Issue: Entering the Cultural Rhetorics Conversation,” *enculturation* 21 (2016), available at <http://enculturation.net/entering-the-cultural-rhetorics-conversations>.

<sup>78</sup> Salazar, *An African Athens*, 165.

---

<sup>79</sup> Wim van Binsbergen, “Postscript: Aristotle in Africa—Towards a Comparative Africanist Reading of the South African Truth and Reconciliation Commission,” *Quest* 16, no. 1-2 (2002): 264.

<sup>80</sup> van Binsbergen, “Postscript,” 264-265.

<sup>81</sup> van Binsbergen, “Postscript,” 265.

<sup>82</sup> van Binsbergen, “Postscript,” 265-266.

<sup>83</sup> Maldonado-Torres, “On the Coloniality of Being,” 243.

<sup>84</sup> Walter D. Mignolo, “Decolonizing Western Epistemology/Building Decolonial Epistemologies,” in *Decolonizing Epistemologies: Latina/o Theology and Philosophy*, eds. Ada María Isasi-Díaz and Eduardo Mendieta (New York: Fordham University Press, 2011), 20.

<sup>85</sup> Mignolo, “Delinking,” 453.

<sup>86</sup> Mignolo, “Decolonizing Western Epistemology,” 23.

<sup>87</sup> I do not refer here to only linguistic forms of language, but to all meaning-making symbols and practices.

<sup>88</sup> Ngũgĩ wa Thiong’o, “The Language of African Literature,” in *Colonial Discourse and Postcolonial Theory: A Reader*, eds. Patrick Williams and Laura Chrisman (New York: Columbia University Press, 2008), 439.

<sup>89</sup> Edward Said, *Culture and Imperialism* (New York: First Vintage Books, 1994), 12.

<sup>90</sup> Darrel Wanzer-Serrano, *The New York Young Lords and the Struggle for Liberation* (Philadelphia: Temple University Press, 2015), 10, 15.

---

<sup>91</sup> On the global turn, see: Wendy Hesford, "Global Turns and Cautions in Rhetoric and Composition Studies," *PMLA* 121, no. 3 (2006): 787-801. On the evolution of comparative, transnational, and cultural rhetoric(s), see: LuMing Mao, Bo Wang, Arabella Lyon, Susan C. Jarratt, C. Jan Swearingen, Susan Romano, Peter Simonson, Steven Mailloux, and Xing Lu, "Manifesting a Future for Comparative Rhetoric," *Rhetoric Review* 34, no. 3 (2015): 239-274; Bo Wang, "Comparative Rhetoric, Postcolonial Studies, and Transnational Feminisms: A Geopolitical Approach," *Rhetoric Society Quarterly* 43, no. 3 (2013): 226-242; Bratta and Powell, "Introduction to the Special Issue."

<sup>92</sup> Raka Shome, "Postcolonial Interventions in the Rhetorical Canon: An 'Other' View," *Communication Theory* 6, no. 1 (1996): 49. Some, such as Wanzer-Serrano, reject postcolonial scholarship for being undergirded by a modernist rationality. I claim a *decolonial* perspective because it emphasizes the continued and pervasive influence of coloniality. However, I do not outright reject postcolonial scholarship, as many postcolonial scholars, Shome included, advance similar and complementary arguments, even while using the term *postcolonial* instead of *decolonial*. Here, I believe Shome's call is very much in line with the project of decolonization.

<sup>93</sup> Shome, "Postcolonial Interventions," 49.

<sup>94</sup> Bratta and Powell, "Introduction to the Special Issue."

<sup>95</sup> Wanzer-Serrano, *New York Young Lords*, 7.

<sup>96</sup> Belinda A. Stillion-Southard, *How to Belong: Women's Agency in a Transnational World* (University Park: The Pennsylvania State University Press, 2018), 12.

---

<sup>97</sup> Wanzer-Serrano, *New York Young Lords*, 26.

<sup>98</sup> Maldonado-Torres, *Against War*, 246.

<sup>99</sup> Nelson Maldonado-Torres, *Against War: Views from the Underside of Modernity* (Durham: Duke University Press, 2008), 234.

<sup>100</sup> Lisa Flores, "Advancing a Decolonial Rhetoric," *Advances in the History of Rhetoric* 21, no. 3 (2018): 321; Darrel Wanzer-Serrano, "Decolonial Rhetoric and a Future Yet-to-Become: A Loving Response," *Advances in the History of Rhetoric* 21, no. 3 (2018): 328.

<sup>101</sup> Walter D. Mignolo, "Epistemic Disobedience, Independent Thought and De-Colonial Freedom," *Theory, Culture & Society* 26, no. 7-8, (2009): 1-23.

<sup>102</sup> Mignolo, "Delinking," 463.

<sup>103</sup> Mignolo, "Delinking," 454.

<sup>104</sup> Mignolo, "Delinking," 455.

<sup>105</sup> Mignolo, "Decolonizing Western Epistemology," 20.

<sup>106</sup> Truth and Reconciliation Commission (TRC), *Truth and Reconciliation Commission of South Africa Report* (Cape Town: Truth and Reconciliation Commission, 1999), 1:112, accessed January 22, 2020, <https://www.justice.gov.za/trc/report/>. (hereafter cited as TRC, *Report*).

<sup>107</sup> Cole, *Performing South Africa's Truth Commission*, xiii.

<sup>108</sup> Teresa Godwin Phelps, *Shattered Voices: Language, Violence, and the Work of Truth Commissions* (Philadelphia: University of Pennsylvania Press, 2004), 119.

<sup>109</sup> TRC, *Report*, 1:4.



---

<sup>110</sup> Sanders, “Truth, Telling, Questioning,” 16.

<sup>111</sup> Gibson Alessandro Cima, “Exporting South Africa’s Truth and Reconciliation Commission: Global Arts Corps’ *Truth in Translation*,” *Theatre Journal* 70, no. 1 (2018): 51.

<sup>112</sup> I have made the fraught decision to use variations of the term “ethnic,” or sometimes to borrow Wangari Maathai’s term “micro-nation,” instead of variations of “tribe” throughout this dissertation because, as Maathai explains, “the word ‘tribe’ has taken on negative connotations. ‘Tribes’ are generally seen as primitive or backward, comprised of people who have not completely realized the concept of the nation.” However, several African activists and scholars criticize the preference for “ethnicity” as a poor substitute for “tribal” within the Western academy. While “ethnicity” might avoid the negative, racist connotation of “tribalism,” Elisha Stephen Atieno-Odhiambo and Koigi wa Wamwere argue separately that “tribalism” is the language of everyday life in Kenya. Atieno-Odhiambo explains, “Two simultaneous discourses have been in vogue in Kenya: tribalism as a lived reality or a practice of daily life, and ethnicity as a generic topic by the academy.” Wamwere argues, “The distinction between intellectuals’ ethnicity and ordinary folk’s tribalism ensures that *wananchi*, or common people, are left out of scholarly discussions of ethnic hate.” Moreover, avoiding the terms “tribe” and “tribalism” may serve to re-inscribe the negative, colonial connotations they have acquired, particularly in the West. For these reasons, my decision to use the terms “ethnicity,” “ethnic community,” and “ethnic conflict” was a difficult one. Ultimately, like Maathai, I decided it was best to avoid the stereotypes associated with the term “tribe,” especially given the primarily Western audience of

---

this dissertation. In future work, I think I may make a different decision. See Wangari Maathai, *The Challenge for Africa* (London: Arrow Books, 2010), 185; Elisha Stephen Atieno-Odhiambo, “Hegemonic Enterprises and Instrumentalities of Survival: Ethnicity and Democracy in Kenya,” *African Studies* 61 (2002): 230; Koigi wa Wamwere, *Negative Ethnicity: From Bias to Genocide* (New York: Seven Stories Press, 2003), 21.

<sup>113</sup> In Volume 3 of the final report, the volume devoted specifically to national unity and reconciliation, “national unity” appears independently only once. Truth, Justice and Reconciliation Commission (TJRC), *Report of the Truth, Justice and Reconciliation Commission* (Nairobi: Truth, Justice and Reconciliation Commission, 2013), 3, electronic copy in author’s possession. (hereafter cited as TJRC, *Report*)

<sup>114</sup> According to Karma Chávez, “Rhetoric’s embeddedness in citizenship is so ubiquitous as to be taken for granted.” Rhetorical scholars, Chávez continues, “have implicitly and explicitly privileged citizens’ rhetorical practices and the rhetorical practices of citizenship.” Chávez, “Beyond Inclusion,” 163, 165.

<sup>115</sup> I will address this in much greater detail in chapter 3. For now, see Robert Asen, “A Discourse Theory of Citizenship,” *Quarterly Journal of Speech* 90, no. 2 (2004): 189-211; Vanessa Beasley, *You, the People: American National Identity in Presidential Rhetoric* (College Station, TX: Texas A&M University Press, 2004); Chávez, “Beyond Inclusion”; Jay P. Childers, “The Democratic Balance: President McKinley’s Assassination as Domestic Trauma,” *Quarterly*

---

*Journal of Speech* 73, no. 2 (2013): 156-179; Jennifer R. Mercieca. *Founding Fictions* (Tuscaloosa, AL: University of Alabama Press, 2010).

<sup>116</sup> Rowen, *Searching for Truth*, 153.

<sup>117</sup> Rowen, *Searching for Truth*, 5.

<sup>118</sup> Wolf Blitzer, "Investigating the Bush Administration; Obama Stimulus Plan; Senator Leahy Interview," *The Situation Room*, CNN, aired February 14, 2009, transcript, <http://edition.cnn.com/TRANSCRIPTS/0902/14/sitroom.01.html>; Rachel Maddow, "Interview with Senator Patrick Leahy (D-VT), Senate Judiciary Committee Chairman," *The Rachel Maddow Show*, MSNBC, aired February 10, 2009, transcript, Federal News Service; Rachel Maddow, "Interview with Senator Patrick Leahy," *The Rachel Maddow Show*, MSNBC, aired March 4, 2009, transcript, Federal News Service; Norah O'Donnell, "MSNBC Interview with Senator Patrick Leahy (D-VT)," *MSNBC Live*, MSNBC, aired February 10, 2009, transcript, Federal News Service; Ed Schultz, "Interview with Senator Patrick Leahy (D-VT)," *The Ed Show*, MSNBC, aired April 21, 2009, transcript, Federal News Service; Bob Schieffer, interview with Senator Leahy, *Face the Nation*, CBS News, aired April 26, 2009, transcript, Federal News Service; *Getting to the Truth through a Nonpartisan Commission of Inquiry*, Hearing before the Committee on the Judiciary, United States Senate, 111<sup>th</sup> Cong., 1 (2009); Patrick Leahy, "A Truth Commission to Investigate Bush-Cheney Administration Abuses," *Huffington Post*, February 12, 2009, [http://www.huffingtonpost.com/sen-patrick-leahy/a-truth-commission-to-inv\\_b\\_166461.html](http://www.huffingtonpost.com/sen-patrick-leahy/a-truth-commission-to-inv_b_166461.html); Patrick Leahy, "Restoring Trust in the Justice System: The Senate Judiciary Committee's Agenda in the 111<sup>th</sup> Congress," (public lecture, 2009 Marver Bernstein Lecture, Georgetown University, Washington, DC, February 9, 2009), available at [leahy.senate.gov](http://leahy.senate.gov).

## Chapter 2

### Truth: South Africa's Truth and Reconciliation Commission

After over forty-five years of state-sponsored segregation, violence, and oppression under the apartheid regime, the TRC was established to “promote national unity and reconciliation in a spirit of understanding which transcends the conflicts and divisions of the past.”<sup>1</sup> The presumption of a positive relation between truth and reconciliation is, as indicated in their name, a driving impulse for truth and reconciliation commissions. The TRC posited, “An inclusive remembering of painful truths about the past is crucial to the creation of national unity and transcending the divisions of the past.”<sup>2</sup> The belief that addressing and commemorating the past can create a more just and harmonious future is also common in scholarship on rhetoric and public memory and drives commemorative efforts that characterize contemporary public life. Bradford Vivian observes, “The prospect of describing, acknowledging, mourning, and drawing redemptive wisdom from the most heinous modern crimes against humanity or from the most calamitous human tragedies . . . defines an especially prominent tendency of public memory today.”<sup>3</sup> Yet, there is an inherent tension between establishing and acknowledging the truth of a painful, divisive past and promoting unity and reconciliation. The TRC was expected to promote transcendence of the very conflicts and divisions it marked the most violent consequences of. Archbishop Desmond Tutu, the TRC's Chairperson, noted this tension in the foreword to the final report: “We should accept that truth has emerged even though it has initially alienated people from one another. The truth can be, and often is, divisive. However, it is only on the basis of truth that true reconciliation can take place.”<sup>4</sup> But how, if at all, does a divisive truth unify a nation?<sup>5</sup>

The TRC recognized that to promote national unity and reconciliation, it was “not enough to simply determine what had happened.”<sup>6</sup> Through what the TRC named “narrative truth,” it “sought to contribute to the process of reconciliation by ensuring that the truth about the past included the validation of the individual subjective experiences of people who had previously been silenced or voiceless.”<sup>7</sup> By providing a platform for victims of apartheid to narrate their own experiences and have those experiences officially acknowledged at its public hearings, the TRC hoped to “restor[e] the human and civil dignity of such victims” and to give richer “meaning to the multi-layered experiences of the South African story.”<sup>8</sup> The TRC’s public hearings were—by most accounts, including the TRC’s—the heart of the commission and central to its objective of promoting national unity and reconciliation. Indeed, the public hearings are the very reason the TRC gained its fame and has become the paradigmatic model duplicated around the globe. The TRC was not the first truth commission, but it was the first to operate in the public spotlight. Hearings took place throughout the country from 1996 to 1998, and they were broadcast via radio and television for those who did not attend the hearings in person. The national radio broadcast four hours of hearings daily, and the *Truth Commission Special Report* on Sunday evenings was the most-watched news show in the country.<sup>9</sup> “For many South Africans,” Catherine Cole writes, the hearings “*were* the commission.”<sup>10</sup>

The public hearings, though central during the TRC’s operation, were ephemeral. Its final report, on the other hand, is widely understood as the lasting bearer of its legacy. The TRC was charged with producing a final report “providing as comprehensive an account as possible of the activities and findings of the Commission.”<sup>11</sup> The requirement to produce a final report is so common among truth commissions that transitional justice expert Priscilla Hayner even includes it as a qualifying condition in her frequently cited definition of a truth commission.<sup>12</sup> Many

scholars of transitional justice argue a final report is essential to achieve a truth commission's goals. Eric Brahm writes, "The degree to which a commission's findings are accessible by the public seems most critical for a stronger impact. . . . The more widely available the commission's report, the more likely it is to have a decisive impact on society."<sup>13</sup> Brahm discusses several mediums by which truth commissions make their reports more widely accessible—summaries in newspapers and online, for example—but he positions the final report as the primary, if not exclusive, mode of accessing a commission's findings. Teresa Phelps observes, "The international community has become so enamored with truth reports that they are being seen as the sole requisite remedy in reckoning with the past."<sup>14</sup> The production of a final report is viewed as the culmination of a truth commission's work, an indicator of its success, and the ultimate bearer of its legacy.

With 4,521 pages full of appendices, charts, and tables documenting victims, perpetrators, events, and recommendations for reparations and future actions, the TRC's final report certainly seems to provide its required comprehensive account and to be an apt culmination of the TRC's work. Yet, Mark Sanders describes the TRC as a "bifurcated event," split between its public hearings and the final report.<sup>15</sup> For Antjie Krog—a renowned South African poet, writer, and academic who covered the TRC as a radio journalist—the report fails to capture the "taste" of the TRC. She writes:

The report reads fluently and is interspersed with fascinating bits of testimony. It is formidable in what it manages to pull together. . . . Some of the contentious issues are well argued and full cognizance is taken of the most current thinking around each of them—when the report's findings differ from currently accepted norms, it provides ample examples of testimony to justify the TRC's interpretation. The report was also made

widely available on the Internet, and most newspapers carried abridged versions of all five volumes in special inserts. But the ‘taste’ was gone.<sup>16</sup>

The disjuncture between the TRC’s final report and its public hearings marks an internal conflict within the TRC that played out in the modes of truth it sought to provide. There was, in the TRC’s own words, “a profound dilemma” between its role as “a legal institution with the responsibility of making defensible findings according to established legal principles” and “a moral and therapeutic process that aimed at acknowledging suffering and giving victims an opportunity to tell their stories.”<sup>17</sup> While the hearings centered telling and acknowledging subjective experience, the TRC was also tasked with establishing an account of human rights abuses committed during apartheid, facilitating the granting of amnesty to perpetrators who testified at the hearings, and determining the fate and whereabouts of victims.<sup>18</sup> For these goals, the TRC relied heavily on “forensic truth,” which it described as “the familiar legal or scientific notion of bringing to light factual, corroborated, evidence . . . through reliable (impartial, objective) procedures.”<sup>19</sup> Nicky Rousseau and Madeline Fullard, two researchers for the TRC who helped write the final report, explained that an emphasis on “making findings and locating responsibility” dominated the framing of the TRC’s final report.<sup>20</sup> Although the report describes a complex, multi-faceted understanding of the truth needed to contribute to national unity and reconciliation in its framing chapters, it fails to capture this complexity, as it relies on verifiable, forensic truth to support its findings.

Within the report itself, Tutu argues it should not be understood as comprehensive and final, as transitional justice scholarship and the TRC’s own mandate suggests. Noting that the volume of material collected by the TRC would “fill many shelves in the National Archives,” Tutu describes the report as “a window on this incredible resource” and “a road map to those

who wish to travel into our past.”<sup>21</sup> Rather than understanding the report as a static, final document, he suggests it invites, and even requires, further engagement. “Everyone involved in producing this report,” Tutu says, “would have loved to have had the time to capture the many nuances and unspoken truths encapsulated in the evidence that came before us. This, however, is a task which others must take up and pursue.”<sup>22</sup> Tutu appeals to South Africans to read the report, “add to it, correct it and ultimately share in the process that will lead to national unity through truth and reconciliation.”<sup>23</sup> More than simply producing a richer understanding of the past, Tutu suggests the collective effort of capturing the nuances and complexities helps bridge the apparent contradiction, introduced at the beginning of this chapter, of how a divisive truth can promote unity and reconciliation.

In the sections that follow, I first attend to the TRC’s final report, analyzing how it gestures towards a complex, multi-layered understanding of truth but ultimately focuses on a forensic account that flattens and subjugates the voices and experiences shared at the public hearings to support its findings. Taking Tutu’s invitation seriously, I then consider how two other accounts of the TRC—Antjie Krog’s memoir *Country of My Skull*, and the Global Art Corps’s theatrical production *Truth in Translation*—attempt “to capture the many nuances and unspoken truths” that made up the TRC and “share in the process that will lead to national unity and reconciliation.” The TRC, in Katherine Elizabeth Mack’s words, “spawned a range of imaginative receptions.” “A cultural rhetoric approach,” she argues, “reads across genres” to capture the “ecology of truth claims, as it occurs at the interstices of, and traverses, institutional, political, and cultural realms.”<sup>24</sup> Each text I analyze both actively reflects on what truth means in the context of the TRC and pursues truth in its own way, each with its own liabilities and contributions. Taken together, these texts work to capture not only the nuances in the truths



shared at the TRC's public hearings but also the nuances, complexities, and ambiguities of truth the TRC gestured to in its final report. While the TRC's final report provides an impressive amount of information and thorough accounting of its activities and findings, Krog and the Global Art Corps provide affectively-rich accounts that contribute to the complex and multi-layered truth the report only gestures to in its framing discourses. Moreover, Krog and the Global Art Corps actively insert themselves in their accounts of the TRC, demonstrating how their own experiences and identities shape their interactions with and responses to the TRC. They write themselves into the TRC's story, thereby constituting belonging within the new national community the TRC was intended to form. While Krog's account is more inward-looking and, ultimately, confined to her own belonging within—as her title suggests—the country of her skull, *Truth in Translation* engages in an other-centered practice of listening that works to build community within and beyond South Africa and is central to the decolonial project. The TRC's truth—the truth that could contribute to national unity and reconciliation—I argue, is constituted across and between the texts I study here, as well as the array of other imaginative texts produced in response to the TRC.

### **The TRC's Final Report**

On October 29, 1998 the TRC publicly presented the first five volumes of its final report to President Nelson Mandela, with an additional two volumes published in 2002 and 2003. Towards the goal of “providing as comprehensive an account as possible of the activities and findings of the Commission,” the final report both describes the TRC's core principles and operating procedures and documents its findings.<sup>25</sup> Accordingly, it both directly outlines the TRC's understanding of truth and presents its own version of it. In its framing sections in the first volume, the report identifies and describes four different types of truth—forensic, narrative,

social, and healing—needed to fulfill the TRC’s objectives. In the foreword, Tutu says the report “is not and cannot be the whole story.”<sup>26</sup> Yet, the report is burdened by expectations to be exactly that. Ultimately, despite being framed in a meta-discourse that suggests otherwise, the report conforms to these expectations and privileges a forensic truth, obtained “through reliable (impartial, objective) procedures.”<sup>27</sup> In the section that follows, I describe how the text’s status as a final, legal report results in an emphasis on impartiality and objectivity that constrains the truth it provides and distances both its authors and its readers.

The final report provides the most thorough documentation of the TRC’s activities, findings, and recommendations in a single readable form. Accomplishing this task required condensing years of activities and thousands of testimonies—the commission received 21,000 statements about human rights violations alone—into a single, albeit expansive, written document.<sup>28</sup> According to Charles Villa-Vicencio and Wilhelm Verwoed, researchers for the TRC who contributed to the final report, one of the most significant problems the report’s writers faced was “how to reduce the huge amount of material collected by the Commission into a readable account.”<sup>29</sup> Expectations of impartiality, objectivity, and accuracy—associated with the TRC’s legal role and the genre of a report—guided its approach to solving this problem.

In the public hearings, with their emphasis on the TRC’s restorative and moral functions, witnesses were encouraged to narrate their personal experiences. The report acknowledges, “Witnesses were not cross-examined by the Commission and, unless there were glaring inconsistencies and falsehood, their oral testimony was generally accepted.”<sup>30</sup> Yet, when it came time to write the report and the authors were confronted with various accounts of the past, they “had to decide which version was the more reasonable or likely, after taking into account all the available evidence.”<sup>31</sup> Mark Sanders writes, “Although [the TRC] declares itself hospitable to

storytelling, it proves more at ease with statements that can be forensically verified or falsified.”<sup>32</sup> The TRC established a research department to “enhance the evidence presented to the Commission” by “continually evaluating the Commission’s primary data in the light of material already written on the subject” and facilitate the drafting of the final report.<sup>33</sup> Volume 7 claims to be “a tribute to the victims of Apartheid” that “contains the stories of those who came forward to speak of their suffering.” These stories, it claims, “symbolize the greater experience and suffering of our people.”<sup>34</sup> Indeed, it includes 910 pages of brief summaries of victims’ experiences. A few pages into the volume’s foreword, however, the report admits the summaries it contains “tend to confine themselves to the violations that could be corroborated by the Commission” and, therefore, exclude aspects of victims’ experiences.<sup>35</sup> Though a monumental list, it also only includes those who were victims of acts that met the TRC’s specific definition of human rights violations, which was limited only to violation of individual bodily integrity right.<sup>36</sup> Faced with the pragmatic impossibility of including all of the stories told to the commission and capturing them in their entirety, the final report limits itself only to those facts the commission could corroborate as verifiably true and which met its criteria for a human rights violation. This is what constitutes its comprehensive account.

To better understand what is left out of the final report, consider the case of Malaka Motimedi. His Volume 7 summary reads: “**MALAKA, Motimedi Gabriel** (28), an ANC supporter, was placed in solitary confinement in Sibasa, Venda, in January 1978.”<sup>37</sup> From the transcript of Motimedi’s testimony at a TRC hearing in Venda, we learn, first, that the final report did not even record his name correctly; it reversed his first and last names. Motimedi Malaka, as indicated in the report, is actually Malaka Motimedi.<sup>38</sup> Motimedi’s testimony is not easy to follow. The story is far more complicated than the report’s summary allows. It includes

not one but several detentions, and Motimedi did not provide a linear, chronological narrative. Crucially, Motimedi specifically identified three aspects of his experience as enduring sources of pain, one of which—and the only one included in the final report—was his solitary confinement.

Based on his testimony, it seems Motimedi was detained either three or four times—in 1976, 1977, 1978, and possibly 1985. It is difficult to distinguish between these instances in his narrative. This ambiguity in Motimedi’s narrative matches his experience. He was detained for the third time, in 1978, while on his way home after being released on bail for the two prior cases. From his testimony, it seems he had not been able to go home since the first 1976 detention. Motimedi described the third detention: “I tried to explain that I was on bail, but the bail was not withdrawn, then I was told that I am detained because they are suspecting that I might skip the country. I was surprised because I was detained [in 1977] in Nomatabi and I came back from Nomatabi. Coming back home they decided they must detain me again.”

Motimedi identified “being detained while I was out on bail” as “one of the issues that I think was painful.” For him, the wrongfulness or injustice of his detention was important. A second thing “which hurt [him] so much” occurred after his release. He explained, “When I was detained in 1976, when my wife was expecting. They told her at work that she was pregnant, then they expelled her from work. When I was released, after I had been fined, I rebelled as if I was doing something which is rebellious misconduct.” As a result, Motimedi was suspended from work, and both he and his wife were jobless. Again, Motimedi identified a sense of injustice—“*as if* I was doing something which is rebellious misconduct”—as a source of personal pain. Additionally, he highlighted the economic hardships that resulted: “On realising that it was hurting me, I considered my family, which was earning a living and then we were suspended from work and we stayed at home with my wife, both of us workless.” Motimedi then

discussed his solitary confinement, which he identified as the third issue causing him pain. Early in his testimony, Motimedi said he would not “go deep into the details of his detentions.” Still, he provided far more details than what is included in the final report:

The only thing that I had in that cell was a toilet. I didn't have fresh water, I wanted water to drink. There was no fresh water. . . . I am trying now to visualise and imagine as to whether a dog, an ordinary dog can even stay there. I don't even think I can take my dog there. Because the way I was kept there, not even able to do anything. During the night, the corrugated irons [the material his cell was made of] were very hot. There were a lot of mosquitoes. It is very hot, it was very hot. That was a very sinister condition that one could not even know how to do.

The summary in the final report excluded any mention of the harsh, dehumanizing conditions Motimedi described in his testimony, that is to say, of his actual experience in confinement.

This brief analysis of Motimedi’s testimony demonstrates, on the one hand, the pragmatic necessity of the short summaries and of corroborating information provided in the testimonies for the sake of determining specific victims and incidents of human rights violations. As a record of the TRC’s findings, Volume 7 fulfills its purpose well. However, Motimedi’s testimony also reveals how much of his experience was excluded. As “a tribute to the victims of Apartheid” that contains their stories and represents “the greater experience and suffering of our people,” the 910 pages of summaries certainly fail. The summary of Motimedi’s experience does not represent his story; rather, it represents the specific findings the TRC drew from his story.

The *form* in which the content is presented in the final report and *purpose* to which it is put further reflects the emphasis on forensic truth, flattens witnesses’ experiences, and subjugates them to the commission’s findings. While witnessing in the public hearings was intended to

recognize diverse individual experiences and to restore human dignity and personal agency, the report uses the testimony primarily as evidence to support the TRC's findings and conclusions. Researchers selected representative cases from the testimony submitted to the TRC and narrated in its hearings "to illustrate the different kinds of gross human rights violations, as well as the complex interplay of racial, ethnic, regional, gender, and age variables at stake."<sup>39</sup> The report's term for these cases—"window cases"—aptly illustrates how they are treated. As windows, they are meant to be seen through; they are not treated as meaningful in their own right.<sup>40</sup> This reverses Tutu's description of the report as a window through which to access the vast archive of materials—including the written statements, transcripts and video recordings of witnesses' testimonies—collected by the TRC. For Tutu, the report is a window to witnesses' first-hand accounts; for the report, the testimonies it includes are windows to the TRC's findings.

Throughout much of the report, excerpts of testimony follow and support brief summaries of particular patterns the commission observed. In most instances, brief third-person contextualizing narratives in plain type introduce the excerpts, which appear indented underneath and in italic font (fig. 1). The commission's official findings, in contrast, stand out in bold font, often concluding various sections of the report (fig. 2). The format and typography visually mark the separation between the voices of the witnesses who testified at the TRC and the words of the report's authors. Moreover, they foreground the TRC's findings over the individual testimonies, which are reduced to supporting evidence for the TRC's findings.

Though the format differs in Volume 7, the effect is similar. The report explains that it "made use of a similar template for each story."<sup>41</sup> The summaries are listed alphabetically by victim's name and include, when possible, the victim's age at the time the violation occurred and political affiliation and the date, location, and brief description of the violation (fig. 3). This

repeated form across 910 pages conveys a uniformity that works against the appreciation of individual experiences foregrounded in the public hearings. The report also explains that each summary “contains, in essence, the outcome of investigations and reflects the ‘finding’ of the Commission on each case.”<sup>42</sup> The volume is presented as a “tribute to the victims of Apartheid” that will serve “as a memorial and testimony to the suffering endured.” However, the “essence” of each summary is not the victim’s experience but the Commission’s finding regarding that experience.

22 In many statements made to the Commission, deponents described symptoms of psychological disturbance. Although many deponents and victims referred to their symptoms, it was not possible to diagnose actual disorders or problems based on the statements and testimony at hearings. However, the following examples illustrate the kinds of psychological problems that resulted from gross human rights violations.

23 In 1987, after he refused to join the African National Congress (ANC) Youth League, Mr Bhaki George Morake’s house in Botshabelo township was burnt down. He described the effects of this on his wife at the Bloemfontein hearing:

*From 1987, my first wife had lost her mind - until the 1994 elections when we separated ... She might have suffered some anxiety, because she didn't really act like a normal person ... When our house was petrol bombed, the bomb fell on the bed on which she was sleeping. Then I noticed thereafter that she was quite depressed.*

24 Mr Sizwe Kondile went into exile in response to constant harassment by the police. In 1981, he was arrested and killed in detention. At the East London hearing, his mother, Ms Charity Nongqalelo Kondile described the effects on the family:

*Lindiwe and Sizwe have been very close, were very closely placed. Lindiwe never reconciled. She never accepted the fact that her brother [had] been killed. Until recently she suffered from depressive psychosis which the doctors at the hospital referred to as some depression that has been bottled up for a long time, and I feel that this [was] the result of all that she has been bottling up for all these years.*

25 Ms Elizabeth Sizane Mduli was shot and paralysed while attending a school boycott gathering in Nelspruit in 1986. From being a fit athlete, she became physically disabled and has since suffered from psychological problems:

*My mind, my mental state, is unstable. At times I just stop thinking ... I realise that it seems as if I am a bit insane.*

Figure 1. TRC, *Report*, 5:130

220 The use and condoning of torture allowed for the use of coercion in the investigation of cases. Reinforced by deep racism, this approach increasingly characterised police work and led, furthermore, to serious neglect of investigative police work.

**THE COMMISSION FINDS THAT THE USE OF TORTURE IN THE FORM OF THE INFLECTION OF SEVERE PHYSICAL AND/OR MENTAL PAIN AND SUFFERING FOR THE PURPOSES OF PUNISHMENT, INTIMIDATION AND THE EXTRACTING OF INFORMATION AND/OR CONFESSIONS, WAS PRACTISED SYSTEMATICALLY PARTICULARLY, BUT NOT EXCLUSIVELY, BY THE SECURITY BRANCH OF THE SAP THROUGHOUT THE COMMISSION'S MANDATE PERIOD.**

**THE COMMISSION FINDS FURTHER THAT A CONSIDERABLE NUMBER OF DEATHS IN DETENTION OCCURRED, EITHER AS A DIRECT RESULT OF TORTURE OR AS A CONSEQUENCE OF A SITUATION IN WHICH THE CIRCUMSTANCES WERE SUCH THAT DETAINEES WERE INDUCED TO COMMIT SUICIDE.**

Figure 2. TRC, *Report*, 2:220.

**BEUZANA, Ntombekhaya Beauty**, a UDF supporter, was arrested in June 1986 and detained for three months under emergency regulations in George, Cape.

**BEVU, Zenzile Dan** (20), an SACP supporter, was shot and injured by Ciskei Police during protests in Dimbaza, Ciskei, on 3 September 1985.

**BEWU, Gilbert Quntswana**, an ANC supporter, was shot dead by members of the SAP who opened fire on a meeting of the local Hill Committee at Flagstaff, Transkei, in November 1960. Four others were injured in the incident. See PONDOLAND REVOLT.

**BEZUIDENHOUT, Isaac** (32), was shot dead by members of the Riot Squad in Mossel Bay, Cape, on 10 September 1976, when police opened fire on protesting residents during the SOWETO UPRISING.

**BHALALA, Mranqwa**, a member of the ANC and the Hill Committee of Bizana, was tortured in detention and lost his home in 1960 during the PONDOLAND REVOLT.

**BHAMBULA, Stanford Bhifane**, an ANC supporter, was shot and killed by unidentified persons in an attack on his home in Lamontville, Durban on 30 November 1990 during intensifying political conflict between ANC and IFP supporters in the area. Mr Bhambula's wife, also an ANC supporter, was shot and injured in the attack.

**BHAMBULE, Albertina** (57), an ANC supporter, was shot and injured in an attack by unidentified persons on her home in Lamontville, Durban, on 30 November 1990 during intensifying political conflict between ANC and IFP supporters in the area. Ms Bhambula's husband, also an ANC supporter, was killed in the attack.

**BHANA, Khayaletu Patrick**, was shot in the back by members of the SAP in Uitenhage, Cape, on 21 March 1985 when police opened fire on mourners *toyi-toying* on their way to a funeral.

**BHANGOSE, Mathubeni** (38), had his home in Bhambayi, near KwaMashu, Durban, burnt down in 1993 at a time of competition for resources and political dominance between the 'RED' AND 'GREEN' FACTIONS in the area. More than 300 people died violently in Bhambayi in 1993. Hundreds of homes were burnt down.

**BHEFILE, Phumezile Lennox 'Kid'** (26), had his home destroyed in an arson attack by UDF supporters in KwaNobuhle, Uitenhage, Cape, in 1986. In February 1990 he again lost his home in an arson attack in KwaNobuhle during conflict between the UDF and AMAAFRIKA supporters.

**BHEKI, Mazwazwa John**, a UDF supporter, suffered trauma when a group of Inkatha supporters and CAPRIVI TRAINEES attacked a UDF meeting in a house at Mpumalanga, KwaZulu, near Durban, on 18 January 1988. Nine people were killed and an estimated 200 people were injured in the attack. The group went on to destroy around eight houses. One former Inkatha member was granted amnesty (AC/1999/0332).

**BHEKUMUZI, Cosmos**, a private security guard, was shot and injured by four APLA operatives during an attack on police members at the Khayelitsha train station, Cape Town, in 1992. Four other private security guards were injured in the attack. See APLA

ATTACKS. Two APLA members were granted amnesty (AC/1998/0103).

**BHEME, Nocingile Castalina** (38), an ANC supporter, was severely beaten by members of the Transkei Police in Bebeza Village, near Sterkspruit, Transkei, on 1 January 1990 during a consumer boycott and campaign of opposition to the chiefs.

**BHEME, Vuyelwa Cynthia** (44), was severely beaten by members of the Transkei Police in Bebeza Village, near Sterkspruit, Transkei, on 1 January 1990 during a consumer boycott and campaign of opposition to the chiefs.

**BHEME, Zandisile**, an ANC supporter, was severely beaten by members of the Transkei Police in Bebeza Village, near Sterkspruit, Transkei, on 1 January 1990 during a consumer boycott and campaign of opposition to the chiefs.

**BHENGU, Amon**, a UDF supporter, had his house and property destroyed on 6 April 1990 when a group of Inkatha supporters attacked UDF supporters and residents at Mpumalanga, KwaZulu, near Durban, in spite of a heavy police and military presence. Fourteen people were killed and at least 120 homes burnt down. One former IFP member was granted amnesty (AC/1999/0332).

**BHENGU, Bafikile Rosta** (49), an Inkatha supporter, had her home in Cottonlands, Verulam, Natal, petrol-bombed on 12 January 1990 when UDF supporters attacked mourners at a night vigil for the slain son of a local Inkatha chairman. Thirteen people, including nine children, were killed. See VERULAM ATTACK. Ms Bhengu suffered another incident of arson on 7 December 1991, this time in Emangwaneni, Bulwer, Natal, during an IFP attack in which she was mistakenly taken to be an ANC supporter.

**BHENGU, Beauty Dumisile** (36), an ANC supporter, had her home burnt down by Inkatha supporters on 10 February 1990 in KwaNxamalala, KwaZulu, near Pietermaritzburg, in political conflict following the UNBANNING of political organisations on 2 February. Ms Bhengu was reportedly shot dead in Northdale, Pietermaritzburg, two years later.

**BHENGU, Bheki** (17), an ANC supporter, was shot dead by named Inkatha supporters at Inanda, near KwaMashu, Durban, on 13 November 1989.

**BHENGU, Bheki Johannes**, a UDF supporter, had his house and property destroyed on 6 April 1990 when a group of Inkatha supporters attacked UDF supporters and residents at Mpumalanga, KwaZulu, near Durban, in spite of a heavy police and military presence. Fourteen people were killed and at least 120 homes burnt down. One former IFP member was granted amnesty (AC/1999/0332).

**BHENGU, Bhekinkosi** (53), an IFP supporter, was shot and injured and lost his home and shop at Loskop, near Estcourt, Natal, in an attack by ANC supporters on 30 April 1993.

**BHENGU, Busiswe Maria** (39), was killed when named Inkatha supporters petrol-bombed her home in KwaMakhutha, Amanzimtoti, near Durban, on 19

Figure 3. TRC, *Report*, 7:20.



Driven by expectations of impartiality and objectivity, the report postures its authors as neutral observers and data collectors who, through rigorous and systematic methodologies, maintain a critical distance from the material they represent in the report. In doing so, it obscures their personal involvement and rhetorical choices in representing witnesses' testimonies and shaping the narrative presented in the final report. It is the report's voice, not its authors, that comes through. Reflecting this characteristic of the report, I have purposely made the report, rather than its authors, the subject when presenting evidence in this analysis. Consider again the report's explanation in Volume 7 that the summaries "confine themselves" to the findings corroborated by the commission. Of course, the summaries did not confine themselves; the report's authors confine them. Charles Maier argues, "Trying to 'synthesize' a narrative from diverse sources and voices is a dangerous exercise," as the reduction of many voices to a single account always requires "valuing some testimonies more than others, or privileging the significance of some stories more than others."<sup>43</sup> The report, however, conceals this valuing and privileging as it purports to offer an objective, comprehensive account.

While the report positions its authors, on the one hand, as detached from their subject, it also claims the authority to draw meaning and conclusions from the testimonies presented to the TRC. Thus, it simultaneously elides another critical distance, the gap that always exists between an experience and its representation in witness testimony. John Durham Peters writes, "Words can be exchanged, but experiences cannot. Testimony is the discourse of another whose universe of experience diverges from one's own."<sup>44</sup> In the case of the final report, this distance is multiplied several times over. Witnesses testified before the TRC, their testimonies were translated and transcribed (another possible reason why Motimedi's testimony is difficult to

follow and an issue *Truth in Translation* confronts directly), and then selectively re-presented in the final report.

Writing about another form of mediated witnessing—that of “postmemory,” or “the relationship that the ‘generation after’ bears to the personal, collective, and cultural trauma of those who came before”—Marianne Hirsch writes of the need to “acknowledge the distance that separates us from them, the layers of meaning and the multiple frames of interpretation” that intervene in and influence the reading of witness testimony.<sup>45</sup> Within the report, however, the numerous frames of interpretation through which the testimonies passed are obscured, as the testimonies are presented as objective, forensic truth. The report, thus, positions its authors as distant enough from their subject to render impartial conclusions as it simultaneously obscures the effects of that distance. The figure of the detached yet omniscient knower is part and parcel of modern epistemology and crucially implicated in colonial logics that support it, a point I will return to in my concluding discussion.<sup>46</sup>

The public response to the report once it was published largely mirrors the detachment evident within it. Echoing a common concern within scholarship on public memory, Shane Graham warns that by placing witnesses’ testimony within an “‘archive’ of a safely contained history,” the greatest danger of the TRC was that it might “serve as a mechanism for obscuring and forgetting” the past.<sup>47</sup> This danger was especially great precisely because of the report’s thorough account of South Africa’s history of human rights violations—a history that many would prefer to turn away from. Mark Sanders observes that “the cumulative effect” of reading the final report “is of a thorough historical reckoning, albeit one driven by an exposure and cataloguing of human rights violations so relentless that it leaves little space for anything *other* than a history of gross human rights violations.”<sup>48</sup> An editorial in *African Business* magazine

described the report as “nation-traumatizing,” as it provides “a soul searching litany of the wrongs by people and organisations against each other through the long and dark epoch of apartheid.”<sup>49</sup> Further, the charts, graphs, and appendices convey a sense of finality and completeness that matches the expectations of a truth commission final report. South African writer and political analyst Hein Marais wrote that the very purpose of the report was “to consummate South Africa’s dogged efforts to finally bury the past.”<sup>50</sup> Although the report is widely available to the public—summaries were printed in major national newspapers, and it is easily accessible online—the majority of South Africans have never read it.<sup>51</sup>

Despite its framing discourse outlining an expansive notion of truth and hoping for further engagement, the report’s privileging of forensic truth and associated values of impartiality and objectivity reduces the truth it provides and deters engagement. The truth it presents is the TRC’s truth, understood singularly and possessively. It is the TRC’s own interpretation, selection, and representation of the numerous truths presented to it and its own conclusions drawn from these truths. Understood as such, there is nothing inherently wrong with this fact. This was, after all, the TRC’s task for producing its final report. However, the expectations associated with a final report, which are congruent with modern epistemology more generally, obscure the particularity of the report’s truth and represent it instead as *the* Truth. Understood as the authoritative and final word on the TRC’s activities and the history it brought to light, the report works against Tutu’s desire for others to “take up and pursue” the task of “captur[ing] the many nuances and unspoken truths” presented to the TRC.<sup>52</sup> If, however, one reads the report with Tutu’s framing in mind and understands it as living document that is only one truth among many comprising the TRC’s truth—understood now as plural and expansive—it

is a rich resource and may indeed be “the richest legacy the Commission [was] able to leave for the future.”<sup>53</sup>

### **Antjie Krog’s *Country of My Skull***

In *Country of My Skull*, Antjie Krog, like the final report, actively contemplates what truth is in the context of the TRC as she pursues truth in her own way. Described as “a hybrid work, written at the edges of reportage, memoir, and metafiction,” *Country of My Skull* breaks from the journalistic norms that constrained Krog’s reporting and the formal, legal norms that constrained the final report.<sup>54</sup> Unlike the report, Krog lays bare the rhetorical choices, gaps, and ambiguities inherent in any representation of truth. Reflecting on her concerns about how the TRC would pursue truth, she writes, “If its interest in truth is linked only to amnesty and compensation, then it will have chosen not truth, but justice. If it sees truth as the widest possible compilation of people’s perceptions, stories, myths, and experiences, it will have chosen to restore memory and foster a new humanity, and perhaps that is justice in its deepest sense.”<sup>55</sup> Concerned with capturing this “widest possible compilation” Krog creatively and provocatively re-presents witness testimony along with her own experiences with the TRC. Krog’s truth is, thus, layered with and shaped by numerous witness accounts, affect, and Krog’s own subjective experience and identity. In this way, she recovers some of the “taste” of the public hearings and works to capture more of “the nuances and unspoken truths,” as Tutu hoped. Moreover, Krog suggests that through her engagement with the TRC, she constitutes her belonging in the post-apartheid nation, demonstrating how the TRC’s truth might contribute to national unity and reconciliation.

Yet, by her own admission, she also exploits the witnesses and testimonies she includes through the significant liberties she takes with her rhetorical choices of re-presentation within her

personal memoir.<sup>56</sup> As she directs her readers to question the pretense of objectivity in the final report and the limited, forensic truth it offers, Krog also gives a warning about her own version of truth: “I have told many lies in this book about the truth. I have exploited many lives and many texts.”<sup>57</sup> Krog ultimately conflates “my truth” with “the whole country’s truth” and, through this, her sense of personal belonging with the achievement of national reconciliation.<sup>58</sup> The colonial violence of universalizing her specific experience is compounded by the fact that Krog is white and appropriates Black voices and bodies to bolster her claims and personal sense of belonging.

The takeaways about truth, witnessing, belonging, and the TRC from *Country of My Skull* are, thus, double-sided. On the one hand, Krog offers some compelling meditations about truth and the TRC and provides an important account of the TRC with space for affect, identity, and personal involvement. On the other hand, Krog demonstrates the dangers of moving too far towards a wholly subjective understanding of truth, underscoring the important contribution of the final report’s forensic accounting.

Throughout *Country of My Skull*, Krog expresses discomfort with the term “truth.” “The word ‘truth,’” she writes, “makes me uncomfortable. The word ‘truth’ still trips my tongue. . . . I hesitate at the word; I am not used to using it.”<sup>59</sup> This discomfort is ironic, given Krog’s profession and role in relation to the TRC. “Truth is your job, after all!” a colleague reminds her.<sup>60</sup> *Country of My Skull* can be understood, at least in part, as Krog’s response to and attempt to remedy the particular type of truth—an objective, forensic truth—she was expected to produce as a journalist and that the TRC attempted to portray in its final report. Krog has elsewhere likened the difference between *Country of My Skull* and a factual report to that between a fork and a spoon.<sup>61</sup> Krog openly acknowledges her selection and representation of witness testimony

as rhetorical—influenced by her identity, purpose, and audience. She explains, for instance, how the collective guilt she feels as an Afrikaner influenced her interpretations of and responses to testimonies, as well as how her objectives as a journalist framed her reporting differently than her objectives for writing her memoir.<sup>62</sup> She writes:

I'm not reporting or keeping minutes. I'm telling. . . . I cut and paste the upper layer, in order to get the second layer told, which is actually the story I want to tell. . . . I am busy with the truth . . . my truth. Of course, it's quilted together from hundreds of stories that we've experienced or heard about in the past two years. Seen from my perspective, shaped by my state of mind at the time and now also by the audience I'm telling the story to. In every story, there is hearsay, there is a grouping together of things that didn't necessarily happen together, there are assumptions, there are exaggerations to bring home the enormities of situations, there is downplaying to confirm innocence. And all of this together makes up the whole country's truth.<sup>63</sup>

In contrast to the objective truth ostensibly offered by the final report, Krog calls attention to the subjective influences on “every story.” By openly acknowledging them in her own story and “every story,” she prompts her readers to consider their existence in the final report as well.

What Krog says of her truth is true of every story told to the TRC and every interpretation and synthesis of these stories; each is influenced by individual perspective and purpose. Krog shows the entire range of stories is essential for understanding South Africa's past and the TRC's role in reconstructing it. Recalling divergent accounts told by the four security officers involved in the murders of policeman Richard Motasi and his wife Irene, Krog notes that though the details differ, “the core elements stay the same.”<sup>64</sup> The core elements she identifies are the structures of power that sustained apartheid. She writes, “In all the stories, a landscape is

created where the powerful are struggling with the powerless, the armed with the defenseless, and the landscape is filled with misunderstanding.”<sup>65</sup> Scholars have criticized the TRC for focusing too narrowly on individual victims and perpetrators and thereby failing to illuminate and disrupt the structural violence of apartheid. Mahmood Mamdani, for example, argues the TRC shared with the human rights community a “tendency to dehistoricize and decontextualize social processes, and to individualize their outcomes.”<sup>66</sup> The ambiguities and contradictions within and among witnesses’ stories, which Krog not only retains but calls attention to, disrupt the identification of individual victims and perpetrators and absolute attributions of blame, opening space to address the social and political power relations that underwrote apartheid.

Krog also calls attention to how the TRC process itself elicited gaps and contradictions in the stories it received, even as the final report attempted to write these out. She describes how political positions and conditions of amnesty were part of a “propelling force determining what is left out, what is used, how it is used.”<sup>67</sup> Referring again to the amnesty hearings for the Motasi’ murderers, Krog observes, “No one will admit to killing Irene Mutase [*sic*] because no political reason could possibly exist why an ordinary nurse had to be killed.”<sup>68</sup> Ironically, Krog observes how this “propelling force” within the TRC shaped the stories it received such that they diverge specifically “on the question of accountability,” one of the issues the TRC was most concerned with establishing an objective, verifiable truth about in its final report.<sup>69</sup> Based on the final report’s summary of the Motasi murders, the TRC was unable to determine who specifically murdered either Irene or her husband, and all four of the security officers involved were granted amnesty.<sup>70</sup> While the final report suggests its authors were able to glean some objective truth from the various testimonies they received, the very gaps and inconsistencies they wrote out of the final report demonstrate how the TRC process shaped and constrained the narratives it

received from the beginning and are also necessary for understanding the structural violence of apartheid.

In contrast to the form of the final report, the very organization of Krog's text refuses a forensic reading. To recover some of the "taste" of the public hearings and include the "widest possible compilation" of people's experiences, Krog weaves testimonies from the hearings throughout her memoir. The testimonies appear in various forms (figs. 4 and 5). Some are marked with quotation marks, but many are not. Some include the witness's name and explanatory context, but many stand alone. Some are offset by line breaks, indentation, and a different font style, but many appear in line with the rest of the text and in plain font. Some are written as dialogue between the witness and a TRC commissioner. By representing the testimonies in such diverse forms, Krog requires her readers to confront and engage with them. Krog explains elsewhere:

Initially I had the name of the victim plus the date and violation upfront and in bold. But people who had been asked to write something for the blurb confessed to 'skipping' the testimonies, because they were 'too hard to read.' I was obsessed with the necessity that people should read the testimonies. . . . I decided to remove everything that would make it visually easy to 'skip' the testimony—the bold names, the different font.<sup>71</sup>

While the testimonies often do not visually disrupt the flow of text on the page, as they do in the final report, the reading experience is disruptive in a different way. Readers may unexpectedly find themselves in the middle of a witness's story. Moreover, even when Krog provides some introduction or explanation of the testimony, if readers are not already knowledgeable about South Africa's history—of apartheid and earlier—they will struggle to understand the testimony. Although readers can flip to the back of the book—adding to the



speechless darkness the voices of the past. And at long last, we can weep in the certainty of this April, in the assurance of the testimony of fellow South Africans.

It was the end of October—10 October 1985. She was on her way to work, two young men approached her. Now they were five. When they saw her, they chased her. She went to hide in another house, and now they took her out of that house.

They took her overall, and they poured gasoline over her. One of them held her feet and then they started igniting her feet. They were beating her up. There was nobody who could stop this, the police were looking for her, but they were lost and they couldn't find her. She tried to [take the police] to them . . . to the people who tried to hurt her, but they couldn't [understand her] because she didn't have a voice. The police took her to Bloemfontein.

In Bloemfontein she stayed for three days, and she started to mention everybody who did this to her. Then after that, she died. They didn't allow her to be buried in Colesberg, because they said she was an informer. They said if she was buried there, they were going to burn the church. Then she ended up being buried in Pilonome Hospital. That's where I will stop for a moment.

ADV. POTGIETER: Was there any truth in this allegation that she was an *impimpi*, an informer?

MRS. MALITI: That's how they got her, but the reason why they burnt her is because my uncle is a policeman.

ADV. NTSEBEZA: You said while this happened there was a boycott of the shops that time. Your mother's main offense was that she went to buy meat from the butchery—you will correct me if I am wrong . . . She tried to clear her name?

MRS. MALITI: Yes sir.

ADV. NTSEBEZA: According to the report that you gave to the people who were taking the statements earlier, she paid 100 rand.

MRS. MALITI: Yes.

ADV. NTSEBEZA: Where did she send this R100?

MRS. MALITI: She sent it to the comrades and the comrades announced it, that she did pay this R100 trying to ask for forgiveness for buying meat during a consumer boycott. They said they forgive her. Now she took this letter to the township.

Figure 4. Krog, *Country of My Skull*, 48.

## Stretched Thinner and Thinner over Pitches of Grief 39

“This inside me . . . fights my tongue. It is . . . unshareable. It destroys . . . words. Before he was blown up, they cut off his hands so he could not be fingerprinted . . . So how do I say this?—this terrible . . . I want his hands back.”

“It was Sunday. And cold. He came into the kitchen. ‘Make me some bean soup.’

“ ‘It’s Sunday, *jong*, I want to cook special food.’

“But he wanted bean soup.

“While dressing for church, we heard the noise. The youths were coming down the road. We were standing in our bedroom. We were not talking. We were not moving. They surrounded the house and they shouted: ‘Let the spy *die*, let the spy *die!*’ They threw stones through the window. When they left, he said to me: ‘Don’t cry, Nontuthuzelo. A person dies only once, not many times. I know now where these things are leading to. Come, let’s make soup.’ We went to the kitchen and put the beans in a pot.

“Then someone we knew knocked at the door. ‘The comrades are burning your shop, Uncle Mick!’

“ ‘I’ll be back for lunch,’ he said to me.

“They told me afterward. He walked up to the door of his shop, he didn’t look back . . . someone in the crowd shot him in the back . . . They told me afterward Craig Kotze had said my husband was the one who betrayed Steve Biko.”

“Two policemen got on either chair and they dragged me to the window, and then they said I can now jump . . . I refused . . . they grabbed me by my shoulders and lifted me physically up and pushed me out of the window . . . and they were holding me by my ankles . . . each policeman holding one ankle. All I could see was the concrete floor at the bottom—we were three floors up, and all of a sudden one would let go of one foot—as he’s about to catch my foot, the one he had released, the other chap lets go—and they played like that . . . and, you know, you thought: God, this is the end.”

“They held me . . . they said, ‘Please don’t go in there . . .’ I just skipped through their legs and went in . . . I found Bheki . . . he was in pieces . . . he was hanging on pieces . . . He was all over . . . pieces of him and brain was scattered all around . . . that was the end of Bheki.”

Figure 5. Krog, *Country of My Skull*, 39.

disruption—to access the glossary and “cast of characters” Krog provides in the English translation, even these resources are insufficient.<sup>72</sup> As a result, readers can neither skip the

testimonies nor too easily consume them. Krog's choices about how to re-present witness testimony make readers confront the "veracity gap" Peters identifies "at the heart of witnessing."<sup>73</sup> Rather than attempting to fully bridge this gap, Krog draws readers in to uncomfortably dwell in this space.

The gaps Krog leaves—the explanations not given and the disruptive experience of reading—are also spaces for affect. Throughout *Country of My Skull*, Krog both describes the oftentimes overwhelming emotion that characterized the TRC's public hearings and writes it into her text. "Week after week, voice after voice, account after account. It is not so much the deaths, and the names of the dead, but the web of infinite sorrow woven around them," she recounts.<sup>74</sup> In the victim hearings, Krog says, "Each word is exhaled from the heart; each syllable vibrates with a lifetime of sorrow."<sup>75</sup> Krog describes the moment when Nomonde Calata cried during her testimony about the murder of her husband Fort Calata as "the beginning of the Truth Commission—the signature tune, the definitive moment, the ultimate sound of what the process is about."<sup>76</sup> This moment has become iconic of the TRC, partly because of Krog's account of it in *Country of My Skull*.

Krog attempts to convey the emotion of the hearings, yet she also struggles to relay "the language, the rhythm, the imagery, of the original stories," which she finds are always "much better than [her] own effort."<sup>77</sup> She is left "naturally and unnaturally without words" as she attempts to translate this language into the written words of her memoir. In one instance, she transcribes the testimony of a man she refers to only as Lekotse, a shepherd whose home was raided by the security police, in the form of poetic verse.<sup>78</sup> As Shane Graham argues, the short, abrupt lines and poetic enjambment—the running of one line to the next without punctuation or syntactical stop—adds emotional intensity to the testimony, some of which was lost in the

translation from Lekotse's embodied telling of it, and calls attention to the effects of trauma through its somewhat erratic line breaks and stops.<sup>79</sup> While the final report thoroughly and systematically documents the "names of the dead," Krog is more concerned with conveying the "web of infinite sorrow."<sup>80</sup> If the TRC's truth was to include the "widest possible compilation" of people's perspectives and experiences, it needed to include this emotion. Moreover, the emotional intensity of the testimonies, although the reason Krog's initial readers skipped over them, compels readers to engage with them—affects readers—in a way the figures and findings in the final report do not.

Krog's creative re-presentation of testimony, on the one hand, engages her readers with various testimonies and works to capture the "widest possible compilation" of people's experiences with apartheid. On the other hand, these re-presentations enact a form of colonial violence, as Krog decontextualizes and universalizes witnesses' experiences and, moreover, appropriates and alters testimony to support her own thoughts and conclusions. Kate Highman writes of Krog's rendering of Lekotse's testimony, which she identifies as that of Johannes Likotisi: "Krog's exclusion of names, dates, costs, material specificities in her versification serves to render this a timeless story and the 'shepherd' an archetypal figure."<sup>81</sup> Highman identifies the exclusion of material details as a common and strategic pattern in Krog's use of testimony, as it elevates the symbolic over the material in support of Krog's arguments about the power of language. Both Highman and Catherine Cole demonstrate through a comparison of testimonies included in *Country of My Skull* and official TRC transcripts, Krog strategically altered testimony—even testimony such as Likotisi's that she claims is "in the exact words in which he spoke it"—to support arguments about pain, affect, and the destruction of language and her narrative of the TRC as healing.<sup>82</sup> Moreover, the exclusion of material details renders

Likotisi's experience abstract and, thus, more easily universalizable. It is unclear, then, how to understand her poetic rendering of Likotisi's testimony. Did Krog translate the affect and remnants of trauma from his testimony or invent them herself? We cannot be sure.

Even more troubling, Highman convincingly demonstrates that Krog specifically appropriates Black bodies and voices. Krog's arguments draw heavily from—to the point that she has been accused of plagiarizing—works by white intellectuals, including French sociologist Pierre Bourdieu, British anthropologist Julian Pitt-Rivers, and American essayist and English professor, Elaine Scarry.<sup>83</sup> Through her selective representations and creative alterations, she uses the voices and pained bodily expressions of Black victims—as well as those of Tutu, a highly respected Black figure of authority, and Professor Kondlo, a (perhaps fictionalized) Black intellectual—to lend greater authority and authenticity to her arguments. Highman writes, “Krog's transpositions also serve to colour, as ‘black’ and indigenous, disparate theories of white writers, lending her narrative of the TRC an appearance of indigeneity and allowing her to affiliate herself (and her work) within an African tradition.”<sup>84</sup> Krog engages in a double colonial move. First, she interprets the TRC through theories from Euro-American intellectual traditions without consideration of the cultural particularities and situatedness of those theories, and then she appropriates the authority of Black voices and bodies to legitimize her arguments.

Although Krog claims to pursue a truth that includes the “widest possible compilation” of people's perceptions and experiences, her compilation is, as she even says, her truth (“I am busy with the truth . . . *my* truth”).<sup>85</sup> Testimonies from the hearings make up a significant portion of the text, but she alters and appropriates these various perceptions and experiences, morphing them into her own instead. For Krog, though, the blending of her truth with “the hundreds of stories that we've experienced or heard about in the past two years” is essential to how she understands

the potential for truth to promote national unity and reconciliation.<sup>86</sup> By weaving together the stories from the TRC with her own, Krog underscores how her identity, especially as a white Afrikaner, shaped and was shaped by her engagement with the TRC.

From the beginning, her identity influences her interactions with and interpretations of the testimonies she witnesses at the TRC; through her engagement with them, her identity also shifts as she navigates her own complicity in apartheid and belonging in the post-apartheid nation. Krog identifies with the Afrikaner perpetrators, who she describes “as familiar as my brothers, cousins, and school friends,” and describes the collective guilt and shame she feels about her own complicity in apartheid.<sup>87</sup> “I shrink and prickle. Against. Against my blood and the heritage thereof. Will I forever be them—recognizing them as I do daily in my nostrils? Yes. And what we have done will never be undone,” she writes.<sup>88</sup> Krog finds herself jolted by the “the knowledge that I am white, that I have to reacquaint myself with this land, that my language carries violence as a voice, that I can do nothing about it, that after so many years I still feel uneasy with what is mine, with what is me.”<sup>89</sup> Sarah Ahmed explains that while feelings of guilt relate more to an action of wrongdoing, “in shame, more than my action is at stake: *the badness of an action is transferred to me*, such that I feel myself to be bad and to have been ‘found’ or ‘found out’ as bad by others.”<sup>90</sup> Shame, thus, leads to feeling that “to expel the badness, I have to expel myself from myself” or, as Krog describes it, an unease “with what is me.”<sup>91</sup> Krog reacquaints herself with and constitutes belonging within the nation, and herself, through her engagement with the TRC. Towards the end of the book, Krog “realize[s] that it is the commission alone” that has instilled a new sense of “fierce belonging.”<sup>92</sup>

Krog seems to demonstrate exactly the type of critical self-reflection and personal transformation the TRC hoped for. In the foreword of Volume 6 of the final report—published in

2003, after the Amnesty and Reparation and Rehabilitation Committees had completed their work—Tutu laments that “by and large, the white community failed to take advantage of the Truth and Reconciliation process.” He writes:

Many of them carry a burden of a guilt which would have been assuaged had they actively embraced the opportunities offered by the Commission; those who do not consciously acknowledge any sense of guilt are in a sense worse off than those who do. Apart from the hurt that it causes to those who suffered, the denial by so many white South Africans even that they benefited from apartheid is a crippling, self-inflicted blow to their capacity to enjoy and appropriate the fruits of change. But mercifully there have been glorious exceptions.<sup>93</sup>

Krog, it seems, would be one of those “glorious exceptions.” Krog’s personal transformation and constitution of belonging, however, must also be understood in the context of the lies she tells and testimonies she appropriates. Beyond supporting the story she wants to tell of the TRC, Krog’s appropriations, especially of Black suffering, are also the foundation of her own story of personal transformation and belonging. Highman argues that by “casting her work as indigenously African,” Krog “justif[ies] her continued position of ‘belonging’ and ‘authority’ in South Africa in a post-apartheid dispensation of black rule.”<sup>94</sup> Although throughout *Country of My Skull* Krog works to purposefully disrupt her reader so as to prevent a too-easy identification with and consumption of the TRC testimonies, Krog establishes her belonging through such appropriative identification herself.<sup>95</sup> Specifically, she elides Black suffering with her own suffering from witnessing the TRC and with Afrikaner suffering throughout South Africa’s history.<sup>96</sup> Yazir Henry, one of the many witnesses whose TRC testimony Krog re-presents, has ardently called Krog out for her appropriation of his testimony. Henry writes, “The

psychological pain she expresses, describing her coverage of the TRC, the pain she writes into the pages of her book, is not the same psychological pain I describe and bear witness to in my testimony.”<sup>97</sup> Yet, so complete is Krog’s mis-identification that by the end of her memoir she claims, “By a thousand stories I was scorched a new skin.”<sup>98</sup> As Highman argues, Krog figuratively suggests she is actually becoming “‘darker,’ more black.”<sup>99</sup> Moreover, it is through this identification with Blackness and Black suffering that Krog claims belonging to, and even a violent possession of, the country. Krog writes, “Ah, the commission! The deepest heart of my heart. Heart that can come only from this soil. . . . And that heart is black. I belong to that blinding black African heart. . . . For one brief, shimmering moment, this country, this county is also truly mine.”<sup>100</sup> Ultimately, Krog conflates her own belonging, constituted as it is through the appropriation of Black suffering, with the accomplishment of national belonging. Consider again and take seriously Krog’s title, *Country of My Skull*. Despite her attempts to represent the “widest possible compilation” of people’s experience, ultimately, Krog’s skull—and the ideas and experiences it contains—stands in for the experiences of all South Africans and humanity writ large. When Krog describes her quilting of stories, “my truth” becomes “the whole country’s truth.” She writes, “I am busy with the truth . . . *my* truth. Of course, it’s quilted together from hundreds of stories. . . . And all of this together makes up the whole country’s truth.”<sup>101</sup> As Henry asserts, however, “The country of her skull is not mine.”<sup>102</sup>

Although the TRC prompts Krog to consider her own identity, privilege, and ways in which she was a beneficiary of apartheid, she ultimately uses it as an out and avoids substantive redress. Krog’s appropriative identification and conflation of belonging join her arguments about and inclusion of affect to suggest the TRC has successfully moved the nation beyond racism. “The personal pain,” Krog says, “puts an end to all stereotypes. Where we connect now has



nothing to do with group or color, we connect with our humanity.”<sup>103</sup> In her final pages, she writes, “Against a flood crashing with the weight of a brutalizing past onto a new usurping politics, the commission has kept alive the idea of a common humanity. Painstakingly it has chiseled a way beyond racism and made space for all of our voices.”<sup>104</sup> Sarah Ahmed suggests shame “can do too much work in the uncertainty of the work that it is doing.”<sup>105</sup> It can result in a “failure to transform the social ideal into action, a failure which, when witnessed, confirms the ideal, and makes possible a return to pride.”<sup>106</sup> Highman argues that for Krog, “the TRC has enabled the sense not of loss of privilege and power, but a sense of the rightfulness of her place in Africa.”<sup>107</sup> Krog’s “assertion of belonging is pre-emptive, facilitated by a rhetoric of reciprocity, equality and community that is not borne out by the material inequalities which continue to mark South African society.”<sup>108</sup> While the final report lacks the affect of the hearings and writes out the active influence of its authors, *Country of My Skull* contains an excess of both affect and identification. Ultimately, it risks closing the book on the past as much as the final report, as Krog suggests a new and reconciled South Africa has already been achieved.

### **The Global Arts Corps’ Truth in Translation**

Produced by Michael Lessac in collaboration with a collective of South African actors and musical director Hugh Masekela, *Truth in Translation* tells the story of the interpreters who worked for the TRC. South Africa’s new constitution recognized 11 official languages. In an attempt to accommodate “sections of the South African society that would have been excluded had the standard forms of exclusion—English language and writing—been used as the means of communication,” the TRC committed to allow victims and perpetrators to communicate in the language of their choice.<sup>109</sup> As a result, interpreters played a vital role in the TRC’s hearings, and *Truth in Translation* provides an account of the TRC through their perspective. Much of the play

is performed as improvisation. Consequently, no published manuscript exists. The Global Art Corps, however, provides numerous interviews, video clips, and other publicity materials. Additionally, a documentary titled *A Snake Gives Birth to a Snake* depicts the play's production and global tour. These are the materials on which I base my analysis. These materials are also important in their own right, as they add additional layers to the truth that *Truth in Translation* provides.

Focusing on the role of the *interpreter* and the idea of truth *in translation*, *Truth in Translation*, like the final report and *Country of My Skull*, actively contemplates the idea of truth as it provides its own version of it. As in *Country of My Skull*, affect and identity are inseparable from *Truth in Translation's* account of the TRC. While Krog's memoir is inward-looking, toward the country of Krog's skull, *Truth in Translation* engages in other-centered practices of listening, beginning with its collaborative production process and extending through its performances, transnational tour in various conflict areas, and post-performance workshops with audiences. In its description of "social truth"—one of the four types of truth the TRC identified—the final report states, "The Commission acknowledged the importance of participation and transparency. Its goal was to try to transcend the divisions of the past by *listening* carefully to the complex motives and perspectives of those involved."<sup>110</sup> *Truth in Translation* enacts an ethic and practice of listening that extends the TRC's rhetorical practices of community-building and belonging into the present and beyond South Africa.

The concepts of translation and interpretation are central in *Truth in Translation*. While there is a distinction—both in scholarly literature and in the professional field—between translation and interpretation, *Truth in Translation* mobilizes the two concepts interchangeably. Reflecting their official title with the TRC, *Truth in Translation* identifies its protagonists as

“interpreters” in its own description of the project: a theatrical production that “tells the stories of young, untested *interpreters* who became the ‘voice’ of victim and perpetrator.”<sup>111</sup> Immediately, however, it introduces ambivalence as it describes the action of the play: “They *translated* simultaneously in the first person, with no time for thought and no option to turn away.”<sup>112</sup> More than simply mobilizing both terms, the description of “translation” here, as happening “simultaneously” and “with no time for thought,” more closely aligns with official definitions of interpretation. In the professional context, the primary difference between interpreting and translating is that one interprets orally and in-the-moment but translates a written text through prolonged engagement. My point is not to belabor the minutiae of distinguishing between the concepts or professional roles of translation and interpretation; rather, I posit that this ambivalence plays out productively in *Truth in Translation* to reveal relations among affect, identity, listening, and witnessing.

The ambivalence between interpretation and translation illuminates a “paradox between objectivity and emotional involvement” that pervaded the interpreters’ work, as well as my analysis thus far.<sup>113</sup> The opening lines of *Truth in Translation* echo the instructions given to the TRC interpreters. “Matters of the heart have no place here. You are just a witness. Do not become involved.”<sup>114</sup> Though instructed to remain professional and uninvolved, the interpreters were expected to “translate content as well as intensity.”<sup>115</sup> TRC interpreter Khethiwe Mboweni-Marais expressed, “A lot of interpreting is about conveying the emotions through the tone of your voice, and that’s why there’s a whole conflict between the issue of objectivity, that’s a relative term really. . . . You have to assume that voice. You have to assume that pain, the speaker.”<sup>116</sup> Catherine Cole contends there is a “profound” distinction between interpreting and translating. Interpretation, according to Cole, is “a functional rendering of content created within

the constraints of an improvised setting” that results in a “reduced truth.”<sup>117</sup> Cole’s characterization of interpretation as resulting in a “reduced truth” reflects the professional understanding that, given the constraints of interpreting simultaneously, interpretation may be less precise. However, Nicky Rousseau, a researcher for the TRC, described the distinction between interpreting and translating differently, while moderating a workshop among the TRC interpreters ten years after their work had ended. She explained that “emotion and intention, not necessarily accuracy” is important for interpretation.<sup>118</sup> While noting that interpretation may be less accurate, Rousseau foregrounded what is gained—emotion and intention—rather than framing it as a “reduced truth.”

The TRC’s truth and, thus, the truth translated in *Truth in Translation* had to include emotion. The impossibility of meeting the charge to “not become involved” drives the play’s plot. Gibson Alessandro Cima explains, “In lieu of conventional plot development, *Truth in Translation* derives its drama from watching the actor/interpreters try to remain professional while enacting scenes from key TRC hearings. The practical, emotional, and theoretical difficulties of interpreting live testimony are central to the musical’s dramaturgy.”<sup>119</sup> Describing the importance of emotion in *Truth in Translation*, Lessac stated, “The truth commission’s not just about who killed whom. It was important that they told their stories, and so all the facts and all the emotions had to come out.”<sup>120</sup> What Krog attempted to portray through poetry, the *Truth in Translation* actors perform on stage. While telling the story of the interpreters, they act out scenes from the TRC hearings, the interpreters’ personal struggles and breakdowns outside of the hearings, and the apartheid experiences represented in the TRC testimonies.

*Truth in Translation* also daringly sets testimony to music.<sup>121</sup> Hugh Masekela, a renowned South African musician, composed the music using testimony from the TRC for lyrics

and re-making traditional South African songs. While putting such trauma into music may seem profane, music was part of the TRC's hearings. Hymns and the national anthem were sung to open and close hearings.<sup>122</sup> Readjourning after Nomonde's Calata's cry—the cry Krog describes as emblematic of the limits of language to represent trauma—Desmond Tutu led the singing of “Senzeni Na?”, a Xhosa hymn. Music both captured and responded to the emotion of the TRC's hearings. *Truth in Translation* extends the use of music to help re-capture some of the emotion as it translates the experiences of apartheid, the public hearings, and the interpreters to its audiences.

Emotion was also unavoidable for the interpreters. In a workshop Lessac organized prior to producing the play, TRC interpreter Angela Sobey described trying to “remain so in control” and “not interpret in a shaky voice,” “even with the tears rolling down your cheeks.”<sup>123</sup> More than simply capturing the emotion present at the TRC's hearings to more fully translate the experience, *Truth in Translation* portrays and requires emotional involvement of the interpreters, actors, and audience, demonstrating the important relationship between affect and identification. Interpreter Wisani Sibuyi recalls being told to “be professional” and “sit there like a pipe and let information flow.” In reality, Sibuyi explains, “You get into the booth, and you listen to the stories, and you feel like dying. . . . I felt like crying, and I felt like killing someone for having done something wrong.”<sup>124</sup> As opposed to a “pipe” through which the information could flow without interruption (or a “window” through which to access the TRC's findings), interpreter Siphithi Mona describes the interpreter as “the sponge that absorbed all of the pain throughout the entire process.”<sup>125</sup> According to interpreter Charlene Dobson, “Interpreting in the first person, in order to do that as effectively as possible, you visualize. And that is where the trick, the trick sets in because now you're visualizing how somebody's dying. . . . You're visualizing exactly

what's going on. And it's almost as if you're there."<sup>126</sup> More than merely being there as a spectator, many interpreters visualized themselves as part of the experience, as evidenced by Sibuyi feeling "like dying" or "killing someone." Desmond Tutu explains in his foreword to the final report that the interpreters "had the trauma of not just hearing or reading about the atrocities, but have had to speak in the first person as either a victim or the perpetrator."<sup>127</sup> By focusing on the interpreters, *Truth in Translation* not only portrays the emotion of the hearings but also how this emotion affected those who witnessed it. Similar to many experiences Krog describes with the reporters covering the TRC, the actors/interpreters on the *Truth in Translation* stage erupt in anger, collapse in sadness, break out in fights, and find solace at the bar as they struggle with the affect of the hearings. Reflecting on his decision to focus on the interpreters in a play about the TRC, Lessac explains, "These translators, never, ever were they able to turn away. We learn how to turn away. We learn how to not pay attention. We know how to turn it off when it gets too painful."<sup>128</sup>

In translating both the content of the hearings and the interpreters' experiences onto the stage, the actors also could not turn away. According to Lessac, "There's a truth that comes out of actors' explorations that you can't find by doing history research. There is no way to walk away from the total human being if you're going to be an actor. There is no way to walk away from it. It, it's got a beautiful parallel to the translators, to the interpreters. There is no way to walk away from the 'I' in interpreting."<sup>129</sup> Mirroring the in-the-moment act of interpretation, much of *Truth in Translation* is performed as improvisation, requiring the actors to be fully engaged in the drama during every performance. Actor Mmabatho Mohomotsi observes, "I felt like I was working for the Truth Commission. . . . The stories were so real. They came to life.

They hit me here in the gut.”<sup>130</sup> The documentary about the play, *A Snake Gives Birth to a Snake*, depicts both the emotion performed on the stage and the toll it takes on the actors off the stage.

Cima contends the play’s opening lines “place[] its audience in the TRC interpreters’ position, inviting spectators to adhere to the same unmanageable directive: to remain uninvolved.”<sup>131</sup> Yet, it is harder to involve the audience of a play in the same way. Less is at stake. They can walk out. The problem mirrors the one Krog faced when her readers admitted to skipping over the testimonies. More than simply conveying the emotion of the hearings, the music in *Truth in Translation* also works, like Krog’s use of typeface, to ensure the audience cannot tune out nor forget the stories it tells. The music in *Truth in Translation*, however, does more. The *Truth in Translation* website describes, Masekela’s musical score as haunting, and there is not a more apt descriptor. I have read countless truth commission reports, testimonies, and creative renderings, and—although I am not proud to admit it—I can often do so with a degree of detachment and emotional distance. Despite Krog’s efforts, I still find myself skipping details and becoming weary from her at times overwrought language as she describes her own emotional turmoil. I cannot say the same for the songs in *Truth in Translation*. No other account of the TRC has stayed with me like the lines to the song “Teddy Bear,” which begins with the lines, “Six men stormed into the house/ And blew off my husband’s head” and ends with a child asking Father Christmas to “please bring me a smiling teddy bear” while a chorus repeats “teddy bear” in the background.<sup>132</sup> The song—not just the words, but also the melody, harmonies, repeating chorus, and image of actor Quanita Adams’s pained facial expression as she sings—haunts me.

The interpreter appears as a mediating figure that calls attention to the “veracity gap” Peters observes and that the final report attempts to write out. In the TRC hearings, the

interpreters worked in “glass cubicles set up in full view of all participants” and directly enabled participation in the hearings.<sup>133</sup> Many people experienced the hearings through the voices of the interpreters. Christine Anthonissen explains, “One was aware of how even with direct interpreting, there is distance: the audience sees one person and hears another, hesitations come slightly later, when the witness is silent, the interpreter is still finishing.”<sup>134</sup>

Moreover, every interpretation is mediated through the identity of the interpreter—“the ‘I’ in interpreting.”<sup>135</sup> The general understanding of interpretation (“my interpretation” of something is *my* explanation, based on my understandings of and experiences with the world around me) is instructive in this regard. The particular challenges of simultaneous interpretation also require interpreters to rely on their own knowledge and experience, as they lack the opportunity to consult other sources. As a result, their identity is inseparable from their interpretations and translations. Cole explains, “Their jobs required minute-by-minute choices about words, syntax, tone, emotional expressiveness, and narrative completeness. . . . The very fact that they were interpreters rather than translators made neutrality impossible.”<sup>136</sup> In an interview with Cole, interpreter Angela Sobrey recalls making a mistake in her interpretation of the Xhosa phrase “*ucele ithuba*,” which ambiguously means to “ask for a chance/opportunity/time.” Because, as Cole explains, Sobrey was only familiar with the “literal, surface meaning” of the phrase, she interpreted it as “going to ask for cigarettes,” to which the audience of Xhosa speakers laughed. Sobrey failed to catch a sexual innuendo implied in the phrase; the speaker was actually referring to asking for sexual favors.<sup>137</sup>

The interpreters’ personal identities also mediated their emotional connection to the witnesses and their testimonies. Sobrey explained that “Black and Colored interpreters” “relate to the victim’s pain because you yourself have experienced rejection on the basis of your skin



color.”<sup>138</sup> Echoing Krog’s identification with Afrikaner perpetrators who are “as familiar as [her] brothers, cousins, and school friends,”<sup>139</sup> Louis Nel, an Afrikaner interpreter, stated, “If I’m interpreting for a white Afrikaans speaking male as a perpetrator, I didn’t have to live myself into the role of the perpetrator because I grew up with him. It’s a mere process of holding a mirror in front of my face.”<sup>140</sup>

*Truth in Translation* very purposely inserts the actors into the characters and stories they translated. In a series of workshops, the actors worked with Lessac and Masekela to develop the script and music, based on their own stories and experiences. Like Krog, the actors weave their own experiences and life stories together with those of the interpreters and the witnesses at the TRC. The narrator in *A Snake Gives Birth to a Snake* explains, “These were not actors coming in, playing other people. They were actors coming in, playing themselves, in the guise of other people, in a country that they had lived in, with issues that they still deal with.”<sup>141</sup> Masekela used both transcripts from the public hearings (themselves products of the interpreters’ work) and the actors’ personal experiences to create the play’s music. According to Masekela, “The way the actors are working on it, it’s coming a lot from their own feelings because this relates to their grandmothers, their fathers, their mothers, their children. . . . I’m not going to try and compose too much. I’m going to, like draw it from their own life experiences, and from what they can remember as children, what they can remember from the era that we’re dealing with.”<sup>142</sup> The improvisation of the play further invites the actors’ personal investment in the production. As they translate the story of the TRC and of apartheid, their own stories become inextricably part of the translation and part of the TRC’s and South Africa’s narrative of truth and reconciliation.

More than simply layering their stories into those they were telling or telling those stories through their own identities, the actors and their stories change in the process. Adams remarks,

“When you put somebody’s life inside of you, so convincingly, which is what actors do, something happens to you.”<sup>143</sup> The actors perform and stage for their audience their own truth telling. Actor Andrew Buckland stated, “The whole project, it’s like a clever, true little con. It’s supposed to be about artists getting together to make a play, but actually, the play is by the way. All the stuff we talk about in the . . . play, we had to be.”<sup>144</sup> Both on and off the stage, the actors confront their own experiences with apartheid and its legacy. Buckland expresses, “The improvisation gave you some freedom to actually verbalize your own . . . racist shame, or shit, you know, with each other, and you had . . . a framework in which to do that.”<sup>145</sup> In the play, Adams, a mixed-race actor, performs her own discovery that her grandmother was white through her character, Alia. Adams reflects on her experience working with the play:

I realized that I had all kinds of unresolved issues that were very close to me. I thought I was fine with the fact that my grandmother was white and didn’t bother to tell me. I thought I was kind of okay with the fact that I had this apartheid collaborator for a grandfather, and I realized that I wasn’t. So, I think, I didn’t realize the intensity of my own stuff, my own political stuff that I’d come into the process with until I was kind of immersed in the process, and then suddenly, it all kind of came out.<sup>146</sup>

Actor Robert Koen says, “Telling the story of the interpreters, the stories they had to hear and translate, and how it affected them, revealed to me a different side of myself, of my country, of my people and of our history. A side that I comfortably chose to ignore before.”<sup>147</sup>

In the documentary, an audience member points out during one of the post-show talkbacks that the white actors are dominating the conversation. The film shows the actors afterward as they attempt to work through this uncomfortable realization and the tensions it both created and resulted from. The conversation that ensues does not result in some idyllic resolution

of racial tensions. It is imperfect, fraught, and uncomfortable. For instance, it begins with one of the white actors blaming the Black actors for not speaking up more. It also illuminates how the racial structure of apartheid and its legacy intersects with the challenges and responsibilities of witnessing. Actor Thembi Mtshali-Jones says, “Sometimes, as a Black person, and you listen to the white people who grew up in that system . . . and now they have to talk for me, for my pain that they never felt. . . . Sometimes that makes me angry, that you cannot really talk for me because you never experienced what I experienced. You can sympathize with my pain, but you never lived it.” In contrast to Krog’s declaration that the TRC ‘chiseled a way beyond racism,” the documentary does not depict a clear resolution of this conflict or these tensions.<sup>148</sup> It demonstrates the ingrency of South Africa’s past in the present.

While interpretation directs attention to the interpreter as a mediating figure, whose identity the interpretation necessarily filters through, translation foregrounds the act of bridging the distance between the source material and translation; it requires making the source material knowable in a different context. Interpreter Angela Sobrey describes it as “tak[ing] that speaker across” or “bring[ing] across that speaker.”<sup>149</sup> Upholding this responsibility to carry across is what most distinguishes the witnessing in *Truth in Translation*’s from that in *Country of My Skull*. While Krog is primarily concerned with the material from her own skull and positions “I” as her “ultimate source of accountability,”<sup>150</sup> *Truth in Translation* demonstrates a commitment both to those whose stories it tells and to whom it tells those stories. According to Cole, translation “requires prolonged engagement with source-language transcriptions; it attempts to convert into the target language the nuance, as well as the general meaning of a given speech.”<sup>151</sup> Although the TRC interpreters translated orally and in-the-moment, there was still an “emphasis on language, on giving the source text primacy, on accuracy of linguistic meaning and implied,

pragmatic meaning.”<sup>152</sup> The interpreters’ instructions to remain objective, however misguided and impossible they may have been, attest to this emphasis. Although translating in the moment presented significant challenges, it also made the interpreters’ commitment to listening all the more important. Lessac decided to make the interpreters the subject of his play precisely because they offered an important lesson about listening. He stated, “I started looking into the translators because a translator had to sit between victim and perpetrator and absorb both of them to be able to communicate between them. These people really had to listen. They really had to listen. And they felt the desperation, the huge desperation of making a mistake. If they didn’t get it right, they were betraying a human being.”<sup>153</sup>

The commitment to listening distinguishes *Truth in Translation* from the TRC’s final report and Krog’s memoir and defines new relations among truth, affect, identity, and belonging. The interpreters’ commitment to listen to the witnesses at the TRC combined with the affect of the hearings so that the interpreters were not able to “turn away” or “turn it off when it g[ot] too painful.” Moreover, the act of listening foregrounds a commitment to others that encourages a non-appropriative identification and the possibility of personal and social transformation. An ethic and practice of listening is central to the decolonial project and one of the commitments I identified as essential for my methodological approach. Nelson Maldonado-Torres writes “that the first and most basic gesture of the critique of Eurocentrism lies in listening to what the peoples on the periphery have to say about truth, justice, love, critique, community, life, and so forth.” This listening and learning, he clarifies, is not unidirectional; rather, it is “a matter of enacting a receptive de-colonial attitude by virtue of which true communication can be achieved.”<sup>154</sup>

## Conclusion

Each of these accounts of the TRC—its final report, Krog’s *Country of My Skull*, and the Global Art Corps’ *Truth in Translation*—adds layers of meanings, emotions, and modes of engagement to the TRC’s truth. All of these layers, and more, are essential to the TRC’s objective of promoting national unity and reconciliation. The framing discourse of the final report describes multiple types of truth necessary to promote national unity and reconciliation. Although the report itself relies almost exclusively on forensic truth, this account is an important resource and contribution. As Tutu says, it is an important “window” and “a road map” to access the vast resources collected by the TRC.<sup>155</sup> It also provides the foundation and recommendations for material reparations for the victims of apartheid, though those recommendations have been largely unanswered. However, when it is understood as *the* final product and *ultimate* bearer of the TRC’s legacy—as scholars and practitioners of transitional justice do, it is portrayed as a static and unitary document rather than the living document requiring further engagement that Tutu describes. The style and expectations associated with a final report further reinforce this understanding of it. Its systematic accounting—presented in countless charts, graphs, lists, and appendices—conveys a sense of finality as it also fails to translate the “taste” of the TRC’s public hearings. Finally, in their attempt to be impartial and objective, the TRC commissioners and other staff who wrote the report remain silent in their account and apart from the new national community it was intended to promote.

In stark contrast to the final report, Krog’s *Country of My Skull* is deeply personal and highly affective. While the report’s charts, graphs, and uniform summaries stripped down to the commission’s verifiable findings flatten the experiences they represent and do little to invite engagement, Krog’s account is so saturated with affect that it also risks turning her readers away.

By weaving testimonies from the TRC's hearings into her own, Krog both attempts to prevent her readers from skipping over them and demonstrates how, through her engagement with the TRC, these stories became part of her own. She emphasizes that her interpretations and involvement with the TRC were shaped by her own position and identity, which were simultaneously transformed by the experience. The extent of this transformation, however, is questionable at best, as Krog appropriates the testimonies to support her own perspectives. Although Krog says the TRC's truth must include the "widest possible compilation of people's perceptions, stories, myths, and experiences" and seems to do this through her inclusion of numerous testimonies, *Country of My Skull*, as her personal memoir, ultimately offers only Krog's truth.<sup>156</sup> By presenting her truth as "the whole country's truth," Krog claims to have found belonging in a new, reconciled nation. Despite all Krog can, should be, and has been criticized for, *Country of My Skull* is incredibly popular in South Africa and abroad. Even Tutu describes it as "a must-read" for all who are interested in the TRC.<sup>157</sup> Krog's narrative of healing and reconciliation, made through the appropriation of Black suffering, is no doubt partially responsible for this popularity. For rhetorical scholars, her arguments about language and the healing powers of narrative are particularly seductive. A decolonial perspective aids in problematizing Krog's account and resisting this seduction.

*Truth in Translation* adds several more layers to the TRC's truth—the stories and perspectives of the TRC's interpreters, the actors who portray the interpreters on stage, and even its audiences, who participate in workshops and dialogue with the actors. Like Krog, the actors purposely insert their own stories into those they perform on stage. Like the interpreters at the hearings, they cannot "not become involved." Through the affect of the performance, as well as the post-show workshops, they ensure the audience cannot either. While Krog is, as she says,

busy with her truth, the act of translation carries a responsibility to “bring across” the speaker. *Truth in Translation* performs this responsibility through a practice and ethic of listening that extends belonging and community outward.

The TRC recognized one type of truth could not fulfill its objective to promote national unity and reconciliation. Yet, one truth—its final report—is given the primary burden of carrying the TRC’s legacy. As my analysis suggests, the final report’s truth is complicit with modern/colonial logics of knowledge and knowledge production that render knowledge abstract and universalizable. The form of the report, thus, is more easily exportable with the institutional form of the truth commission. Yet, this chapter demonstrates the TRC’s truth is constituted across numerous texts, and not just the ones studied here. It includes not just the “widest possible compilation” of individual perspectives and experiences, but also a compilation of different understandings of truth and modes of engagement and constituting belonging. For scholars and practitioners of transitional justice, this chapter demonstrates the importance of looking beyond the institution. How a commission’s activities and findings are taken up, extended, and circulated by members of its community after its formal period of operation has ended is essential for understanding its contribution to national unity.

The takeaways of this chapter parallel and complement the decolonial project in several ways. My analysis emphasizes that truth is never identity-neutral; rather, it is always shaped by our particular experiences and position in the world. Although such an understanding of truth is often perceived and mobilized as destabilizing, this chapter demonstrates it can also be mobilized to constitute community and belonging—that is, as a source of solidarity. Through an ethic and practice of listening, we can begin to create a world that is not only inclusive of but constituted through these multiple, various, and subjective truths.

## Notes

---

<sup>1</sup> *Promotion of National Unity and Reconciliation Act*, 34 (1995), Section 3, accessed January 22, 2020, <http://www.truth.org.za/legal/act9534.html>. (hereafter cited as *PNUR Act*)

<sup>2</sup> Truth and Reconciliation Commission (TRC), *Truth and Reconciliation Commission of South Africa Report* (Cape Town: Truth and Reconciliation Commission, 1999), 1:116, accessed January 22, 2020, <https://www.justice.gov.za/trc/report/>. (hereafter cited as *TRC, Report*)

<sup>3</sup> Bradford Vivian, *Commonplace Witnessing: Rhetorical Invention, Historical Remembrance, and Public Culture* (New York: Oxford University Press, 2017), 4.

<sup>4</sup> *TRC, Report*, 1:18.

<sup>5</sup> Tutu's answer to this question is largely based in Christian values and understandings of forgiveness and reconciliation. The coloniality of the TRC's association with these Christian values could be a topic for its own essay but is not focus here. By considering truth beyond the institutional boundaries of the TRC, my analysis suggests alternative answers to this question.

<sup>6</sup> *TRC, Report*, 1:114.

<sup>7</sup> *TRC, Report*, 1:112.

<sup>8</sup> *PNUR Act*, Sect. 3(c); *TRC, Report*, 1:112.

<sup>9</sup> Priscilla Hayner, *Unspeakable Truths: Confronting State Terror and Atrocity* (New York: Routledge, 2002), 28.

<sup>10</sup> Catherine M. Cole, *Performing South Africa's Truth Commission: Stages of Transition* (Bloomington: Indiana University Press, 2009), xii.



---

<sup>11</sup> *PNUR Act*, Sect. 3(d).

<sup>12</sup> Hayner, *Unspeakable Truths*, 13.

<sup>13</sup> Eric Brahm, “Uncovering the Truth: Examining Truth Commission Success and Impact,” *International Studies Perspective* 8, no. 1 (2007): 31.

<sup>14</sup> Teresa Godwin Phelps, *Shattered Voices: Language, Violence, and the Work of Truth Commissions* (Philadelphia: University of Pennsylvania Press, 2004), 119.

<sup>15</sup> Mark Sanders, “Truth, Telling, Questioning: The Truth and Reconciliation Commission, Antjie Krog’s *Country of My Skull*, and Literature after Apartheid,” *Modern Fiction Studies* 46, no. 1 (2000): 15.

<sup>16</sup> Antjie Krog, *Country of My Skull: Guilt, Sorrow, and the Limits of Forgiveness in the New South Africa* (New York: Three Rivers Press, 2000), 372.

<sup>17</sup> TRC, *Report*, 1:144.

<sup>18</sup> *PNUR Act*, Sect. 3.

<sup>19</sup> TRC, *Report*, 1:111.

<sup>20</sup> Nicky Rousseau and Madeleine Fullard, “Accounting and Reconciling in the Balance Sheet of the South African Truth and Reconciliation Commission,” *Journal of Multicultural Discourses* 4, no. 2 (2009): 131.

<sup>21</sup> TRC, *Report*, 1:2.

<sup>22</sup> TRC, *Report*, 1:4.

<sup>23</sup> TRC, *Report*, 1:4.

---

<sup>24</sup> Katherine Elizabeth Mack, *From Apartheid to Democracy: Deliberating Truth and Reconciliation in South Africa* (University Park, PA: The Pennsylvania State University Press, 2014), 30.

<sup>25</sup> *PNUR Act*, Sect. 3(d).

<sup>26</sup> TRC, *Report*, 1:2.

<sup>27</sup> TRC, *Report*, 1:111.

<sup>28</sup> TRC, *Report*, 1:173. For a fuller understanding of the breadth of information and documents the TRC collected and created, see the South Africa History Archive (SAHA)'s TRC Collections and South Africa Broadcasting Corporation's digital archive, developed in partnership with the SAHA. South Africa History Archive, *TRC Collections*, [http://www.saha.org.za/collections/trc\\_collections .htm](http://www.saha.org.za/collections/trc_collections.htm); South Africa Broadcasting Corporation and South Africa History Archive, *Truth and Reconciliation Commission: Special Report*, <http://sabctrc.saha.org.za/home.htm>

<sup>29</sup> Charles Villa-Vicencio and Wilhelm Verwoed, "Constructing a Report: Writing up the 'Truth'," in *Truth v. Justice: The Morality of Truth Commissions*, ed. Robert I. Rotberg and Dennis Thompson (Princeton: Princeton University Press, 2000), 281.

<sup>30</sup> TRC, *Report*, 1:144.

<sup>31</sup> Villa-Vicencio and Verwoed, "Constructing a Report," 285.

<sup>32</sup> Mark Sanders, *Ambiguities of Witnessing: Law and Literature in the Time of a Truth Commission* (Stanford: Stanford University Press, 2007), 153.

---

<sup>33</sup> TRC, *Report*, 1:152.

<sup>34</sup> TRC, *Report*, 7:1.

<sup>35</sup> TRC, *Report*, 7:5.

<sup>36</sup> TRC, *Report*, 1:64. It should also be noted that many victims did not survive to tell their own stories. Rather, their experiences were told either by family or acquaintances or by the perpetrators who committed the violations, who testified in exchange for amnesty. Consequently, many aspects of these victims' experiences were never available to be included in the final report.

<sup>37</sup> TRC, *Report*, 7:299.

<sup>38</sup> Malaka Motimedi, Truth and Reconciliation Commission Human Rights Violations Submissions—Questions and Answers, March 10, 1996, Venda, South Africa, <https://www.justice.gov.za/trc/hrvtrans/venda/motimedi.htm>.

<sup>39</sup> Villa-Vicencio and Verwoed, "Constructing a Report," 281.

<sup>40</sup> TRC, *Report*, 1:112.

<sup>41</sup> TRC, *Report*, 7:4

<sup>42</sup> TRC, *Report*, 7:5.

<sup>43</sup> Charles S. Maier, "Doing History, Doing Justice: The Narrative of the Historian and of the Truth Commission" in *Truth v. Justice: The Morality of Truth Commissions*, ed. Robert I. Rotberg and Dennis Thompson (Princeton: Princeton University Press, 2000), 274.

---

<sup>44</sup> John Durham Peters, *Courting the Abyss: Free Speech and the Liberal Tradition* (Chicago: University of Chicago Press, 2005), 250.

<sup>45</sup> Marianne Hirsch, *The Generation of Postmemory: Writing and Visual Culture After the Holocaust* (New York: Columbia University Press, 2012), 5, 199.

<sup>46</sup> Walter Dignolo explains that “changing the terms of the conversation”—that is, decolonizing knowledge production—requires starting with the assumption “that the knower is always implicated, geo- and body-politically, in the known.” Modern epistemology, by contrast, concealed this “and built the figure of the detached observer, a neutral seeker of truth and objectivity who at the same time controls the disciplinary rules and puts himself or herself in a privileged position to evaluate and dictate.” Walter D. Mignolo, *The Darker Side of Western Modernity: Global Futures, Decolonial Options* (Durham, NC: Duke University Press, 2011), 123.

<sup>47</sup> Shane Graham, *South African Literature after the Truth Commission: Mapping Loss* (New York: Palgrave Macmillan, 2009), 30-31. On concerns within public memory scholarship, see for example, Andreas Huyssen, *Present Pasts: Urban Palimpsests and the Politics of Memory* (Stanford, Stanford University Press, 2003).

<sup>48</sup> Sanders, *Ambiguities of Witnessing*, 151.

<sup>49</sup> Tom Nevin, “South Africa: Selective Soul Searching?” *African Business*, December 1, 1998, 29.

---

<sup>50</sup> Hein Marais, “Not Everyone Benefits from South Africa’s Progress. The Truth Commission May Have Exposed Some of the Evils of Apartheid, but it Can’t Ensure That Wealth and Opportunity are Fairly Distributed,” *The Globe and Mail* [Toronto, Canada], October 29, 1998, A18.

<sup>51</sup> Hayner, *Unspeakable Truths*, 31.

<sup>52</sup> TRC, *Report*, 1:4.

<sup>53</sup> TRC, *Report*, 7:9.

<sup>54</sup> Sanders, “Truth, Telling, Questioning,” 16. Krog makes the distinction between *Country of My Skull* and a “factual report,” and specifically her reporting on the TRC in Antjie Krog, “Last Time, This Time,” *LitNet*, March 20, 2006, [https://oulitnet.co.za/seminarroom/krog\\_krog2.asp](https://oulitnet.co.za/seminarroom/krog_krog2.asp).

<sup>55</sup> Krog, *Country of My Skull*, 21-22.

<sup>56</sup> Krog, *Country of My Skull*, 66, 388.

<sup>57</sup> Krog, *Country of My Skull*, 388.

<sup>58</sup> Krog, *Country of My Skull*, 225.

<sup>59</sup> Krog, *Country of My Skull*, 50.

<sup>60</sup> Krog, *Country of My Skull*, 50.

<sup>61</sup> Krog, “Last Time.”

<sup>62</sup> Krog, *Country of My Skull*, 45, 125, 171.

<sup>63</sup> Krog, *Country of My Skull*, 225.

---

<sup>64</sup> Krog, *Country of My Skull*, 111. Krog spells Motasi's name as "Mutase"; however, I've used the correct spelling here, as indicated in the final report (TRC, *Final Report*, 7:515) and the amnesty application for two of the Motasi's murderers, available at <http://www.justice.gov.za/trc/decisions/2001/ac21010.htm>.

<sup>65</sup> Krog, *Country of My Skull*, 111.

<sup>66</sup> Mahmood Mamdani, "Amnesty or Impunity? A Preliminary Critique of the Report of the Truth and Reconciliation Commission of South Africa (TRC)," *Diacritics*, 32, no. 3-4 (2002): 58.

<sup>67</sup> Krog, *Country of My Skull*, 111.

<sup>68</sup> Krog, *Country of My Skull*, 111.

<sup>69</sup> Krog, *Country of My Skull*, 111.

<sup>70</sup> TRC, *Report*, 7: 515.

<sup>71</sup> Antjie Krog, "The Cook, The Stew and the Taster: Writing from Inside, Editing from Outside," *Scrutiny* 2 11, no. 2 (2006): 93-44.

<sup>72</sup> *Country of My Skull* was originally published in Afrikaans and did not include the glossary or cast of characters.

<sup>73</sup> Peters, *Courting the Abyss*, 250.

<sup>74</sup> Krog, *Country of My Skull*, 45.

<sup>75</sup> Krog, *Country of My Skull*, 132.

---

<sup>76</sup> Krog, *Country of My Skull*, 57. Fort Calata was one of the Cradock Four, four anti-apartheid activists whose murder by the South African security forces on June 27, 1985 is one of the more notorious acts of state violence during apartheid.

<sup>77</sup> Krog, *Country of My Skull*, 312.

<sup>78</sup> Krog, *Country of My Skull*, 286.

<sup>79</sup> Graham, "The Truth Commission," 26-27.

<sup>80</sup> Krog, *Country of My Skull*, 45.

<sup>81</sup> Kate Highman, "Forging a New South Africa: Plagiarism, Ventriloquism, and the 'Black Voice' in Antjie Krog's *Country of My Skull*," *Journal of Southern African Studies* 41, no. 1 (2015): 200.

<sup>82</sup> Krog, *Country of My Skull*, 217; Highman, "Forging a New South Africa: Plagiarism, Ventriloquism, and the 'Black Voice'," 187-206; Catherine Cole, *Performing South Africa's Truth Commission*, 81.

<sup>83</sup> Highman, "Forging a New South Africa: Plagiarism, Ventriloquism, and the 'Black Voice'," 205.

<sup>84</sup> Highman, "Forging a New South Africa: Plagiarism, Ventriloquism, and the 'Black Voice'," 205.

<sup>85</sup> Krog, *Country of My Skull*, 225, ellipses in original.

<sup>86</sup> Krog, *Country of My Skull*, 225.

<sup>87</sup> Krog, *Country of My Skull*, 121.

---

<sup>88</sup> Krog, *Country of My Skull*, 171.

<sup>89</sup> Krog, *Country of My Skull*, 285.

<sup>90</sup> Sarah Ahmed, *The Cultural Politics of Emotion* (New York: Routledge, 2004), 105.

<sup>91</sup> Ahmed, *The Cultural Politics of Emotion*, 104; Krog, *Country of My Skull*, 285, 171.

<sup>92</sup> Krog, *Country of My Skull*, 361.

<sup>93</sup> TRC, *Report*, 6:foreword, n.p.

<sup>94</sup> Kathryn Barbara Highman, “Forging a New South Africa: Plagiarism and the National Imaginary,” (PhD diss., The University of York, 2011), 207.

<sup>95</sup> Several critics of *Country of My Skull* accuse Krog of appropriating witnesses’ testimonies to support the narrative of her own emotional journey with the TRC. See, for example, Méira Cook, “Metaphors for Suffering: Antjie Krog’s *Country of My Skull*,” *Mosaic: An Interdisciplinary Critical Journal* 34, no. 3 (2001): 73-89; Laura Moss, ““Nice Audible Crying’: Editions, Testimonies, and *Country of My Skull*,” *Research in African Literatures* 37, no. 4 (2006): 85-104.

<sup>96</sup> Highman makes this argument more thoroughly in her dissertation. See Highman, “Forging a New South Africa: Plagiarism and the National Imaginary,” 102.

<sup>97</sup> Yazir Henry, “The Ethics and Morality of Witnessing: On the Politics of Antjie Krog (Samuel’s) *Country of My Skull*,” in *Trauma, Memory, and Narrative in the Contemporary South African Novel*, edited by Ewald Mengel and Michela Borzaga (New York: Rodopi, 2012), 112.

<sup>98</sup> Krog, *Country of My Skull*, 364.



---

<sup>99</sup> Highman, “Forging a New South Africa: Plagiarism, Ventriloquism, and the ‘Black Voice’,” 204.

<sup>100</sup> Krog, *Country of My Skull*, 338.

<sup>101</sup> Krog, *Country of My Skull*, 225; Highman also makes this argument. Highman, “Forging a New South Africa,” 203.

<sup>102</sup> Henry, “The Ethics and Morality of Witnessing,” 138.

<sup>103</sup> Krog, *Country of My Skull*, 61.

<sup>104</sup> Krog, *Country of My Skull*, 364.

<sup>105</sup> Ahmed, *Cultural Politics of Emotion*, 120.

<sup>106</sup> Ahmed, *Cultural Politics of Emotion*, 109.

<sup>107</sup> Highman, “Forging a New South Africa: Plagiarism and the National Imaginary,” 208.

<sup>108</sup> Highman, “Forging a New South Africa: Plagiarism and the National Imaginary,” 214.

<sup>109</sup> Sam Raditlhalo, “Truth in Translation: The TRC and the Translation of the Translators,” *Biography* 32, no. 1 (2009): 92. Section 11(f) of the *Promotion of National Unity and Reconciliation Act* states, “Appropriate measures shall be taken to allow victims to communicate in the language of their choice.”

<sup>110</sup> TRC, *Report*, 1:113, emphasis added.

<sup>111</sup> The Colonnades Theatre Lab, “The Play,” *Truth in Translation*, accessed January 22, 2020, [http://www.truthintranslation.org/index.php/v2/the\\_play/](http://www.truthintranslation.org/index.php/v2/the_play/). (emphasis mine)

<sup>112</sup> The Colonnades Theatre Lab, “The Play.” (emphasis mine)

---

<sup>113</sup> Gibson Alessandro Cima, “Exporting South Africa’s Truth and Reconciliation Commission: Global Arts Corps’ *Truth in Translation*,” *Theatre Journal* 70, no. 1 (2018): 51.

<sup>114</sup> A published manuscript of the play does not exist. This quote comes from: Diana Garcia, “‘Truth in Translation’ is Eye-Opening,” *The Daily Campus*, Sep. 11, 2007, <https://www.smudailycampus.com/news/truth-in-translation-is-eyeopening>. A review in *Variety* reports a similar opening line: “You must not make judgments or take sides . . . you are witnesses, that is all . . . do not become involved.” Mark Fisher, “Truth in Translation,” *Variety*, August 8, 2007, <https://variety.com/2007/legit/reviews/truth-in-translation-1200557320/>.

<sup>115</sup> Christine Anthonissen, “On Interpreting the Interpreter—Experiences of Language Practitioners Mediating for the TRC,” *Journal of Multicultural Discourses* 3, no. 2 (2008): 179.

<sup>116</sup> *A Snake Gives Birth to a Snake*, directed by Michael Lessac (New York: Global Art Corps, 2014).

<sup>117</sup> Cole, *Performing South Africa’s Truth Commission*, 68.

<sup>118</sup> Qtd. in Anthonissen, “On Interpreting the Interpreter,” 172.

<sup>119</sup> Cima, “Exporting,” 48.

<sup>120</sup> “Interview with Artistic Director,” *Truth in Translation*, produced by South African Broadcasting Corporation, 2007, video, <http://www.truthintranslation.org/index.php/v2/video>.

<sup>121</sup> Krog, *Country of My Skull*, 66.

<sup>122</sup> Krog describes this. See Krog, *Country of My Skull*, 37, 285-286.

---

<sup>123</sup> “TRC Interpreters Conference, 2003,” *Truth in Translation*, produced by the Colonnades Theatre Lab, 2003, video, <http://www.truthintranslation.org/index.php/v2/video>.

<sup>124</sup> “TRC Interpreters Conference, 2003.”

<sup>125</sup> “TRC Interpreters Conference, 2003.”

<sup>126</sup> “TRC Interpreters Conference, 2003.”

<sup>127</sup> TRC, *Report*, 1:21.

<sup>128</sup> *A Snake Gives Birth to a Snake*.

<sup>129</sup> “Script & Music Workshops, 2005,” *Truth in Translation*, produced by the Colonnades Theatre Lab, 2005, video, <http://www.truthintranslation.org/index.php/v2/video>.

<sup>130</sup> “Script & Music Workshops, 2005,”

<sup>131</sup> Cima, “Exporting,” 47.

<sup>132</sup> A sample of the music is available at: The Colonnades Theatre Lab, “Music,” *Truth in Translation*, accessed January 22, 2020 [http://www.truthintranslation.org/index.php/v2 /music/](http://www.truthintranslation.org/index.php/v2/music/)

<sup>133</sup> Anthonissen, “On Interpreting the Interpreter,” 166.

<sup>134</sup> Anthoniessen, “On Interpreting the Interpreter,” 171.

<sup>135</sup> “Script & Music Workshops.”

<sup>136</sup> Cole, *Performing South Africa’s Truth Commission*, 76.

<sup>137</sup> Cole, *Performing South Africa’s Truth Commission*, 71.

<sup>138</sup> Cole, *Performing South Africa’s Truth Commission*, 74-75.

<sup>139</sup> Krog, *Country of My Skull*, 120.

---

<sup>140</sup> “TRC Interpreters Conference, 2003.”

<sup>141</sup> *A Snake Gives Birth to a Snake*

<sup>142</sup> *A Snake Gives Birth to a Snake*

<sup>143</sup> *A Snake Gives Birth to a Snake*

<sup>144</sup> *A Snake Gives Birth to a Snake*

<sup>145</sup> *A Snake Gives Birth to a Snake*

<sup>146</sup> *A Snake Gives Birth to a Snake*

<sup>147</sup> Colonnades Theatre Lab, “*Truth in Translation*—The ‘Truth’ Behind the Play,” educational materials, [http://www.truthintranslation.org/educational\\_materials.pdf](http://www.truthintranslation.org/educational_materials.pdf).

<sup>148</sup> Krog, *Country of My Skull*, 364.

<sup>149</sup> Qtd. in Cole, *Performing South Africa’s Truth Commission*, 76.

<sup>150</sup> Highman, “Forging a New South Africa: Plagiarism, Ventriloquism, and the ‘Black Voice,’” 203.

<sup>151</sup> Cima, “Exporting,” 49. (referring to Cole 68)

<sup>152</sup> Anthonissen, “On Interpreting the Interpreter,” 171.

<sup>153</sup> *A Snake Gives Birth to a Snake*

<sup>154</sup> Nelson Maldonado-Torres, *Against War: Views from the Underside of Modernity* (Durham, NC: Duke University Press, 2004), 246

<sup>155</sup> TRC, *Report*, 1:2.

<sup>156</sup> Krog, *Country of My Skull*, 21-22.

<sup>157</sup> Krog, *Country of My Skull*, back cover.

### Chapter 3

#### **Reconciliation: Kenya's Truth, Justice, and Reconciliation Commission**

On April 18, 2008, Mwai Kibaki was sworn in for the second time for his second term as president of Kenya. At the ceremony, Kibaki declared, "Our people are now in the process of reconciliation. We have resolved as a nation, that we belong together." He urged Kenyans to "join hands as a nation" and do their part to "build a new Kenya."<sup>1</sup> The reason for Kibaki's talk of reconciliation and "build[ing] a new Kenya" was directly tied to the reason for his second ceremony. The original ceremony had taken place nearly four months earlier, immediately after the Electoral Commission of Kenya (ECK) announced on December 30 that Kibaki had won what became a highly contested election. Irregularities at the polls and during the ballot counting had delayed the announcement of the election results for days. All the while, tensions rose in Kenya along with suspicions the election had been rigged. The ECK's announcement of Kibaki's win incited violent protests by supporters of Kibaki's opponent, Raila Odinga, and Kibaki hurried to be sworn in before the decision could be further questioned. So rushed was the ceremony, it was reported that "those present forgot to sing the national anthem."<sup>2</sup> The ceremony, however, did not squelch the spreading violence in Kenya. Within weeks, more than a thousand Kenyans were dead and at least 350,000 more displaced from their land and homes.<sup>3</sup>

As part of an agreement to end the violence, Kibaki and Odinga agreed on a coalition government with Kibaki remaining as president—and re-taking the oath of office—and Odinga filling the newly-created position of prime minister. While the coalition solved the immediate political dispute, the violence in Kenya reflected more longstanding and deep-seated grievances. To address these, the agreement called for the establishment of the Truth, Justice and Reconciliation Commission (TJRC). In October 2008, Kenya's National Assembly established

the TJRC with the purpose of promoting “peace, justice, national unity, healing, and reconciliation among the people of Kenya.”<sup>4</sup> Echoing Kibaki’s call to “build a new Kenya,” the TJRC was established with the hope of “giv[ing] the people of Kenya a fresh start.”<sup>5</sup> According to the TJRC, the primary question it confronted was: “how can healing, reconciliation and national unity be fostered so that all the Kenyan people can be mobilized towards a common vision and future; a future characterized by a shared national identity, and common values and aspirations as captured in the words of the National Anthem?”<sup>6</sup> The TJRC’s answer to this question is the subject of this chapter.

The TJRC’s question of how to cultivate “reconciliation and national unity,” a “common vision” of the future, and a “shared national identity” marked by “common values and aspirations” is a question also commonly asked by rhetorical scholars. With roots in Kenneth Burke’s emphasis on identification as the central principle of rhetoric, rhetorical scholars have long noted rhetoric’s constitutive capacity.<sup>7</sup> Citing Benedict Anderson’s description of a nation as an “imagined community,” many scholars seek to explain how rhetoric constructs national community.<sup>8</sup> As Jay Childers writes, “While it most certainly consists of bounded lands and real people, a nation requires rhetoric to make those lands and peoples mean something specific.”<sup>9</sup> Broadly speaking, these theories suggest rhetoric constructs national community through creating shared beliefs, values, and practices. It would be easy and seem fitting to look to rhetorical theory to answer the TJRC’s question of how to craft “a shared national identity, and common values and aspirations.”

These theories, however, are tied to particular assumptions about relations among the nation-state, citizenship, and rhetoric, assumptions that do not carry equal weight in Kenya. Foundationally, the national community is assumed to be coterminous with the nation-state,

which is understood as providing the primary form of belonging. This assumption is not unique to rhetorical scholarship and is so mundane as to be taken for granted because, since the Treaty of Westphalia was signed in 1648, our inter-national world system has been organized according to the political boundaries of nation-states and principle of nation-state sovereignty. As Belinda Stillion Southard observes, even as the boundaries of the nation-state have “become increasingly porous and flexible” due to forces of globalization, “nation-states have worked to reestablish the rigidity of their boundaries, intensifying their power to define who belongs and who does not to a national community.”<sup>10</sup>

They “define who belongs and who does not” through the rhetoric of citizenship. Rhetorical theories on belonging and national community are particularly tied to what Karma R. Chávez identifies as rhetoric’s “citizenship narrative.”<sup>11</sup> Chávez explains, “Most of the rhetorical theory and criticism published in the field takes the value and ideal of citizenship for granted, ignoring altogether or, at best, reframing appeals that challenge the very bases of citizenship and the nation-state.”<sup>12</sup> The shared beliefs, values, and practices that rhetorical scholars find constitute belonging and shape the national community define individuals’ identities and roles as citizens (and in rhetorical scholarship, most often specifically as U.S. citizens). Thus, I characterize these theories as describing a *citizenship model* of national community. Childers, for example, writes that rhetoric “form[s] a fairly stable set of attitudes, beliefs, and values about what it means to be a democratic citizen and a member of the American people.”<sup>13</sup> Consider also Jennifer Mercieca’s description of “political fictions” as “the narratives that political communities tell themselves about their government” that provide a framework for understanding the nation’s political practices and how citizens act within this political community.<sup>14</sup> Even as Rob Asen seeks to expand our understanding of citizenship as a “mode of

public engagement,” rather than the possession of citizens, his “discourse theory of citizenship” remains just that—a theory of citizenship.<sup>15</sup> The lens of citizenship narrowly determines what we recognize as legitimate modes of rhetorical practice and who we recognize as legitimate practitioners of rhetoric. Simultaneously, it limits how we understand community and belonging.

In Kenya, as in other post-colonies, the easy association between the nation and nation-state is neither a taken for granted assumption nor a lived reality. It is for this reason that Kenyan activist, writer, and Nobel laureate, Wangari Maathai makes the distinction between micro-nations and macro-nations. “The modern African state,” Maathai explains, “is a superficial creation: a loose collection of ethnic communities or micro-nations, brought together in a single entity, or macro-nation, by the colonial powers.”<sup>16</sup> By identifying the ethnic communities that comprise the macro-nation as micro-nations, Maathai emphasizes that, though they might be small, “they have all the characteristics that define nationhood, notably shared common customs, physical boundaries, origins, history, and language.”<sup>17</sup> The nation-state, or macro-nation, is, for many Africans, a far more distant and arbitrary abstraction than it is understood to be in the West.<sup>18</sup> Maathai explains that upon gaining independence, “the new [African] nation-states were given a name, a flag, and a national anthem, and then were handed over to a select group of Western-educated elites.”<sup>19</sup> As a result, “most Africans didn’t understand or relate to the nation-states created for them by the colonial powers; they understood, related to, and remained attached to the physical and psychological boundaries of their micro-nations.”<sup>20</sup>

As the TJRC observed in its final report, “it was under the colonial power that the *political entity now known as Kenya was formed.*”<sup>21</sup> “The origin of Kenya as presently constituted,” it described elsewhere, “can be traced back to 1895 when the British East Africa Protectorate was established. Prior to that, every community that lived in the *territory now called*



*Kenya* existed as a discrete unit according to its own respective socio-political arrangements.”<sup>22</sup> While recognizing the “political entity” or “territory now called Kenya” was an externally-imposed colonial creation, the TJRC nevertheless sought to contribute to efforts that went “back to the founding of the nation, in 1963” to “create a nation of people who view themselves first as Kenyan.”<sup>23</sup>

The TJRC’s answer to its question of how to mobilize Kenyans “towards a common vision and future” with “a shared national identity” is attuned to this context, in which ethnic, or micro-national, belonging exists alongside macro-national belonging and citizenship.<sup>24</sup> Meeting Kibaki’s call to “build a new Kenya,” required a new understanding of what “Kenya” is and how it is constituted. Contributing to a growing body of scholarship that seeks to decenter citizenship and the nation-state as the primary, if not exclusive, mode and locus of belonging, I consider how the TJRC reimagined national belonging in its quest to promote national unity.<sup>25</sup> Through an analysis of the TJRC’s interpretation of its mandate and description of its work in its final report, I identify three threads that run through and hold together the TJRC’s understanding of its contribution to national unity. First, it tied national unity to reconciliation and understood national unity through this lens. Second, it established truth telling as the primary mode of promoting national unity and reconciliation. Third, it understood ethnic relations as central to promoting national unity and reconciliation. Though I parse these three threads for the sake of clarity in my analysis, they are inextricably bound. Together, I argue, they form a *reconciliation model* of national unity that decenters national citizenship as the primary mode and locus of belonging. The reconciliation model is constituted through participatory inclusion and relations among community members and is attuned to the material conditions and interactions of everyday life.<sup>26</sup>

To make this argument, I first provide more context about Kenya's 2007/2008 post-election violence, focusing in particular on the relevance of ethnic identification, and the decision to establish a truth commission. I then turn to my analysis of how reconciliation, truth-telling, and ethnic identification and belonging shaped the TJRC's configuration of national unity. Finally, I conclude by discussing the characteristics of the TJRC's reconciliation model of national belonging and implications for rhetorical scholarship.

### **A Truth Commission in Kenya**

There had been proposals for a truth commission in Kenya as early as the 1990s. In 2003, the government even established a task force to investigate the possibility. Although the task force found widespread public support for a truth commission and recommended its establishment within a year, the political will behind it dissipated.<sup>27</sup> The 2007/2008 post-election violence, however, provided new energy for the idea. Kibaki identified the violence as a "crucial turning point."<sup>28</sup> The TJRC explained in its final report, "The violence, bloodshed and destruction of the PEV [post-election violence] shocked Kenyans into the realisation that their nation, long considered an island of peace and tranquility, remained deeply divided since independence from British colonial rule in December 1963. It prompted a fresh opportunity to examine the negative consequences of the past five decades that contributed to a state that still holds sway in Kenya."<sup>29</sup>

Millions of Kenyans lined up to vote on December 27, 2007. Despite some skirmishes in the lead up to the election, Kenyans and outside election observers were generally optimistic. Democracy was alive and well in Kenya, the queues at the polls seemed to suggest. Early surveys suggested the election would be close but that Odinga would likely win. As the initial results were tallied, Odinga gained a strong lead. Overnight, however, Odinga lost what seemed

to be an insurmountable lead, and the race transformed into a “knife-edge election.”<sup>30</sup> The ECK delayed announcing the winner for two more days, citing irregularities at the polls and errors counting the ballots. As time passed, suspicions of foul play and political tensions and unrest heightened. When the ECK finally announced on December 30 that Kibaki had won the election, violent protests erupted throughout the country. Attacks and counter-attacks quickly escalated the violence, and protesters also met violent suppression by Kenyan police forces.

In Kenya, as in many postcolonial polities, ethnic identification is not only more central to people’s lives and identities than identification to the nation-state; it is also a primary source of political mobilization and identification. While ethnicity can be an important source of social solidarity, across Africa it has been exploited—first by colonists, then by politicians—to mobilize people against each other.<sup>31</sup> Politicians in Kenya commonly and openly mobilize ethnic identification for political gain. In Kenya’s contemporary multi-party system, in which a presidential candidate only needs a plurality of the votes to win, candidates rely on the support of their ethnic communities to win elections. Additionally, political power is heavily concentrated within the executive branch, providing the president with significant power to favor his own ethnic group with land, resources, and jobs. With such high stakes riding on whether someone from one’s own ethnic group is in power, the political ideology of a party tends to matter much less than ethnic identity.<sup>32</sup> As a result, the political tensions that preceded the ECK’s announcement and the violence that followed it unfolded along lines that were both political and ethnic. Ethnic identity alone was enough to implicate someone with an opposing political party and violent acts committed by members of that party. As reported by the Commission of Inquiry into Post-Election Violence (CIPEV), a body later established to investigate the violence, “Guilty by association was the guiding force behind deadly ‘revenge’ attacks, with victims being

identified not for what they did but for their ethnic association to other perpetrators.”<sup>33</sup> Thus, protests by Odinga’s supporters and reprisal attacks by Kibaki’s were primarily between the Kikuyu, Kibaki’s ethnic community, and a coalition of ethnic communities supporting Odinga, including his own Luo community.<sup>34</sup>

The violence that prompted the creation of the TJRC was simultaneously political and ethnic. National unity would, thus, require reconciling political and ethnic relations. Moreover, it would require a model of national community and belonging that accounted for the centrality of ethnicity in Kenyan political life, as a determinant of political identity and source of political mobilization. In the following section I describe how the TJRC attempted to meet these demands through its configuration of national unity in relation to reconciliation, truth telling, and ethnic belonging, resulting in a reconciliation model of national belonging.

### **Promoting National Unity through Reconciliation, Truth Telling, and Ethnic Belonging**

The TJRC’s report is an expansive and complex document, spanning four volumes, amounting to approximately 2,200 pages. It was jointly written by the commissioners and numerous members of the commissions research staff and was subject to intense political scrutiny that ultimately, and controversially, shaped the final version.<sup>35</sup> Moreover, like all truth commissions, the TJRC needed to conceptualize and operationalize hugely abstract concepts. Its overarching objective, according to its founding legislation, was “to promote peace, justice, national unity, healing and reconciliation among the people of Kenya.”<sup>36</sup> In addition to the multiple aspirations included in this objective, “truth, justice, and reconciliation” were, as indicated in its name, “core concepts that were central to its mandate and operations.”<sup>37</sup> It described the relations among these concepts and its mandate in various, and often inconsistent,

ways. This can be seen, for instance, in the fact that some, but not all, of the core concepts are also included in the description of the commission's objective.

The TJRC's understanding of national unity was deeply entangled with its conceptions of reconciliation, truth telling, and ethnicity. The purpose of this section is to provisionally untangle these concepts to better understand how they framed the TJRC's understanding of national unity. For each, I describe how the TJRC positioned the concept in relation to national unity and how it ultimately shaped the TJRC's reconciliation model of national community and belonging. In doing so, I make some preliminary observations about the characteristics of this model, which I draw together in my conclusion.

### **Reconciliation**

The TJRC placed special emphasis on its objective of promoting "national unity and reconciliation." In one instance it identified "foster[ing] national unity and reconciliation" as "the ultimate purpose of the Commission."<sup>38</sup> Additionally, the entire third volume of the final report is devoted to "issues relating to national unity and reconciliation in Kenya."<sup>39</sup> Notice, in all of these cases, the TJRC paired national unity and reconciliation. Indeed, the term "national unity" almost never appears independently of "reconciliation" in the final report.<sup>40</sup> While the commission described its understanding of reconciliation at length and in numerous sections of the report, it never specifically articulated its understanding of national unity. Rather, it understood national unity through the lens of reconciliation. For this reason, I explain the TJRC's understanding of reconciliation at length here. For the remainder of this chapter, when I or the TJRC refers to reconciliation, remember this is the lens through which it understood national unity and think "national unity and reconciliation." It is also for this reason I identify the TJRC's approach to national unity as a reconciliation model. The TJRC's conceptualization of

reconciliation is essential for understanding how it understood national unity in terms other than citizenship and the nation-state. As I describe and parse the TJRC's conceptualization of national unity and reconciliation in this section, I also analyze how it both fits with the citizenship model of national unity and reimagines it as a reconciliation model.

The commission addressed the concept of reconciliation in several places throughout its final report—most directly in the “Interpretation of Mandate” chapter of Volume 1, which provides background on how the commission was formed, how it interpreted its mandate, and how it conducted its work, and in Volume 3, which is dedicated to issues relating to national unity and reconciliation. The commission also drafted a formal “Policy on Reconciliation,” which is printed in Volume 3. Additionally, it held reconciliation forums throughout the country to consider local meanings of reconciliation in different regions, as well as to give those communities opportunities to suggest solutions for problems affecting them and “ways of promoting healing and reconciliation.”<sup>41</sup> Despite the commission's prolonged engagement with the concept, it never provided a clear or stable definition. Rather, the extended treatment reflects the slipperiness of the concept. Therefore, if my treatment of reconciliation at times seems vague or inconsistent, it reflects the commission's own treatment of it.

Citing lessons learned from South Africa's TRC, the TJRC wrote, “Reconciliation is a complex concept. . . . [It] is not only a highly contested concept, but it also has no simple definition.” Rather than defining the term, South Africa's TRC outlined three essential elements of reconciliation: “reconciliation is both a goal and a process; it is experienced at different levels (intra-personal, inter-personal, community and national); and that reconciliation has linkages to redistribution in terms of material reconstruction and the restoration of dignity.”<sup>42</sup> The TJRC's own description of reconciliation echoes these elements identified by the TRC. It described

reconciliation as “both a goal and a process.”<sup>43</sup> Initially, the commission saw “two competing interpretations” of its reconciliation work emerge—reconciliation as something for the commission to achieve versus a sustained process for it to promote. The commission clearly favored the latter view. It “recognised that meaningful reconciliation is not an event, but rather a long process.” It, therefore, “aimed at setting the stage and establishing the basis for the beginning of a reconciliation process.”<sup>44</sup> Its purpose was not to reconcile Kenyans but to “initiate dialogue and lay the groundwork . . . for long term processes of reconciliation.”<sup>45</sup> Elsewhere, it emphasized “reconciliation is not only a process, but a continuous process.”<sup>46</sup> Although it articulated a desire to lay the groundwork for and initiate a reconciliation process, the TJRC also saw itself as only a small part of a larger process. “Efforts at national unity and reconciliation,” it observed, “began before the Commission started its work, and will continue after this Report is issued.”<sup>47</sup>

Reconciling the seemingly conflicting interpretations of reconciliation as a goal and a process, the commission understood reconciliation not as a goal to achieve but as “a long term goal” to continuously work towards.<sup>48</sup> National unity and reconciliation, it explained, are “ideal states to which we as a nation must strive,” and as a process, “they require constant effort and attention.”<sup>49</sup> The commission explained further, “If we set national unity and reconciliation among all peoples as our benchmark of success, then we will never succeed. But if we set our benchmark as working towards and increasing national unity and reconciliation . . . then we can set clear interim goals, plans, and other strategies by which we can then measure progress.”<sup>50</sup> Stated later in the report, “Reconciliation, like freedom, democracy, national unity, and many other fundamental values to which modern Kenya aspires, must always be nurtured and cared for.”<sup>51</sup> Here, reconciliation and national unity are combined with other values like freedom and

democracy. It might be tempting to interpret this statement as suggesting national unity could be promoted through a shared attachment to these values, similar to rhetoric's citizenship model. The TJRC's insistence that reconciliation be understood as an ongoing process, however, calls our attention to the latter half of the statement: these values must "always be nurtured and cared for." National unity is, thus, not achieved through an attachment to established shared values; rather, it is constituted through the continued pursuit and cultivation of these values. While this view could be consistent with any performative theory of citizenship, the TJRC's understanding of reconciliation, and thus national unity, as a continuous process of nurturing these values emphasizes they cannot be held as stable, pre-determined goods and sources of unity around which citizens can coalesce.

Also like South Africa, the TJRC described reconciliation as occurring at various levels: "intra-personal reconciliation, inter-personal reconciliation, inter-community reconciliation, and national reconciliation."<sup>52</sup> Intrapersonal reconciliation relates to individual healing; gaining a sense of closure; and accepting and learning to cope with new circumstances, such as a disability. Interpersonal reconciliation refers to "reconciliation between specific victims and perpetrators."<sup>53</sup> At times, the TJRC heavily emphasized the role of the individual for reconciliation. It understood reconciliation as "a process undertaken by individuals who have committed or suffered violations" that "can be intensely private and personal."<sup>54</sup> Elsewhere in the report, it echoed that "the decision to reconcile is a personal decision." We might hear echoes of Western liberalism's assumption of the autonomous individual subject in these statements. Reconciliation, however, relates less to the individual person than to relations among individuals. As such, it could also be "undertaken at the community and national level."<sup>55</sup> Inter-community reconciliation entails "the mending of social relations."<sup>56</sup> The TJRC identified ethnic, religious,



and other groups as communities needing to be reconciled. As I describe in greater detail later, it focused extensively on reconciliation among ethnic groups, but it also held special hearings for women, children, and minority and indigenous peoples.<sup>57</sup>

The TJRC characterized national reconciliation as a culmination of the other levels. “National healing,” it wrote, “will entail attending to and restoring social relations in communities and inter-ethnic relations, as well as personal healing.”<sup>58</sup> Tying together these multiple levels of reconciliation, the TJRC wrote in the introduction to the third volume—the volume on national unity and reconciliation, “We combined here a discussion of ethnicity and ethnic tension with national unity and reconciliation as, at the end of the day, they both involve a focus on the individual, the family and the community. It is, in short, a focus on the people of Kenya. And it is the people of Kenya, who have both committed and suffered these violations, who ultimately are the key to national unity and reconciliation.”<sup>59</sup> At every level, reconciliation entailed a focus on the people of Kenya—both as individuals and as members of various groups—and mending relations among them. In addition to recognizing various communities, the reconciliation model emphasizes relational modes of belonging.

Finally, the TJRC tied the pursuit of reconciliation to the pursuit of justice. It believed there was “little doubt that effective and prompt justice will promote reconciliation.”<sup>60</sup> It explained further, “The goal of reconciliation at various levels will remain elusive unless those who have suffered are restored and repaired; unless those who were excluded are included in meaningful ways; and unless those in dire want as a result of marginalization are materially enabled to move forward.”<sup>61</sup> The relationship between reconciliation and justice is expansive and the least clearly defined by the commission, in part because justice is another major concept for the commission that is itself broad and difficult to define. The commission described justice as

promoting reconciliation by: “providing adequate reparations to victims . . . ; acknowledging those who suffered wrongs and those individuals and institutions responsible; investigating and, where appropriate, prosecuting those responsible; reforming institutions to prevent future violations and to provide equal opportunity and support to all Kenyans.”<sup>62</sup> The commission was somewhat contradictory as it attempted to articulate its contributions to both restorative and retributive justice. Though the commission did not want to preclude or undermine retributive justice (“investigating and . . . prosecuting”), it was only authorized to make recommendations for prosecutions. Indeed, its founding legislation required that it “maintain[] its standing as a nonjudicial, non-retributive and non-adversarial form.”<sup>63</sup> Like most truth commissions, the TJRC articulated its contribution to justice as primarily “restorative in focus.” Moreover, it understood this restorative focus as most closely related to reconciliation.<sup>64</sup> To more succinctly characterize the “conceptual and practical links between reconciliation & national healing and justice” as an element of reconciliation, then, the TJRC might have said: reconciliation is restorative or requires restoration.

Contributing to the scope and ambiguity of this third characteristic of reconciliation, restoration is both material and symbolic. In terms of material restoration, the TJRC identified reparations, redistribution of land and resources, and institutional reform as necessary for meaningful reconciliation. Many Kenyans testified that “it was not possible for reconciliation to take place when people lived under conditions that continuously reminded them of the suffering they went through.”<sup>65</sup> As Samuel Omweri Kibwage told the commission, “It is true we want peace and reconciliation, we want to trust each other but when these people suffer . . . it is like telling a hungry person to stay on and that the hunger will pass on.”<sup>66</sup> The TJRC was unique among truth commissions for being tasked with investigating not just human rights violations in

the form of violations of bodily integrity rights but also violations relating to economic marginalization, socio-economic rights, and land disputes.<sup>67</sup> It held special hearings on these topics, and Volume 2B of the final report is devoted to these issues. The importance of material restoration for reconciliation grounds the national community to the material conditions of everyday life; it suggests a national community cannot simply be “imagined” as such.

This is not to say symbolic processes are not also required to form the national community. The TJRC also described symbolic forms of restoration, especially related to restoring the dignity of victims. The goal of restoring dignity is common among truth commissions and within restorative justice. While the TJRC understood material restoration as a necessary part of restoring dignity, it was also a symbolic process that included providing a forum for victims to narrate their experiences and publicly acknowledging and apologizing for those experiences. According to the commission, its hearings “provided victims with the opportunity to narrate their stories and in the process restore their dignity and commence a healing process.”<sup>68</sup> This is why truth-telling is also essential to the TJRC’s understanding of national unity and reconciliation. As I will demonstrate in the next section, however, the TJRC’s conceptualization of truth telling included much more than just this Freudian idea of restoring dignity through the narration of trauma.

The TJRC’s description of reconciliation is typical among truth commissions and was specifically adapted from South Africa’s TRC. Less typical is the TJRC’s explicit association of national unity with reconciliation. Based on the TJRC’s description of reconciliation, we can make some preliminary observations about the form a national community formed through this framework might take. First, the work of reconciliation is ongoing. Thus, it emphasizes that the cultivation of national unity is a continuous effort. The national community is not formed

through individuals' attachments to established values and principles; rather, it is formed through the cultivation of these very things. Second, reconciliation emphasizes mending relations among the people of Kenya. An individual's primary attachment to the national community is, thus, not to the nation-state—or to the values, principles, and practices that it stands for—but to the other members of the community. This analysis, thus, joins work by Aimee Carillo Rowe, Karma R. Chávez, Belinda Stillion Southard, and others that decenters national citizenship as the singular or primary mode of belonging by theorizing belonging as a rhetoric and politics of relation.<sup>69</sup> Moreover, the multiple levels of reconciliation the TJRC identified imagines these relations as formed on various levels that ultimately contribute to national unity. Thus, these other loci and modes of belonging are not simply alternative forms of belonging, nor do they simply exist alongside national belonging; rather they are fundamental to and constitutive of it. Finally, reconciliation requires both material and symbolic restoration. As such, it re-centers immediate, material conditions of everyday life within the “imagined community.”

### **Truth Telling**

As can be expected, given that truth commissions are commonly understood as truth-telling processes, truth telling was central to the TJRC's activities. The TJRC collected over 42,000 written statements and recorded testimonies at public hearings it held throughout the country from April 2011 to April 2012.<sup>70</sup> The quest for truth was most directly associated with the TJRC's objective to establish a “historical record of violations and abuses of human rights and economic rights,” but truth telling was diffuse throughout the commission's activities and report.<sup>71</sup> It contributed to every one of the TJRC's stated goals, including promoting national unity and reconciliation. Indeed, the TJRC understood it as the primary activity through which it could promote national unity and reconciliation. “The process of truth telling,” the commission

wrote, “is critical in the search for healing and reconciliation.”<sup>72</sup> Thus, truth telling is another critical concept for understanding national unity. Not only was truth telling interconnected with the TJRC’s other key terms and goals, it was also deployed in multiple modes that, as with the TJRC’s description of reconciliation, are sometimes inconsistent and can seem at odds with one another. Taken together, however, I demonstrate how they support and extend the characteristics of the reconciliation model described above and, ultimately, displace national citizenship as the primary and exclusive mode of belonging. Truth telling contributes to an understanding of national unity and belonging that is participatory and processual, relational, and attuned to material conditions of everyday life.

The importance of truth *telling*, not just truth, supports the processual and participatory nature of the TJRC’s reconciliation model of national unity. Though the TJRC was tasked with establishing a historical record of the past, it was not interested in constructing a static, singular narrative. Rather than seeking agreement “on a new historical account,” the commission “gave voice to a multitude of stories and perspectives about violations that had occurred in Kenya’s history” and aimed “to generate constructive debate and discussion.”<sup>73</sup> Like the TRC, the TJRC recognized several types of truth—factual or forensic, narrative, and social—that, together, encapsulate these various goals.<sup>74</sup> Important for establishing a historical record and identifying past wrongs, “factual or forensic truth” is “the product of investigations, verifications and corroboration.”<sup>75</sup> However, the TJRC was “not just interested in what happened.” It identified “narrative truth” as “personal versions of truth by witnesses.”<sup>76</sup> It also identified “social truth” as “the product of dialogue, interaction, discussion, and debate.”<sup>77</sup> It “hoped to contribute to building a new social truth and shared understanding of the past for all Kenyans.”<sup>78</sup> The desire to establish “a shared understanding of the past” at first glance seems to contradict the TJRC’s

acknowledgment of multiple truths and assertion that Kenyans need not all agree on a single historical account. Truth telling, however, provided a means of including multiple personal truths within a larger social truth, which would become the new national narrative. Indeed, this is the very way the TJRC's historical record would be constructed. The understanding of the past would not be "shared" in the sense that all Kenyans would agree on a single narrative; rather, it would be inclusive of and actively constructed by the Kenyan people. Whereas citizenship acts as a mode of inclusion and exclusion that determines who belongs—and who does not—in the national community, according to the TJRC's reconciliation model, individuals and communities constitute belonging through truth telling.

Truth telling also connected the various levels of reconciliation identified by the TJRC. As I described above, the commission believed that truth telling could help restore the dignity of victims. The act and significance of truth telling, however, extends beyond the individual and binds the individual to the collective. The commission believed truth telling would advance reconciliation at each of its levels, ultimately contributing to national unity. The commission explained, "Public truth-telling offers a forum for the victims to recount publicly their experiences and to have such experiences acknowledged. Such acknowledgment can contribute to individual healing and thus strengthen the courage of victims and perpetrators to work in furtherance of reconciliation and national unity."<sup>79</sup> Moreover, the act of truth telling engages individuals in a collective activity that brings them into relation. The TJRC emphasized the importance of "the individual narrative" being "shared collectively."<sup>80</sup> In addition to its public hearings, it developed processes for communally written testimonies. It specifically invited written memoranda from representatives of communities or groups. The commission described a group memorandum as "a means by which a group of people or community developed, through a

consultative and participatory manner, an agreed narrative of what they had experience,” fostering harmony within the community in the process.<sup>81</sup> A representative from the Marsabit Inter-Ethnic Consultative Group, an informal organization formed specifically for the purpose of presenting the experiences of the people in Marsabit county to the TJRC, testified:

We valued the inherent good in doing a collective memo. . . . If every community were to stand here and present its separate memorandum, especially on issues relating to ethnic conflict, there would be accusation and counter accusations which may give us the truth and justice, but defeat the object of reconciliation. By coming together, we have diffused that tension and we believe that our efforts will crystallize towards [reconciliation].<sup>82</sup>

The significance of “coming together” in a shared location to collectively participate in truth telling underscores the immediacy of the relations formed through truth telling. With acts of truth telling as the principal mode of engagement, the relations formed through the reconciliation model are more immediate than abstract commitments to the values and practices of the nation-state.

Related to the immediacy of relations, truth telling also attends to material conditions. While recognizing the importance of narrative and social truth, the TJRC did not dismiss the existence and importance of forensic truth. The TJRC also saw truth telling as contributing to reconciliation and national unity because it “offers an opportunity to uncover historical truths and interrogate the past.”<sup>83</sup> By identifying past wrongs and “underlying fault lines,” truth telling makes reparation and reform—part of the material restorative functions of reconciliation—possible.<sup>84</sup>

Truth telling was, for the TJRC, the action that would sustain the ongoing process of reconciliation. Like reconciliation, truth telling also worked at multiple levels. It included

restoring the dignity of individuals and identifying needs for material restoration. It also established relations among people through engagement in collective action. Weaving together these various levels, it foregrounded individual experiences, even as it constructed a shared understanding of the past. This mode of constructing a shared understanding is particularly informative about the form a national community constituted through truth telling would take. Inclusion in the national community is not achieved by ascribing to established shared beliefs or practices of citizenship but through participation in the very construction of those shared beliefs.

### **Ethnicity**

Situating its approach to national unity and reconciliation within the context of Kenya's ethnic landscape, the TJRC saw fostering reconciliation among Kenya's many ethnic communities as one of its most essential tasks for promoting national unity and reconciliation. Ethnicity, therefore, is not a discrete category of my analysis. Rather, it fundamentally shaped the TJRC's interpretation of and approach to national unity and reconciliation and inflected every aspect of the commission. In its description of inter-communal reconciliation, the TJRC identified ethnic tensions as a primary source of discord in Kenya and, therefore, focused the mending of social relations on ethnic relations. It wrote, "In a context where inter-ethnic rancour and disharmony triggered by the struggles for power, resources, identity, etc., has underpinned or facilitated some gross violations of human rights, the mending of social relations is an important goal for the TJRC."<sup>85</sup> The importance of ethnicity in the TJRC's configuration of national unity and reconciliation is apparent in the structure of Volume 3 of the final report. Though the TJRC identified this volume as "focus[ing] on issues relating to national unity and reconciliation in Kenya," the volume concentrates almost exclusively on resolving ethnic tensions.<sup>86</sup> The second sentence of the volume reads, "One cannot speak of national unity, healing and reconciliation



without discussing ethnic tension.”<sup>87</sup> The first two chapters of the volume discuss the history and causes of ethnic tension in Kenya before the final chapter describes more broadly the TJRC’s understanding of and efforts to promote reconciliation. In the section that follows, I describe how ethnic relations in Kenya shaped the TJRC’s configuration of national unity and reconciliation. The primacy of ethnic identity in Kenya displaces the nation-state as the primary site and citizenship as the primary mode of belonging as it centers other group identities and relationships formed through the moral values and social practices of Kenya’s ethnic communities.

The TJRC’s focus on resolving ethnic tensions foregrounded the salience of ethnic identity among Kenyans, even as it sought to promote national unity. It recognized, as Maathai does when she argues for embracing micro-national communities and cultures along with the macro-nation, that ethnic identification must be an integral part of, not subsumed by, the national community. The TJRC observed that “one of the most acute problems the country faces is the endless struggle to integrate its different communities into a democratic modern nation, without compromising their respective identities.”<sup>88</sup> As Wambugu Ngujiri testified during one of the commission’s public hearings, “We must work from the basis that Kenya is a garment of many colours, which is beautiful because each color is present. We cannot be one colour because we would be dull. Some colours cannot run over others because we would be ugly. We must all stay in place and be bright. That is an ideal situation of where Kenya ought to be.”<sup>89</sup> Ngujiri’s testimony echoes Maathai’s argument that it is not only possible “to remain both loyal members of a micro-nation and loyal citizens of a nation-state” but essential for African nations to embrace the diversity of their micro-national identities and cultures.<sup>90</sup> Doing so, however, requires “reimagin[ing] what it means to be a community—whether a micro-nation or the network of micro-nations that are countries, regions, and the continent itself.”<sup>91</sup> As Maathai’s

statement illuminates, foregrounding ethnic, or micro-national, belonging within belonging to the nation-state, or macro-nation, already begins to “reimagine what it means to be a community”; it decenters the macro-nation as the primary site of belonging as it reimagines it as a network of micro-nations.

The commission used the term “ethnic group” broadly to refer to any “group of persons defined by reference to colour, race, religion, of ethnic or national origins.”<sup>92</sup> Thus, foregrounding ethnic identity also made other group identities and modes of belonging salient. The commission looked specifically at the history and ethnic composition of the Mount Elgon region as a case study to better understand ethnic tensions in Kenya. The ethnic composition of the area provides a stark illustration of the many intersecting group identities made salient along with ethnic identification. As the commission stated, “Mount Elgon presents a complex ethnic fabric made up of many different ideas and understandings about identity.”<sup>93</sup> The dominant identity in the area is the Sabaot, which is actually a collection of several sub-groups—the Sabiny, the Bongomek, the Kony, and the Bok—and is itself a sub-group of the Kalenjin. “The name Sabaot,” the commission reported, “has a very specific, recent and traceable history”; it is the name these groups assigned to themselves in 1949.<sup>94</sup> Though they identify collectively, the commission also observed that each of the Sabaot sub-groups still presented their “own readings and understandings of their particular experiences.”<sup>95</sup> While the Sabaot primarily share cultural and linguistic similarities, the Mosop and Soy—two other groups in Mount Elgon—share a primarily geographically-based identity. “The Soy are those from (and of) the lower reaches of the mountain,” while the Mosop are found further up.<sup>96</sup> Of note, the commission recognized that this place-based identity includes both ancestral land (“those from”) and current location, “and of.” Still another group, the Ogiek, lack geographic or linguistic cohesion; they live in both the

upper and lower regions of the mountain and have tended “to adopt the language and customs of their neighbors.”<sup>97</sup> They identify primarily based on certain cultural traditions and lifestyles, specifically as hunter-gatherers, cattle herders, and beekeepers.

The many forms of identification result also in fluid identities. The commission noted, “Mosop as a geographical descriptor means that some Sabaot—principally the Kony—also self-identify with this clan. Conversely, the argument has been made that the Ogiek are not a distinct Kalenjin sub-group and are instead Sabaots who happen to live further up the mountain.”<sup>98</sup> If my reader is confused by now, that is part of my point. The commission itself is quite unclear in its description of the “complex ethnic fabric” of the Mt. Elgon region. This lack of clarity is forgivable, as the people themselves describe these numerous identities in various ways. My point is this: by foregrounding ethnic identification, while also understanding ethnic identities as broad and fluid, the commission acknowledged numerous group identities and modes of belonging. It recognized communities of people bound through place, language, culture, and lifestyle.

As indicated in the description above, ethnic belonging is often strongly tied to place. Recall Maathai’s argument that for most Africans, the nation-state remains a distant abstraction compared to the immediate relevance of the micro-nation. Similarly, the relation between ethnic belonging and place is more immediate than the place constituted by the boundaries of the nation-state, especially in post-colonial contexts such as Kenya, where those boundaries were drawn up and imposed by colonial powers. As such, ethnic belonging foregrounds material conditions and immediate interactions and relations. The TJRC wrote, “It is around land that socio-cultural and spiritual relations among community members are defined and organized. . . . Land provides some form of ethno-cultural identity and social security: the medium which

defines and binds together social and spiritual relations within and across generations.”<sup>99</sup> In addition to identifying with ancestral lands, land is also a vital, life-sustaining resource. As the TJRC observed, “For the majority of Kenyans, land is the basic, and in most cases the only economic resource from which they eke out a livelihood.”<sup>100</sup> As a result, land is “a focal point in Kenya’s history, culture, and politics.”<sup>101</sup>

Because of the importance of land, both as an ancestral home and source of identity and as a vital resource, land disputes are also a major source of ethnic tension and violence and are recognized as a barrier to national unity. “Exclusive claims to territory,” the TJRC wrote, “inevitably create classes of ‘insiders’ and ‘outsiders.’ This perception of people as outsiders as opposed to fellow citizens often lead [*sic*] to increased tension based on ethnicity which, in turn, create [*sic*] the potential for ethnic violence.”<sup>102</sup> On the one hand, this observation acknowledges that ethnic tension and violence is related to weak ties to national citizenship. It might be tempting to read this statement as an admonishment against ethnic belonging and call for weakening it. To do so, however, would be to ignore the colonial influence on these disputes, as it suggests ethnic belonging itself is the problem.<sup>103</sup> Moreover, it would undermine the TJRC’s own goal “to integrate its different communities into a democratic modern nation, without compromising their respective identities.”<sup>104</sup>

With this perspective in mind, the salience of “claims to territory” as the determinant of insider and outsider dynamics emphasizes the importance of immediate and material relations. The TJRC recognized that “unresolved land injustices,” legacies of colonial policies of land dispossession and displacement, “have led to discriminatory and exclusionary practices that work against nationhood.”<sup>105</sup> Consolidating national unity, thus, could not be only a matter of strengthening the imagination of national community; it had to address the “unresolved land

injustices.” The TJRC recognized that “tackling ethnic tension requires a multifaceted approach aimed at addressing the root causes, including long standing land grievances and economic and political marginalisation.”<sup>106</sup> It specifically stated that the chapters on ethnic tension must be read together with those on economic marginalization and violations of socio-economic rights, all emphasizing the importance of addressing material conditions of reconciliation.<sup>107</sup>

While the TJRC focused primarily “on the negative side of ethnicity,” on how it can be used as a vehicle for exclusion, discrimination, and violence, it noted that ethnicity may also “be used as a vehicle for positive group identification.” The commission observed, “It is important to acknowledge that ethnic affiliation is not, in and of itself, a bad thing. In fact, ethnicity is often at the core of an individual’s sense of identity and belonging. In an environment of tolerance and celebration of diversity, ethnicity can strengthen national identity and purpose.”<sup>108</sup> Thus, ethnic identification could contribute to the creation of a “new moral vision” and “value-based society for all Kenyans,” as called for in the TJRC’s founding legislation.<sup>109</sup> Maathai compellingly makes a similar argument in *The Challenge for Africa*, her manifesto for the African continent. Her explanation is worth quoting at length here:

In my view, it is essential that Africa’s citizens and leaders embrace a revival of their micro-national cultures, languages, and values, and then bring the best of these to the table—that is, the nation-state. In so doing, a national or even transnational identity could be created that is at once forward looking and relevant to contemporary needs, and securely grounded in the heritage of Africa’s people. In this way, African nation-states, which now for many people merely serve to issue necessary documents such as a passport and an identity card, will more fully represent the diversity and the achievement of their distinct peoples. Anything less will perpetuate the cultural deracination that has

left millions of modern Africans lacking self-identity, self-confidence, self-knowledge, and therefore, the ability to take charge of their lives.<sup>110</sup>

Additionally, Stephen Ndegwa—who argues citizenship is a useful lens for understanding the relationships among ethnic identity, authority, and legitimacy, so long as it is not “held to be coterminous with the modern, democratic nation-state”—describes ethnic citizenship as more republican in form than the Western liberal citizenship of the (macro-)national community. Ethnic citizenship “considers rights not as inherent but as acquired through civic practice that upholds obligations to the community.”<sup>111</sup> It rests “on social practices and customs and, thus center[s] on the community and moral obligation.”<sup>112</sup>

While reconciliation and truth telling figure prominently in the work of many truth commissions, the TJRC’s emphasis on addressing ethnic tensions uniquely situated its approach to national unity and reconciliation within Kenya’s social, political, and historical context. Similar to how truth telling constituted individual and group experiences within its shared national narrative, the TJRC insisted on integrating Kenya’s ethnic groups into a unified nation without diminishing ethnic identities. Resolving ethnic tensions also foregrounded material and immediate conditions of community. Ethnic communities are tied to particular places, ancestral lines, lifestyles, and cultural practices that are more local in scale and immediate in the everyday lives of community members than the distant abstraction of the nation-state. As Ndegwa explains, “ethnic identity rests on a socially . . . constructed definition of belonging” and “is validated by the individual’s participation in that community.”<sup>113</sup> These social practices also make ethnic identification a rich and abiding source of political mobilization with the potential to strengthen, rather than undermine, the national community.

### **The TJRC's Reconciliation Model of National Community**

To “build a new Kenya,” the TJRC proposed a form of national community and belonging formed through reconciliation and truth telling and attuned not only to the centrality of ethnic belonging in Kenyan political and social life but also to the social and moral values that constitute it. Reflecting the association of national unity and reconciliation that formed the basis of this model, I identify it as the TJRC’s reconciliation model. With an understanding of the key elements of the TJRC’s approach to national unity—tied to reconciliation, promoted through truth telling, and attendant to the importance of ethnic identities—it is now possible to draw some conclusions about the characteristics of the reconciliation model and how it relates to the citizenship model common among rhetorical scholarship.

First, the TJRC’s reconciliation model not only included individual experiences and group identities within the national community; it understood these as constitutive of the national community. Different identities and modes of belonging, according to this model, are not a zero-sum game. We see this in the acknowledgement that reconciliation is ultimately a personal decision, in the privileging of individual truths through truth telling, and recognition of the importance of ethnic identities. The TJRC helps us understand “national citizenship as one of many rhetorics of belonging,” as Belinda Stillion Southard does.<sup>114</sup> The TJRC understood individual experiences and group identities as a source of strength and the very foundation of the national community. By contrast, the citizenship model has gained its dominant status precisely because it positions national identity, specifically understood as identification with the nation-state, as the only identity that matters. Vanessa Beasley explains that a rhetoric of shared beliefs offers diverse individuals “ways of viewing themselves as a united group while also suggesting that their individual differences are largely insignificant relative to their larger calling.”<sup>115</sup> More

than simply rendering their individual differences insignificant, a rhetoric of shared beliefs requires individuals to transcend or detach themselves from individual or group experiences and identities to form a community. Beasley argues the rhetoric of U.S. national identity asks that you “deny your own individual needs and identifications by becoming part of something larger.”<sup>116</sup> She concludes, “Paradoxically, then, in a country that purports to value individualism, specific markers of individual difference have been largely verboten.”<sup>117</sup> Jay Childers has found that in the United States democracy has been envisioned as requiring citizens with “the fitness to rise above group identities and passions.”<sup>118</sup> The abstraction of the individual to the national citizen reflects the tendency in Western liberal democracies to isolate politics from cultural and social processes that are considered to be nonpolitical or pre-political.<sup>119</sup> In this model, there is no place for other group identities, such as ethnicity, which are central in the reconciliation model.

Second, the TJRC’s reconciliation model of national community shifts the primary attachment from the abstracted attachments of individuals to the nation-state—or the beliefs, values and practices it represents—to relational attachments among the nation’s community members. According to Benedict Anderson, transcending differences and “actual inequality and exploitation” allows the nation to be imagined “as a deep, horizontal comradeship.”<sup>120</sup> However, when the primary attachment is to the nation-state, the primary mode of belonging is not horizontal but vertical. The reconciliation model, by contrast, foregrounds horizontal relationships among community members. You see this in the emphasis of reconciliation on mending relations, the collective action of truth telling, and the social and moral relations of ethnic communities. This characteristic is captured by the Swahili proverb: *mtu ni watu*. Literally, it translates to “a person is people.” It reflects “ethical imperatives of respect and care



for human relations and respect for all people.”<sup>121</sup> This relational mode of belonging is valuable. Stillion Southard argues, “If people reimagine belonging as relationships to one another as members of regional, national, and/or global communities then they can sidestep and even reconfigure the power of the nation-state to define belonging.”<sup>122</sup>

Third, and related, the reconciliation model establishes a different *mode* of belonging to the national community. According to most rhetorical scholarship, rhetoric constitutes national community by defining the beliefs, values, and practices that characterize it. Adherence to these characteristics, then, becomes the standard for inclusion in this community. As Darrel Wanzer-Serrano explains, the collective “we” of the national community “hangs its rhetorical hat on the articulation of individuals to a sense of common cause, purpose, and ontology.”<sup>123</sup> Beasley refers to this as the “shared beliefs hypothesis.”<sup>124</sup> “Within much contemporary scholarship,” Beasley explains, “there remains general agreement that shared beliefs, values, and/or attitudes of some sort continue to serve as the ‘cement’ of the American political community.”<sup>125</sup> Beasley analyzes how presidents have articulated a rhetoric of shared beliefs to create an ideational model of citizenship under which citizenship—and inclusion in the national community—is allegedly “available to anyone willing to accept these ideals.”<sup>126</sup> Consider also Merciecca’s “political fictions,” which provide a framework for citizens to understand their relations to political institutions and roles as citizens.<sup>127</sup> In the citizenship model, the national narrative defines the exemplary citizen and acts as the standard by which people are included or excluded. By contrast, when the narrative is constructed through truth telling, as it is in the reconciliation model, the person and the narrative are more closely tied; to exclude anyone is to change the narrative itself. Moreover, it changes the mode of exclusion and inclusion. Inclusion in the

community is achieved not by ascribing to the beliefs of or meeting the standard set by the national narrative but through participation in constituting the narrative.

Finally, the TJRC's reconciliation model centers material conditions and everyday, immediate experiences and interactions alongside the symbolic imagining of the national community. The TJRC recognized the necessity of material restoration—such as settling land disputes and providing reparations—for national unity and reconciliation and sought to promote reconciliation through physical acts of coming together to narrate experiences and have those experiences collectively heard and acknowledged. Moreover, the TJRC recognized ethnic identification as an important source of social solidarity in Kenya and hoped to mobilize it to strengthen, rather than undermine, the national community. Kundai Chirindo argues the African postcolonial context challenges and offers an opportunity to rethink “the nationalist consensus presumed in rhetoric’s affinity to the national ideal of citizenship and publicness” because “the constitutive interactions of micro- and macronations in the postcolonial nation-state make the nation *matter* less in the rhetorics and politics of everyday life across sub-Saharan Africa.”<sup>128</sup> The TJRC frequently referred to the political entity or country now known as or called Kenya, calling attention to the fact that the Kenyan nation-state, including its geographic borders and political institutions and modes of governance, was externally and arbitrarily imposed through colonialism. Recall Maathai’s description of the modern African state as “a superficial creation: a loose collection of ethnic communities or micro-nations, brought together in a single entity, or macro-nation, by the colonial powers.” While the nation-state remains a distant abstraction, Ndegwa explains, “Even as it is manipulated and reshaped over time, ethnicity is experienced as a concrete web of relationships with real persons and institutions in the present.”<sup>129</sup>

The national community is, of course, an abstract, “imagined” community elsewhere too, but in the West the national(-state) consciousness is so engrained that we act as if the nation-state is a permanent reality. Reflecting after 9/11, Beasley writes that the “we” of the U.S. Constitution is “not a ‘we’ that refers to my most immediate and pragmatic everyday alliances—my family, my friends, my colleagues, and so on—but instead to something larger, something almost ridiculously ephemeral that was somehow . . . overwhelmingly meaningful nonetheless.”<sup>130</sup> Moreover, the meaningfulness of the nation-state community, as previously mentioned, requires the “ability to transcend one’s immediate circumstances and/or concerns.”<sup>131</sup> The assumed ability to transcend one’s immediate circumstances is fundamental to colonial logics. Such abstraction from one’s immediate circumstances requires a position of privilege that is inaccessible to the majority of people in the world. Yet this abstraction is at the very foundation of ideas about the autonomous liberal subject, Enlightenment thought, and the assumption that there can be universal paradigms of knowledge. Maathai writes, “Connections to family and territorial nationality have sometimes been the only means whereby individuals can cope with the turbulent uprooting of their traditions since colonization.”<sup>132</sup> While “legal, rational, and bureaucratic frameworks . . . uphold identity, legitimacy, and authority in the nation-state,” ethnic communities are formed through “social customs, social practices, and nonbureaucratic structures” determined by norms of social responsibility and moral reciprocity that contribute to the “group’s preservation.”<sup>133</sup>

Defined by the characteristics described above, the TJRC’s reconciliation model of national community and belonging decenters national citizenship as the primary locus and mode of belonging. As Stillion Southard observes, however, “national citizenship is not going away anytime soon as the primary state apparatus through which life and death are often made

possible.”<sup>134</sup> The TJRC still operated in this paradigm. Recall that it aimed to “create a nation of people who view themselves first as Kenyan.” The TJRC’s reconciliation model, thus, decentered but did not wholly displace national citizenship. Yet, as Stillion Southard also argues, by “render[ing] national citizenship as one of many ways to belong,” it is possible to “transform what it means to belong to a nation-state” and to “reconfigure the power of the nation-state to define belonging.”<sup>135</sup>

## Notes

---

<sup>1</sup> Mwai Kibaki, “Speech by President Mwai Kibaki During His Swearing-In Ceremony for the Second Term on 18<sup>th</sup> April 2008,” April 18, 2008, accessed January 20, 2020, <https://www.dkut.ac.ke/downloads/honorary-page/Inauguration%202008.pdf>.

<sup>2</sup> Wangari Maathai, *The Challenge for Africa* (London: Arrow Books, 2010), 196.

<sup>3</sup> Commission of Inquiry into Post Election Violence (CIPEV), *Report of the Commission of Inquiry into Post-Election Violence* (Nairobi: Government of Kenya, 2008), accessed January 20, 2020, [http://reliefweb.int/sites/reliefweb.int/files/resources/15A00F569813F4D549257607001F459D-Full\\_Report.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/15A00F569813F4D549257607001F459D-Full_Report.pdf). (hereafter cited as CIPEV, *Report*).

<sup>4</sup> *The Truth, Justice and Reconciliation Act*, 6, (2008), Section 5, accessed January 20, 2020, <http://www.tjrkenya.org/images/documents/TJRC-Act.pdf>. (hereafter cited as *TJR Act*.)

<sup>5</sup> Truth, Justice and Reconciliation Commission (TJRC), *Report of the Truth, Justice and Reconciliation Commission* (Nairobi: Truth, Justice and Reconciliation Commission, 2013), 1:2, electronic copy in author’s possession. (hereafter cited as TJRC, *Report*)

<sup>6</sup> TJRC, *Report*, 3:81.

<sup>7</sup> Kenneth Burke, *A Rhetoric of Motives* (New York: Prentice-Hall, 1950). Foundational works on constitutive rhetoric include: Maurice Charland, “Constitutive Rhetoric: The Case of the *Peuple Québécois*” *Quarterly Journal of Speech* 73, no. 2 (1987); Michael C. McGee, “In Search of “the People”: A Rhetorical Alternative,” *Quarterly Journal of Speech* 61, no. 3 (1975);

---

James Boyd White, *Heracles' Bow: Essays on the Rhetoric and Poetics of the Law* (Madison: The University of Wisconsin Press, 1985).

<sup>8</sup> Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, rev. ed. (New York: Verso, 1991), 6. For rhetorical scholarship on the construction of national identity and community, see for example, Vanessa B. Beasley, *You, the People: American Identity in Presidential Rhetoric* (College Station, TX: Texas A&M University Press, 2004); Jay P. Childers, "The Democratic Balance: President McKinley's Assassination as Domestic Trauma," *Quarterly Journal of Speech* 99, no. 2 (2013): 156-179; Jennifer R. Mercieca, *Founding Fictions* (Tuscaloosa, AL: The University of Alabama Press, 2010).

<sup>9</sup> Childers, "The Democratic Balance," 2.

<sup>10</sup> Belinda A. Stillion Southard, *How to Belong: Women's Agency in a Transnational World*, (University Park, PA: The Pennsylvania State University Press, 2018), 4.

<sup>11</sup> Karma R. Chávez, "Beyond Inclusion: Rethinking Rhetoric's Historical Narrative," *Quarterly Journal of Speech* 101, no. 1 (2015): 163.

<sup>12</sup> Chávez, "Beyond Inclusion: Rethinking Rhetoric's Historical Narrative," *Quarterly Journal of Speech* 101, no. 1 (2015): 163, 165.

<sup>13</sup> Childers, "The Democratic Balance," 15.

<sup>14</sup> Mercieca, *Founding Fictions*, 27.

<sup>15</sup> Robert Asen, "A Discourse Theory of Citizenship," *Quarterly Journal of Speech* 90, no. 2 (2004): 207.

---

<sup>16</sup> Wangari Maathai, *The Challenge for Africa* (London: Arrow Books, 2010), 184.

<sup>17</sup> Maathai, *The Challenge for Africa*, 185.

<sup>18</sup> Kundai Chirindo also takes up this argument. Kundai Chirindo, “Micronations and Postnational Rhetorics,” *Women’s Studies in Communication* 41, no. 4 (2018): 383-393.

<sup>19</sup> Maathai, *The Challenge for Africa*, 44

<sup>20</sup> Maathai, *The Challenge for Africa*, 184.

<sup>21</sup> TJRC, *Report*, 3:iii, emphasis added.

<sup>22</sup> TJRC, *Report*, 3:6, emphasis added.

<sup>23</sup> TJRC, *Report*, 3:iv.

<sup>24</sup> TJRC, *Report*, 3:81.

<sup>25</sup> See, for example, Chávez, “Beyond Inclusion”; Chirindo, “Micronations and Postnational Rhetorics”; Stillion Southard, *How to Belong*.

<sup>26</sup> Although I use the term model to juxtapose the TJRC’s approach to national unity to rhetoric’s citizenship model, I do not mean to imply that the TJRC’s reconciliation model should be viewed as a model to be emulated in other contexts. That is to say, it should not itself be elevated to a dominant status or assumed to hold universal relevance, as has often been the case with rhetoric’s citizenship model. To do so would extend colonial logics and replace one assumed universalism with another.

<sup>27</sup> This history is summarized in the final report. TJRC, *Report*, 1:6-21.

---

<sup>28</sup> Mwai Kibaki, “Presidential Address,” *Official Report*, National Assembly, 10<sup>th</sup> Parliament, 2<sup>nd</sup> Session, March 6, 2008, 41, [https://books.google.com/books?id=qczmzxAc0bsC&source=gbs\\_all\\_issues\\_r&cad=1](https://books.google.com/books?id=qczmzxAc0bsC&source=gbs_all_issues_r&cad=1). Domestic and international news media latched onto the “turning point” as the central message of the speech. See, for example, “Kenyan Leader Addresses Opening of Parliament; Regrets Post-Poll Violence,” *BBC Monitoring Newsfile*, March 6, 2008; “Kenyan President Urges Mps to Back Power-Sharing Deal,” *The Guardian*, March 6, 2008; “Kibaki Sets out Plans for the Nation,” *The Nation*, March 6, 2008; Ben Agina, “President Says Crisis a Turning Point,” *The East African Standard*, March 6, 2008; Barney Jopson, “Kibaki Urges Unity over Reform,” *Financial Times*, March 7, 2008; Alex Ndegwa, “Crisis a ‘Turning Point,’” *The East African Standard*, March 6, 2008.

<sup>29</sup> TJRC, *Report*, 1:vi.

<sup>30</sup> The “knife-edge” metaphor appeared in numerous headlines and leads. For examples, see: Xan Rice, “Kenya Holds Breath as Kibaki and Rival Battle in Knife-Edge Election: Millions Vote Peacefully in Country's Tightest Poll,” *The Guardian*, December 28, 2007, <https://www.theguardian.com/world/2007/dec/28/kenya.international>.

<sup>31</sup> For more on how colonialism influenced ethnic and political identities in Kenya, see Rok Ajulu, “Politicised Ethnicity: Politics and Conflict in Kenya: A Historical Perspective,” *African Studies* 61, no. 2 (2002): 251-268; Peter O. Ndege, “Colonialism and its Legacies in Kenya” (lecture, Fulbright-Hays Group Project Abroad Program, Uasin Gishu County, Kenya, Moi University, July 5-August 6, 2009), accessed January 20, 2020, <http://africanphilanthropy>



---

.issuelab.org/resources/19699/19699.pdf; Timothy Parson, “Being Kikuyu in Meru: Challenging the Tribal Geography of Colonial Kenya,” *Journal of African History* 53 (2012): 65-86.

<sup>32</sup> Makau Mutua, *Kenya’s Quest for Democracy: Taming Leviathan* (Boulder, CO: Lynne Rienner Publishers, 2008), 21.

<sup>33</sup> CIPEV, *Report*, viii.

<sup>34</sup> I have written more extensively on the relation between ethnicity and politics in Kenya, particularly as it relates to the post-election violence, in Lindsay Harroff, “Ethnicity, Politics, and the Rhetoric of Genocide at Eldoret,” *Rhetoric & Public Affairs* 22, no. 3 (2019): 421-452. See also Elisha Stephen Atieno-Odhiambo, “Hegemonic Enterprises and Instrumentalities of Survival: Ethnicity and Democracy in Kenya,” *African Studies* 61 (2002): 223-249; Koigi wa Wamwere, *Negative Ethnicity: From Bias to Genocide* (New York: Seven Stories Press, 2003).

<sup>35</sup> On the controversy surrounding the report’s publication, see Ronald C. Slye, *The Kenyan TJRC: An Outsider’s View from the Inside* (New York: Cambridge University Press, 2018), 11-48.

<sup>36</sup> *TJR Act*, Sect. 5.

<sup>37</sup> TJRC, *Report*, 1:40.

<sup>38</sup> TJRC, *Report*, 1:viii.

<sup>39</sup> TJRC, *Report*, 1:viii.

<sup>40</sup> In Volume 3 of the final report, the volume devoted specifically to national unity and reconciliation, “national unity” appears independently only once (TJRC, *Report*, 3).

---

<sup>41</sup> TJRC, *Report*, 3:89.

<sup>42</sup> TJRC, *Report*, 1:46; 3:83.

<sup>43</sup> TJRC, *Report*, 1:46; 3:83, 86.

<sup>44</sup> TJRC, *Report*, 3:83.

<sup>45</sup> Policy on Reconciliation, printed in TJRC, *Report*, 3:86.

<sup>46</sup> TJRC, *Report*, 3:84.

<sup>47</sup> TJRC, *Report*, 3:iv.

<sup>48</sup> TJRC, *Report*, 3:86.

<sup>49</sup> TJRC, *Report*, 3:iv.

<sup>50</sup> TJRC, *Report*, 3:iv.

<sup>51</sup> TJRC, *Report*, 3:84.

<sup>52</sup> TJRC, *Report*, 3:86. Also described at 1:46; 3:83.

<sup>53</sup> TJRC, *Report*, 3:86.

<sup>54</sup> TJRC, *Report*, 1:46.

<sup>55</sup> TJRC, *Report*, 1:46; 3:83.

<sup>56</sup> TJRC, *Report*, 3:86.

<sup>57</sup> This is the focus of Volume 2C. The commission identified minority groups as non-Africans, religious minorities, ethno-linguistic minorities, and “indigenous peoples such as pastoralists and hunter-gatherers.” Using the parameters established in a Kenyan case brought before the African Commission on Human and Peoples’ Rights (ACHPR), the commission identified four markers

---

of an indigenous group: a dependence on a specific territory for economic survival; the experience of marginalization and discrimination; “non-accommodation of the group’s livelihood by dominating development paradigm”; and “an ancestral link to their communal lands.” It also noted significant overlap because most indigenous peoples are also minorities. TJRC, *Report*, 2C:212-214.

<sup>58</sup> TJRC, *Report*, 3:86.

<sup>59</sup> TJRC, *Report*, 3:iv.

<sup>60</sup> TJRC, *Report*, 1:50-51.

<sup>61</sup> TJRC, *Report*, 1:120; 3:86.

<sup>62</sup> TJRC, *Report*, 1:50-51.

<sup>63</sup> TJRC, *Report*, 1:199.

<sup>64</sup> The TJRC wrote in the final report, “While restorative justice does not preclude retributive justice, it would be a mistake to focus on the retributive contributions or omissions of the Commission and its work in evaluating its contribution to reconciliation. For, while retributive justice can and has contributed to reconciliation, it may also undercut reconciliation.” TJRC, *Report*, 1:51.

<sup>65</sup> TJRC, *Report*, 3:105.

<sup>66</sup> TJRC, *Report*, 3:105.

<sup>67</sup> *TJR Act*; TJRC, *Report*, 2B:iii.

<sup>68</sup> TJRC, *Report*, 1:55.

---

<sup>69</sup> Karma R. Chávez, “Border (In)Securities: Normative and Differential Belonging in LGBTQ and Immigrant Rights Discourses,” *Communication and Critical/Cultural Studies* 7, no. 2 (2010): 136-155; Aimee Carillo Rowe, “Be Longing: Toward a Feminist Politics of Relation,” *National Women’s Studies Association Journal* 17, no. 2 (2005): 15-46; Stillion Southard, *How to Belong*.

<sup>70</sup> TJRC, *Report*, 1:83,95.

<sup>71</sup> *TJR Act*, Sect. 5(a).

<sup>72</sup> TJRC, *Report*, 3:93.

<sup>73</sup> TJRC, *Report*, 1:83, 50.

<sup>74</sup> TJRC, *Report*, 1:120.

<sup>75</sup> TJRC, *Report*, 1:120.

<sup>76</sup> TJRC, *Report*, 1:120.

<sup>77</sup> TJRC, *Report*, 1:120.

<sup>78</sup> TJRC, *Report*, 1:43.

<sup>79</sup> TJRC, *Report*, 1:50.

<sup>80</sup> TJRC, *Report*, 3:93

<sup>81</sup> TJRC, *Report*, 1:88.

<sup>82</sup> TJRC, *Report*, 1:89.

<sup>83</sup> TJRC, *Report*, 1:50.

<sup>84</sup> TJRC, *Report*, 1:43.

<sup>85</sup> TJRC, *Report*, 3:86.

---

<sup>86</sup> TJRC, *Report*, 1:viii.

<sup>87</sup> TJRC, *Report*, 3:iii.

<sup>88</sup> TJRC, *Report*, 3:9.

<sup>89</sup> Wambugu Ngujiri, “Testimony from Thematic Hearing on Ethnic Tension and Violence, Nairobi,” February 2, 2012, qtd. in TJRC, *Report*, 3:1.

<sup>90</sup> Maathai, *The Challenge for Africa*, 218.

<sup>91</sup> Maathai, *The Challenge for Africa*, 215.

<sup>92</sup> TJRC, *Report*, 3:4.

<sup>93</sup> TJRC, *Report*, 3:40.

<sup>94</sup> TJRC, *Report*, 3:40.

<sup>95</sup> TJRC, *Report*, 3:40.

<sup>96</sup> TJRC, *Report*, 3:40.

<sup>97</sup> TJRC, *Report*, 3:41.

<sup>98</sup> TJRC, *Report*, 3:41.

<sup>99</sup> TJRC, *Report*, 2B:166.

<sup>100</sup> TJRC, *Report*, 1:xiv

<sup>101</sup> TJRC, *Report*, 2B:166.

<sup>102</sup> TJRC, *Report*, 3:10.

<sup>103</sup> Land grievances in Kenya, and ethnic tensions created by them, trace back to practices and policies of colonial land dispossession. British settlers seized the most fertile land—a region that

---

became known as the “White Highlands”—and later re-settled groups occupying that land onto established “native reserves.”<sup>103</sup> The colonial land tenure system made fundamental and lasting social and political changes in Kenya. It delegitimized customary land rights; rigidified social, political, and geographical boundaries between ethnic communities; and established immense executive power over land and land distribution.<sup>103</sup> The native reserves “created arbitrary ethnic specific boundaries, thus generating a notion of exclusivity of land rights by certain communities in certain areas.” For more on colonial land policies and their legacy, see Karuti Kanyinga, “The Legacy of the White Highlands: Land Rights, Ethnicity and the Post-2007 Election Violence in Kenya,” *Journal of Contemporary African Studies* 27, no. 3: 325-344; Judi Wakhungi, Elvin Nyukuri, and Chris Huggins. “Land Tenure and Violent Conflict in Kenya,” (Nairobi, Kenya” African Centre for Technology Studies, 2008), 12, [https://www.landcoalition.org/sites/default/files/documents/resources/ACTS\\_LandConflict\\_report.pdf](https://www.landcoalition.org/sites/default/files/documents/resources/ACTS_LandConflict_report.pdf).

<sup>104</sup> TJRC, *Report*, 3:9.

<sup>105</sup> TJRC, *Report*, 1:xiv.

<sup>106</sup> TJRC, *Report*, 3:37.

<sup>107</sup> TJRC, *Report*, 1:iii.

<sup>108</sup> TJRC, *Report*, 3:4.

<sup>109</sup> *TJR Act*, Sect. 5(g).

<sup>110</sup> Maathai, *The Challenge for Africa*, 214-215.

---

<sup>111</sup> Stephen Ndegwa, "Citizenship and Ethnicity: An Examination of Two Transition Moments in Kenyan Politics," *The American Political Science Review* 91, no. 3 (1997): 602.

<sup>112</sup> Ndegwa, "Citizenship and Ethnicity," 603.

<sup>113</sup> Ndegwa, "Citizenship and Ethnicity," 603.

<sup>114</sup> Stillion Southard, *How to Belong*, 15.

<sup>115</sup> Beasley, *You, the People*, 63.

<sup>116</sup> Beasley, *You, the People*, 60.

<sup>117</sup> Beasley, *You, the People*, 63.

<sup>118</sup> Childers, "Democratic Balance," 3.

<sup>119</sup> For a critique of this tendency, see Nancy Fraser, "Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy," in *Habermas and the Public Sphere*, ed. Craig Calhoun, 109-142, (Cambridge, MA: MIT Press, 1992).

<sup>120</sup> Anderson, *Imagined Communities*, 7.

<sup>121</sup> Olubayi Olubayi, "The Emerging National Culture of Kenya: Decolonizing Modernity," *Journal of Global Initiatives* 2, no. 2 (2007): 229.

<sup>122</sup> Stillion Southard, *How to Belong*, 17.

<sup>123</sup> Darrel Enck-Wanzer, "Decolonizing Imaginaries: Rethinking 'the People' in the Young Lords' Church Offensive," *Quarterly Journal of Speech* 98, no. 1 (2012): 16.

<sup>124</sup> Beasley, *You, the People*, 27.

<sup>125</sup> Beasley, *You, the People*, 26.

<sup>126</sup> Beasley, *You the People*, 164.

<sup>127</sup> Merciecca, *Founding Fictions*, 27.

<sup>128</sup> Chirindo, "Micronations and Postnational Rhetorics," 385, 384.

<sup>129</sup> Ndegwa, "Citizenship and Ethnicity," 602.

<sup>130</sup> Beasley, *You, the People*, 3.

<sup>131</sup> Beasley, *You the People*, 65.

<sup>132</sup> Maathai, *Challenge for Africa*, 218.

<sup>133</sup> Ndegwa, "Citizenship and Ethnicity," 601-602.

<sup>134</sup> Stillion Southard, *How to Belong*, 15.

<sup>135</sup> Stillion Southard, *How to Belong*, 15, 17.



## Chapter 4

### Justice: Senator Patrick Leahy's Proposal for a U.S. Truth Commission

Fourteen years after South Africa established its TRC and across the Atlantic Ocean, U.S. Democratic Senator Patrick Leahy proposed establishing a comparable truth commission in the United States to investigate acts of torture and other excesses committed under the auspices of the Bush administration's anti-terrorism policies. Leahy directly invoked South Africa's TRC as inspiration for his proposed commission. Though the context was vastly different, he declared it was no less probable that such a commission could bring the American people together through a "shared understanding of the failures of the recent past" than "the truth that came to light and laid the foundation for reconciliation in South Africa." Throughout his initial speech proposing the truth commission, in subsequent interviews with the news media, and in a congressional debate on the matter, Leahy used rhetoric that is now common among truth commissions to describe and build support for his proposal.<sup>1</sup> He spoke of a middle ground between prosecutions and impunity that would provide truth, reconciliation, and accountability for the past. The rhetorical similarities, however, were only superficial, and Leahy ultimately proposed a commission of a fundamentally different nature.

Although Leahy's commission was never established, his proposal is nevertheless significant. In recent years, suggestions that the United States would benefit from a truth commission have become more common in popular discourse and among public intellectuals and political figures. In his book *Blood Done Sign My Name*, historian Timothy Tyson writes, "The United States could find work for a national Truth and Reconciliation Commission like the one that has tried to mend the scars of apartheid in South Africa. . . . If there is to be reconciliation,

first there must be truth.”<sup>2</sup> Founder and director of the Equal Justice Initiative, Bryan Stevenson, has said:

We have a hard time talking about race, and I believe it’s because we are unwilling to commit ourselves to a process of truth and reconciliation. In South Africa, people understood that we couldn’t overcome apartheid without a commitment to truth and reconciliation. In Rwanda, even after the genocide, there was this commitment, but in this country, we haven’t done that.<sup>3</sup>

Amid nationwide discussions and protests about race relations in the United States sparked by the murders of Trayvon Martin, Michael Brown, and others, calls for a U.S. truth commission have become even more commonplace, though still not fulfilled. In response to the Ferguson decision to acquit police officer Darren Wilson for the killing of Michael Brown, Donna Brazile wrote for *CNN*, “Today, we need a national commission on justice. One that is more than a fact-finding commission. One whose purpose is reconciliation. This one should be modeled after South Africa’s Truth and Reconciliation Commission, chaired by Bishop Desmond Tutu.”<sup>4</sup> At a conference on how transitional justice can inform efforts to address race relations in the United States, activist and founding director of Restorative Justice for Oakland Youth, Fania Davis said, “I see Ferguson as kind of a marker. We have seen this bubbling up of truth-telling since Ferguson.”<sup>5</sup>

Truth commissions have also been proposed to address the history of racism in the United States. In a 2013 interview after Black Panther Assata Shakur was added to the FBI’s Most Wanted Terrorist List, Benjamin Jealous, then-President of the NAACP, suggested the United States should establish a truth and reconciliation commission to deal with “very painful moments” in the country’s past. Jealous referred both to cases such as Shakur’s, who was

convicted of killing a police officer in a 1973 shootout on the New Jersey Turnpike, and to the many unsolved lynchings in the South.<sup>6</sup> Noting that “the establishment of a ‘Truth and Reconciliation Commission’ has now become the universally-adopted mechanism for providing effective redress for harms caused to a people and culture by former government policies,” the Lakota People’s Law Project published a report in 2015 calling for a U.S. truth and reconciliation commission to investigate and address the legacies of the American Indian boarding schools system.<sup>7</sup>

More recently, author, journalist, and political commentator, Kevin Baker suggested in *The New Republic* that a post-Trump America would need a truth commission to “explor[e] exactly how Trump’s reign has torn this country apart.”<sup>8</sup> It is unclear whether Baker believes a commission is needed to address President Trump’s numerous racist remarks and policies or the general polarization he has provoked. Perhaps both. I include Baker’s suggestion as evidence of how common and casual suggestions for a truth commission have become in contemporary U.S. public discourse.

There have already been several local truth-telling initiatives in the United States. These include the Greensboro Truth and Reconciliation Commission (GTRC) in North Carolina, established in 2004 to address lingering questions and tensions surrounding the murder of five Communist Workers Party protesters by members of the Ku Klux Klan; the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission (MWTRC), established in 2012 to investigate the removal of Native children from their homes by the state’s child welfare agencies;<sup>9</sup> and the Maryland Lynching Truth and Reconciliation Commission (MD LTRC), established by the state of Maryland in 2019 to address the legacy of racial terror lynching. Additionally, numerous less formal community dialogue and truth-telling initiatives have been

established, including, among many others, the William Winter Institute's Welcome Table programs, Bridging Our Divide, Coming to the Table, Brown University's Community Dialogue Project, and Universities Studying Slavery and numerous individual university-led initiatives to investigate legacies of slavery. Some argue, and I tend to agree, that local, bottom-up initiatives such as these are better-suited for the United States.<sup>10</sup> Still, others see these initiatives as evidence of the need for a coordinated and officially sanctioned national initiative. Fania Davis argues that "we still need a Truth and Reconciliation Commission" to "bring together all of these disparate initiatives to coalesce in a more coordinated process that will result not only in truth-telling, but also in racial healing and transformative reparation."<sup>11</sup> In her call for a truth commission following the Ferguson decision, Brazile argued the issues illuminated by the case were not limited to Ferguson; they were national issues and needed to be addressed on a national scale.<sup>12</sup> Leahy's proposal is, thus, significant because it is the only proposal for a national truth commission in the United States that has garnered any serious traction.<sup>13</sup> Although the commission was never established, the proposal received significant attention by the national news media and made it to the floor of a Senate Judiciary Committee hearing.

Proponents of a U.S. truth commission, including Leahy, frequently invoke South Africa's TRC and its rhetoric. As Erik Doxtader has described, there is "something of an international fetishization" with the TRC.<sup>14</sup> Leahy's proposal is, thus, also significant to better understand how South Africa's TRC has been mobilized rhetorically in the establishment of truth commissions elsewhere. As I established in chapter 1, the institutional form of the truth commission has been duplicated the world over. Indeed, over thirty truth commissions have been established in disparate locations across the globe. Much less attention has been paid to how the

rhetoric of truth commissions has been duplicated, and with what effect. Although this has been a focus throughout this dissertation, it is particularly relevant in this chapter.

James Beitler argues “the field of transitional justice has given rise to a transnational rhetorical tradition that provides those working in the field with rich rhetorical resources.”<sup>15</sup> Consistent with the fetishization Doxtader describes, Beitler explains this “transnational rhetorical tradition” has been fundamentally shaped by South Africa’s TRC.<sup>16</sup> Beitler draws on John Murphy’s description of rhetorical traditions as “consist[ing] of common patterns of language use” that “provide inventional resources which offer actors the opportunity to construct political authority” to study how stakeholders in Greensboro used this tradition to establish the GTRC.<sup>17</sup> Jamie Rowen similarly argues that transitional justice is a malleable idea around which proponents of truth commissions can mobilize to articulate their goals and strategies.<sup>18</sup> The discourse of transitional justice “includes vague but appealing terms such as reconciliation, truth, reparation, and even justice” that actors can draw on to promote various goals and policies.<sup>19</sup> Beitler demonstrates how proponents of the GTRC “attempted to reaccentuate this rhetorical tradition”—in Beitler’s analysis, specifically the rhetoric of South Africa’s TRC—“in their own rhetorical performances to construct authority and bring about justice.”<sup>20</sup> Based on his analysis of the GTRC, Beitler posits the rhetorical tradition generated from South Africa’s TRC can be a promising resource for other communities seeking justice through truth commissions and offers a “more robust model for action” than the institutional form alone. Beitler speaks to a central argument throughout this dissertation: the rhetoric of truth commissions is more significant and provides greater insight about their practices and contributions than the institution alone.

Leahy’s use of this rhetorical tradition in his proposal for a U.S. truth commission, however, tempers Beitler’s optimistic conclusion and demonstrates, as Rowen argues, that there

are both assets and liabilities to the malleability of transitional justice and its rhetorical tradition. Like advocates of the GTRC, Leahy also invoked the South African TRC and used rhetorical tropes common among truth commissions to legitimate his proposal. While Beitler suggests this tradition is a fruitful and productive rhetorical resource, Leahy demonstrates the danger of appropriating it. Rowen argues “it may be easy to support a truth commission” using the discourse of transitional justice, but “the support may be shallow, and mobilizing around one may actually reproduce the social and political divisions that actors seeking accountability, survivor well-being, and the prevention of future violence hope to alleviate.”<sup>21</sup> Rowen voices concern for the consequences of the colonial logic whereby the wide appeal of key terms in the discourse of transitional justice is mistaken for universal meaning. In Rowen’s articulation, although the consequences may be unfortunate, the actors’ intentions at least seem consistent with the rhetoric they mobilize; they are still concerned with “survivor well-being” and preventing future violence. Leahy’s proposal, however, demonstrates a more severe form of colonial violence, as his commission would function to promote the well-being of the perpetrators while reinforcing systems of exclusion and domination that reproduce rather than prevent future violence.

Through an analysis of Leahy’s initial proposal, interviews with several news media outlets, a *Huffington Post* blog article, and a Senate Judiciary Committee hearing on the proposal, I demonstrate how Leahy mobilized the “vague but appealing terms” of the TRC’s rhetorical tradition to build support for a U.S. truth commission while disregarding the particularities of context and the more robust rhetorical practices, moral commitments, and political implications associated with the language he mobilized. I describe how Leahy understood and configured three key concepts in the rhetoric of truth commissions—truth,

reconciliation, and justice—in his proposal for a U.S. truth commission. For each term, I illustrate how Leahy drew on the TRC’s rhetorical tradition and where he diverged from it. My analysis illuminates numerous contradictions—both internally, between these key terms and their associated goals, and between Leahy’s proposal and the rhetorical tradition he drew from—in Leahy’s rhetoric. These contradictions may help explain Leahy’s failure to win support for his proposal. More importantly, I argue Leahy appropriated the TRC’s rhetorical tradition to support a commission designed to protect and empower the U.S. nation-state and those already included within and protected by its geopolitical borders. With an emphasis on restoring trust in the U.S. justice system, Leahy reaffirmed the very values and systems of power that produced the violence he sought to investigate. The colonial violence of this move cannot be overstated. Leahy appropriated a rhetorical tradition from marginalized peoples and places to strengthen and extend the power of the oppressor.

To make this argument, I first describe the political context that prompted Leahy to propose a truth commission. I then turn to my analysis of Leahy’s proposal. Finally, I conclude and discuss the implications of this analysis. Specifically, I discuss how a Western liberal understanding of justice—associated with principles of individual accountability, the rule of law, and an exclusive emphasis on retribution—shaped and marks a colonial logic in Leahy’s proposal that also pervades transitional justice discourse more broadly and constrains the rhetoric and decolonial potential of truth commissions.

### **The Past and Present Political Context for Leahy’s Commission**

In the wake of September 11 and in the name of the “War on Terror,” the Bush administration implemented sweeping national security reforms, including the USA PATRIOT ACT and other policies that allowed for intrusive surveillance, coercive interrogation tactics,

indefinite detention, and extraordinary rendition—the practice of capturing people and sending them to other countries known to practice torture and other abusive interrogation techniques.<sup>22</sup> At the time, many of these initiatives received widespread approval. Carol Bast and Cynthia Brown explain, “The fear created by the terrorists . . . makes many Americans quick to support and loath to criticize *any* government action that combats this threat and ensures national security.”<sup>23</sup> In the following years, however, several now-notorious events incited scathing reports and condemnations of these policies.<sup>24</sup>

The extraordinary rendition of Maher Arar to Syria in 2002 was one such event. The U.S. government apprehended Arar during a layover at the John F. Kennedy International Airport on suspicions of an affiliation with Al-Qaeda and deported him to Syria, where he was held and tortured for ten months. Arar is a dual-citizen of Syria and Canada but currently lived in Canada and was traveling with his Canadian passport. He was eventually released to Canada, where he was cleared of all charges.<sup>25</sup> Then, in December 2005, the *New York Times* reported Bush had secretly signed an order in 2002 authorizing the National Security Agency to eavesdrop on phone and e-mail conversations within the United States without a warrant, generating outrage among many Americans and significant criticism of the PATRIOT ACT.<sup>26</sup> In 2007, a scandal regarding the politicized firing of eight U.S. attorneys further embroiled the Bush Administration in controversy.<sup>27</sup>

One of the main issues Leahy proposed a truth commission to investigate was U.S. detention policies and interrogation techniques. The Bush administration established Guantánamo Bay in 2002 to detain people perceived to be extraordinarily dangerous, particularly due to suspected affiliations with Al-Qaeda. By naming detainees “enemy combatants,” holding them outside of the United States, narrowly re-defining torture, and claiming broad executive



power in the name of national security, Bush administration officials circumvented national and international laws to approve arresting and detaining prisoners without charge or trial and using psychologically and physically abusive interrogation techniques.<sup>28</sup>

In April 2004, the Abu Ghraib prison scandal broke when CBS's *60 Minutes II* aired a special report including graphic photos of prisoner abuse, followed by a featured article in *The New Yorker*.<sup>29</sup> The U.S. military used part of Abu Ghraib, an Iraqi prison complex, for detention purposes after the invasion of Iraq in 2003. Amnesty International and the International Committee of the Red Cross (ICRC) began documenting and reporting prisoner abuse at the center as early as June 2003.<sup>30</sup> However, these reports remained largely unacknowledged. It was not until the *60 Minutes* report that the public started paying attention. CNN chief international correspondent Christiane Amanpour observed, "The photos did what a print report could not do. They showed front-and-center what human rights groups had been saying for months: that the Bush administration was abusing prisoners within U.S. custody."<sup>31</sup> The accounts incited global outrage and condemnation of the Bush administration and its counter-terrorism policies, as well the United States as a whole. In May 2004 the cover of *The Economist* displayed the now-famous image of prisoner, Abdou Hussain Saad Faleh standing on a box, hooded, and with electric wires attached to his body with the headline "Resign, Rumsfeld."<sup>32</sup> Although the Bush administration initially claimed the abuses were isolated incidents, reports from Amnesty International, ICRC, and Human Rights, the release of legal memoranda authorizing enhanced interrogation techniques, and subsequent investigations demonstrated they were part of a pattern of abuses and torture at U.S. detention facilities in Iraq, Afghanistan, and Guantánamo Bay.<sup>33</sup>

These events occurred years before Leahy's proposal for a truth commission in February 2009, but President Obama's inauguration only weeks prior created a renewed impetus to

address them. Although not the type of transition typically associated with the establishment of a truth commission or other forms of transitional justice, the transition from one administration to the next nevertheless presented an opportunity to address the actions of the previous administration. Just two days after taking office, Obama issued four executive orders, directing the closure of the U.S. detention camp at Guantánamo Bay and banning the Central Intelligence Agency's secret prisons and use of coercive interrogation methods.<sup>34</sup> While providing a resounding condemnation of the Bush administration and its counterterrorism strategies, Obama's executive orders focused on how his administration would act in the future, rather than how to address the actions of the past. Although there had been some investigations of particular incidents and agencies, court cases that reinstated protections for prisoners, and prosecutions of some individuals, such as individual prison guards at Abu Ghraib, there had not been any systematic investigation of the political and legal processes that authorized the abuses or the architects of those policies. Having won on a campaign promise of ending partisanship and the assertion "that we are not as divided as our politics suggest," Obama was reluctant to embroil the country in a divisive investigation of the previous administration.<sup>35</sup> Leahy, however, argued that the United States must "read the page before we turn the page."<sup>36</sup> Towards this end, Leahy proposed a truth commission at Georgetown University's Marver H. Bernstein Symposium on Governmental Reform on February 9, 2009, in an address titled "Restoring Trust in the Justice System: The Senate Judiciary Committee's Agenda in the 111<sup>th</sup> Congress."<sup>37</sup>

### **Leahy's Proposal for a U.S. Truth Commission**

Leahy provided few details about the form and function of his proposed truth commission when he initially presented the idea in the Bernstein address at Georgetown. He introduced it as "a reconciliation process, a 'truth commission'" and explained:

We could develop and authorize a person—a group of people universally recognized as fair-minded and without any axe to grind. Their straightforward mission would be to find the truth. People would be told to come forward and share their knowledge and experiences—not for purposes of constructing criminal indictments but to assemble the facts.

He elaborated that the “process could involve subpoena powers and even the authority to obtain immunity from prosecutions for anything except perjury in order to get to the full truth.”<sup>38</sup> Who these “people universally recognized as fair-minded” or the people who “would be told to come forward” would be, and how the commission would use subpoena powers or determine when, how, or to whom to grant immunity was unclear. Leahy expounded on his proposal in later interviews and in the Senate Judiciary Committee hearing, but he remained vague and was sometimes inconsistent about these details. Because he never achieved the necessary support to establish the commission, its specific structure and operating procedures were never established. Nevertheless, Leahy provided enough explanation to draw conclusions about the overall nature and basic functions and purposes of his proposed commission.

Leahy explicitly invoked South Africa’s TRC and drew extensively from its rhetorical tradition to explain and gain support for his proposal for a U.S. truth commission. Yet, he appropriated this rhetoric for entirely different ends. While the TRC was victim-centered and aimed towards social and political transformation, Leahy was primarily concerned with uncovering the political and legal framework that authorized the Bush administration’s actions and with restoring public trust in the existing justice system.<sup>39</sup> In the analysis that follows, I describe how Leahy understood and configured three key terms—truth, reconciliation, and justice—and where he drew on and diverged from the TRC’s rhetorical tradition. Although I

present these concepts serially for the sake of analysis, they are—both in practice and within Leahy’s rhetoric—inseparable. They converge and intersect in various and inconsistent ways. As my analysis progresses and I add more terms to the symbolic equation, it becomes increasingly difficult to speak about the terms independently. Throughout my analysis, I make some initial observations about the relations among these terms, especially when they conflict, but I address these relations more comprehensively in my conclusion, along with the larger colonial implications of how Leahy configured these terms.

### **Truth**

The commission’s “straightforward mission,” Leahy said in his Georgetown address, “would be to find the truth.”<sup>40</sup> Leahy configured truth as equally straightforward: facts and answers. The purpose of finding the truth, he clarified, was “not for purposes of constructing criminal indictments but to assemble the facts.”<sup>41</sup> He wrote in an article for the *Huffington Post*, “A truth and reconciliation commission would be tasked with seeking answers.”<sup>42</sup> In an interview with Rachel Maddow, he stated, “Ultimately, for the good of the country, I think getting all the facts out is the most important.”<sup>43</sup> On this issue, Leahy was completely consistent; finding truth meant finding facts and answers.

Leahy spoke of the “truth that came to light and laid the foundation for reconciliation in South Africa” as a guiding impulse for the truth-seeking he proposed but without any appreciation for the complexity of the truth he invoked. Recall from chapter 2 that for the TRC, truth was not just about “bringing to light” information about the past.<sup>44</sup> As Krog implored, the TRC needed to “see[] truth as the widest possible compilation of people’s perceptions, stories, myths, and experiences.”<sup>45</sup> The TRC identified four types of truth: forensic, narrative, social, and healing.<sup>46</sup> Taken together, these various forms of truth included engaging South Africans in

telling their individual stories to give “meaning to the multi-layered experiences of the South African story” and further shaping meaning through “interaction, discussion, and debate.”<sup>47</sup> In this way, the TRC associated truth with healing, restoration, and promoting reconciliation.

Although, like the TRC, Leahy suggested people would “come forward to share their knowledge and experiences,” they would do so, according to Leahy’s configuration, for the sole purpose of assembling facts, thereby contributing to only one of the four types of truth identified by the TRC: forensic truth.

Moreover, the facts and answers Leahy sought were about the policy making processes and legal framework that authorized the Bush administration’s actions. The people with relevant knowledge and experiences to share about these would be political insiders who were involved in those decisions. Unlike the TRC, Leahy was unconcerned with providing a platform for survivors to narrate their truth. While Leahy originally proposed a truth and reconciliation commission formed in the image of South Africa’s, by the time his proposal reached the floor of the Senate Judiciary Committee, it was referred to instead as a Nonpartisan Commission of Inquiry, reflecting its primary function of investigating and revealing the facts about the past. This shift also marks a tension between Leahy’s construction of truth and reconciliation, a point I will return to later.

Leahy argued the United States had to address these facts about the past before moving forward. Leahy’s argument to “read the page before we turn the page” echoed the words of Alex Boraine, Deputy Chairperson of South Africa’s TRC, in one of its public hearings. “So this commission, essentially, is really not about the past, it’s about the future, but we have to turn the page of history if you like, but it’s our view that you first have to read the page before you turn it,” Boraine stated.<sup>48</sup> Boraine’s sentiment to “read the page before you turn it” has become

commonplace in arguments for the establishment of a truth commission, sometimes directly quoted and sometimes, as in Leahy's proposal, without attribution.<sup>49</sup> Leahy repeated this sentiment frequently, in interviews with national news media and in the Senate Judiciary Committee hearing on his proposal, where other members of the committee also picked up and echoed the phrase.<sup>50</sup>

Leahy used this rhetoric of "read[ing] the page" to suggest his commission was, like Boraine argued of the TRC, "really not about the past, it [was] about the future."<sup>51</sup> By doing so, he argued his commission was consistent with, and even essential for, the Obama administration's focus on "get[ting] it right moving forward."<sup>52</sup> Responding to Leahy's proposal in a press conference, Obama stated, "Generally speaking, I'm more interested in looking forward than I am in looking backwards. I want to pull everybody together."<sup>53</sup> Leahy argued exposing the truth (facts) about the past was necessary to prevent those mistakes from being repeated in the future. In an interview with Norah O'Donnell, he said, "I want to find out today what happened, who did what and that way to make sure that we don't make the same mistake, not the Obama administration, not the next administration. Because if we continue to make these kinds of mistakes, all of our freedoms as Americans suffer."<sup>54</sup> In a later interview with Rachel Maddow, he stated, "I say, well, let's read the page first before you turn it, because it's been my experience these things happen again. I don't want the Obama administration or the next administration to be tempted to break the law this way again."<sup>55</sup> According to the first statement, it was necessary to "read the page before we turn the page" to learn from those mistakes and avoid repeating them in the future. In the second statement, Leahy described "read[ing] the page before we turn the page" as a form of deterrence. Investigating and revealing the truth about the past, would, Leahy suggested, deter future administrations (i.e., they would not "be tempted")

from repeating them. Whether as a learning opportunity or as a form of deterrence, Leahy argued revealing the truth about the past was necessary to prevent the repetition of those mistakes in the future. Related to Leahy's limited understanding of truth as facts, his understanding of how truth figured in the relationship between the past and future was also limited. Leahy's orientation to the future was limited to preventing those same mistakes from being repeated. His framing of the actions to be investigated as "mistakes" was significant, and a point I return to when discussing his emphasis on "restoring" trust in the justice system. Mistakes are individual errors, and often benign errors at that. They are exceptions to the norm. Bringing to light the "mistakes" of the past would, thus, leave the systems and values that allowed those "mistakes" to happen in the dark. These were not included in Leahy's formulation of truth.

For the TRC, coming to terms with the past was not just about bringing to light the facts, and creating a better future was not just about preventing the mistakes of the past from being repeated in the future. Boraine explained that the purpose of coming to terms with the past was "so that we can together develop a better future for all of us."<sup>56</sup> In the TRC's final report, Tutu hoped "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."<sup>57</sup> He continued, "We have tried, in whatever way we could, to weave into this truth about our past some essential lessons for the future of the people of this country. Because the future, too, is another country. And we can do no more than lay at its feet the small wisdoms we have been able to garner out of our present experience."<sup>58</sup> When Boraine and Tutu referred to building a better or new future, they did not simply mean a future marked by the absence of the events of the past. They saw truth as contributing to a wholly *new* future that had to be built together. For the TRC, the relationship between truth and reconciliation was essential for

creating this new future and was supported by the various modes of truth it recognized. As I demonstrate below, Leahy's understanding of truth, by contrast, opposed his formulation of reconciliation.

### **Reconciliation**

Although Leahy used the rhetoric of reconciliation in his initial proposal, the shift to naming the commission a *Nonpartisan* Commission of Inquiry also marked his anemic vision of reconciliation. Leahy spoke about reconciliation in two ways: reconciling partisan divides and bringing together the American people. Leahy's rhetoric of reconciliation strategically matched the political climate of the time, encapsulated by Obama's promise that "that we are not as divided as our politics suggest."<sup>59</sup> As Rowen argues, "Leahy's goal was 'reconciliation' within the deeply divided country."<sup>60</sup> Yet, his formulation of truth as an inquiry into the past left little room for this type of reconciliation. Leahy's configuration of reconciliation also crucially diverged from the TRC because it lacked any concern for reconciling with the actual victims of the violence the commission was intended to address.

In the context of Obama's recent electoral victory on the promise of changing politics in Washington, in part by ushering in a more cooperative, post-partisan politics, the rhetoric of reconciliation was a promising resource for Leahy to gain support for his proposal. Throughout his Georgetown address, Leahy discussed the dangers of partisanship and extolled the value of bipartisan cooperation, even as he proposed a commission that would essentially amount to a partisan investigation of the Bush administration's actions. He proclaimed, "President Obama is right that we cannot afford extreme partisanship and debilitating divisions."<sup>61</sup> He also celebrated the "strong bipartisan vote" to confirm Attorney General Holder as "a good sign, while criticizing the Bush administration's "partisan excesses and illegalities" and "politicized



hiring.”<sup>62</sup> He argued partisan divisions in the country were responsible for making “our government less productive and our society less civil.”<sup>63</sup> When Leahy introduced his proposal for a truth commission near the end of his speech, he had, thus, already established the value of partisan reconciliation. In his initial proposal at Georgetown, Leahy never explicitly described what he meant by reconciliation or how the commission would contribute to it. Rather, he tied reconciliation to the values of nonpartisanship and fair mindedness. The commission, he said, would be comprised of “people universally recognized as fair minded, and without axes to grind.”<sup>64</sup> “Rather than vengeance,” Leahy reasoned, “we need a fair-minded pursuit of what actually happened.”<sup>65</sup> Leahy also emphasized that the commission would be fair minded as a means of demonstrating its nonpartisanship.

In later debates about the proposal, Leahy more explicitly described reconciliation as mending partisan divides and fostering partisan cooperation. He stated in the Senate Judiciary Committee hearing, “[The commission’s] potential is lost if we don’t join together. Today is another opportunity to come forward to find the facts, and join all of us, Republicans and Democrats, in developing a process to reach a mutual understanding of what went wrong and then to learn from it.”<sup>66</sup> A nonpartisan inquiry into the past, according to Leahy, could provide reconciliation by bringing together Democrat and Republican politicians in the pursuit of truth. However, Leahy’s narrow understanding of truth as an investigation to reveal the facts about the past made even this limited form of reconciliation unlikely. The TRC, by contrast, recognized it was not “sufficient to simply open old wounds and then sit back and wait for the light of exposure to do the cleansing.”<sup>67</sup> The narrative, social, and healing aspects of truth the TRC recognized were crucial to its understanding of the relationship between truth and reconciliation. For the TRC, truth included victims and perpetrators narrating their experiences and shaping

meaning through “interaction, discussion, and debate.”<sup>68</sup> It “place[d] facts and what they mean within the context of human relationships—both amongst citizens and between the state and its citizens.”<sup>69</sup> Truth, according to this formulation, contributed to reconciliation by rebuilding relationships, restoring dignity to victims through acknowledgment of their experiences, and laying a foundation for material reparations. Although Leahy proposed his commission “not for purposes of constructing criminal indictments but to assemble facts” and claimed it would operate through “a fair-minded pursuit of what actually happened” “rather than vengeance,” an investigation with the explicit purpose of revealing the Bush administration’s misdeeds, no matter how fair minded, would be unlikely to promote the partisan reconciliation Leahy envisioned.

Still, or perhaps because of this, Leahy used the rhetoric of reconciliation, and the association he established between reconciliation and bi- or nonpartisanship, to try to mollify concerns that an investigation of the Bush administration would only serve to further divide the country. He characterized his commission as a “middle ground”—a compromise between “those who resist any effort to investigate the misdeeds of the recent past” and “others who say that . . . we must prosecute Bush administration officials to lay down a marker.”<sup>70</sup> Leahy’s “middle ground” rhetoric echoed Tutu’s oft-repeated description of the TRC as “a ‘third way,’ a compromise between the extreme of Nuremberg trials and blanket amnesty or national amnesia.”<sup>71</sup> The TRC’s final report similarly described the TRC as “a middle path” “between a Nuremberg option and total amnesia.”<sup>72</sup> Drawing on this rhetoric, Leahy positioned his proposal as a compromise emblematic of the partisan reconciliation he suggested the commission would foster.

Imagined as Republicans and Democrats coming together in pursuit of truth, reconciliation was limited to politicians. The TRC, by contrast, described reconciliation as occurring on various levels, all of which directly involved the people of South Africa: within individuals, between victims and perpetrators, among communities, and as a nation.<sup>73</sup> Although Leahy spoke most specifically about bringing together Republicans and Democrats through bipartisan cooperation, he also proposed the commission as an occasion for all Americans to come together. In his proposal at Georgetown, he described partisan divisions as affecting the whole country, not just those in government. He stated, “During the past several years this country has been divided as deeply as it has been at any time in our history since the Civil War. And that’s made our government less productive, our society less civil.”<sup>74</sup> He described the political context as “an extraordinary time for the American people to come together.”<sup>75</sup> In the Senate Judiciary Committee hearing, he described it as “a time when conservatives, liberals, Republicans, and Democrats should be setting aside party labels to come together first and foremost as Americans.”<sup>76</sup>

Across the various outlets in which Leahy described his commission, he never clearly explained how it would function to bring the American people together. One might imagine, if it were modeled in the image of the TRC, the American people physically coming together to share their experiences. Although Leahy never specified who would testify, this does not seem to be what Leahy had in mind. In the Senate hearing, Leahy said it would be “people with firsthand knowledge” who would be “invited [but also subpoenaed] to come forward and share their experiences and insight.”<sup>77</sup> Moreover, unlike the TRC, Leahy never described truth telling as a collective practice with social and healing dimensions. The previous chapters both describe the relationship between truth and reconciliation as pursued by the TRC and TJRC. Leahy’s narrow

understanding of truth as facts, however, could not similarly support reconciliation. Leahy's explanation for how a truth commission could bring together the American people was more abstract. As I explain further in the following section, he argued a truth commission would bring together the American people through a shared faith in constitutional values and the justice system. In other words, it was based on the citizenship model of national community and belonging I described in chapter 3.

Whether he was speaking specifically of reconciliation between Democrats and Republicans in government through bipartisan cooperation or more generally about bringing together the American people, Leahy described reconciliation as coming together "as Americans." Crucially absent from this formulation, as with Leahy's understanding of truth, was any concern for the victims and survivors of the violence he proposed the commission to investigate. That is to say, crucially absent were those with whom the United States most needed to reconcile. Leahy's commission would do nothing for Maher Arar, the tortured detainees at Abu Ghraib and Guantánamo, or even brown-skinned or Muslim-appearing Americans who continue to face increased surveillance and discrimination within U.S. borders. Leahy's configuration of reconciliation only included individuals already included within and protected by the geopolitical borders of the U.S. nation-state. Beyond legal classifications of citizenship, this configuration of the national community reflects, as Judith Butler explains, "certain exclusionary conceptions of who is normatively human."<sup>78</sup> Importantly, the exclusion of Arar, the detainees at Abu Ghraib and Guantánamo, and others, was left unmarked in Leahy's rhetoric. They were simply absent from Leahy's rhetoric, and that absence could easily pass unnoticed because Leahy's understanding of the national community and its attendant exclusionary logics are accepted as natural. Leahy was concerned with consolidating the U.S. national community—

the community that excluded people like Maher Arar and the detainees at Abu Ghraib and Guantánamo—and argued his truth commission could do this by restoring trust in the justice system, a system that similarly excludes and fails to protect the same individuals.

## **Justice**

According to Georgetown’s student newspaper, *The Hoya*, the Bernstein symposium “was founded to address the restoration of public trust in America’s justice system.”<sup>79</sup> It was in this context, in an address titled “Restoring Trust in the Justice System,” that Leahy proposed establishing a truth commission. More than merely lip service to the symposium’s goals, the title of Leahy’s address reflected a central theme throughout his rhetoric advocating for a truth commission. While finding the truth may have been the commission’s “straightforward mission,” Leahy established restoring trust in the justice system as the commission’s larger, more fundamental purpose, a purpose inherently concerned with reinforcing the status quo. Leahy sought to reaffirm a commitment to established values of justice, thus working to bring the American people together and strengthen the U.S. national community. As such, he understood justice in terms consistent with the U.S. justice system, a primary function of which is to ensure individual accountability to the law through prosecution and punishment. Leahy’s emphasis on reaffirming existing standards of justice severely constrained his ability to defend his proposal to offer immunity in exchange for testifying and the potential for his commission to contribute to more comprehensive social and political change.

Leahy frequently appealed to established values and symbols of justice, such as the rule of law, individual rights, the Constitution, checks and balances, and an independent judiciary. He spoke of “the need to restore our constitutional values and the rights of ordinary Americans” and of a U.S. “justice system that has long been the envy of the world.”<sup>80</sup> In Leahy’s rhetoric, the

misdeeds of the Bush administration marked a departure from accepted standards of justice. As I described earlier, he framed them as mistakes. For example, he described how the “Bush-Cheney-Gonzalez Justice Department . . . bent the law to excuse illegality,” resulting in “a dangerous and disastrous diversion from American law and values.”<sup>81</sup> In the Senate hearing, he claimed the Bush administration “seriously eroded fundamental principles of the rule of law.”<sup>82</sup>

Leahy’s rhetoric positioning the Bush administration’s actions as an exception from American values and standards of justice mirrored the Bush administration’s own rhetoric when the Abu Ghraib scandal first came to light, as well as the shock expressed not just by Americans but throughout most of the world.<sup>83</sup> In several public statements, Bush recognized the acts as “abhorrent” but asserted they were the actions of a few bad people and did not represent “the true nature and heart of America.”<sup>84</sup> He declared the troops in Iraq were the “finest of the fine, fantastic United States citizens who represent the best qualities of America: courage, love of freedom, compassion, and decency.”<sup>85</sup> General Mark Kimmitt similarly claimed in the conclusion of the *60 Minutes* story, “So what would I tell the people of Iraq? This is wrong. This is reprehensible, but this is not representative of the 150,000 soldiers that are over here. I’d say the same thing to the American people. Don’t judge your army based on the actions of a few.”<sup>86</sup> Although Leahy implicated the Bush administration as part of the few bad actors, his rhetoric functioned similarly to how Michelle Brown argues the Bush administration’s rhetoric functioned: both depicted “these actors . . . as ‘in’ but not ‘of’ the nation.”<sup>87</sup> According to this perspective, “the instances of abuse at Abu Ghraib are an ‘aberration,’ the result of a particular institutional pathology,” at a particular time, among particular individuals.<sup>88</sup>

In contrast to the widespread expressions of shock, several theorists have argued the abuses of Abu Ghraib were not only part of a pattern of abuses at other military detention

facilities, as various human rights groups established; rather, they reflect American cultural values and practices more broadly. Slavoj Žižek's wrote at the time, "Bush was wrong: in the photos of humiliated Iraqi prisoners, what we get is, precisely, an insight into 'American values.'"<sup>89</sup> Brown explains that the abuses at Abu Ghraib reveal "how an unmarked proliferation of penal discourses, technologies, and institutions not only 'set the conditions' for the grossest violations of democratic values but revealed the normalcy and acceptability of these kinds of practices in spaces beyond and between the law."<sup>90</sup> For Butler, the images of "shackled bodies in Guantanamo" illustrate the "derealization of the human"; understood unilaterally as "dangerous," these individuals were positioned as "exceptions," as "humans who are not humans" and therefore outside of any political culture or legal entitlements.<sup>91</sup> Fully explicating these observations could be a dissertation in itself. For the purposes of this analysis, each theorist suggests nobody should have been shocked by the abuses at Abu Ghraib and Guantánamo. They reflect deep cultural—and, indeed, colonial—patterns associated with American imperialism, penal values and institutions, and exclusionary logics of sovereignty and the nation-state. By depicting the Bush administration's actions as a diversion from American laws and values, Leahy left all of this unquestioned. The purpose of his commission was not to consider transforming existing values and structures of justice but to reaffirm a commitment to the existing system.

Leahy faced a challenge, however, as his proposed truth commission was at odds with a primary feature of the U.S. criminal justice system, namely, the ability to prosecute and punish individuals who break the law. Remember that Leahy proposed a truth commission as a "middle ground" between "those who resist any effort to investigate the misdeeds of the recent past" and those who wanted criminal prosecutions, no matter the political consequences.<sup>92</sup> While this

compromise may have supported Leahy's vision of partisan reconciliation, the specific point on which it hinged was highly controversial. That fulcrum was immunity. As a middle ground, Leahy's commission would not pursue criminal prosecutions and, on the contrary, would have the authority to grant immunity in exchange for testifying. Leahy never established precise parameters or procedures for granting immunity nor identified who might require immunity. He clarified only that witnesses would only be eligible for immunity "if they testified, and testified thoroughly," which would be determined by asking them under oath if they had given "all the information."<sup>93</sup> The TRC's "third way" or "middle path" between blanket amnesty and Nuremberg-style prosecutions similarly rested on its ability to grant amnesty in exchange for truth-telling.<sup>94</sup>

The political context out of which the TRC was created and in which this compromise was accepted, however, was vastly different. For the TRC, the compromise to grant individual amnesty in particular circumstances was understood as necessary to achieve the negotiated settlement that ended apartheid and peaceful transition to democracy, and the particular procedures by which the TRC could grant individual amnesty were established in opposition to offering blanket amnesty.<sup>95</sup> Indeed, many truth commissions are established in contexts in which criminal prosecutions are seen as unlikely or impossible, because, for example, the former regime still holds significant military or political power, the judicial system is weak or corrupt, the extent of crimes to be investigated and prosecuted would over-burden the judicial system, and/or the former regime already passed amnesty laws protecting perpetrators. These contextual differences cannot be understated. Rowen argues "the common belief that truth commissions are for countries where transitions are violent and where courts cannot address domestic and



international crimes” was a significant reason proposals for a U.S. truth commission to investigate the Bush administration failed.<sup>96</sup>

Beyond these contextual differences, though, differences between how the TRC and Leahy explained and defended their “middle path” or “middle ground” reveal important differences in understandings of justice, particularly as it relates to accountability and the law. Rowen explains that because truth commissions are quasi-judicial institutions (similar to their characterization as middle grounds or middle paths) that carry the legitimacy of state law, “beliefs about law, and specifically law’s power to sanction wrongdoing, plays a crucial role in how individuals understand truth commissions.”<sup>97</sup> The concept of accountability also figures prominently in justifications for truth commissions and within the framework of transitional justice more broadly. According to the International Center for Transitional Justice (ICTJ), a non-profit organization based in New York City that Rowen argues was pivotal in standardizing the concept of transitional justice, “Transitional justice is rooted in *accountability* and redress for victims.”<sup>98</sup> The United Nations similarly understands transitional justice as “the full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure *accountability*, serve justice and achieve reconciliation.”<sup>99</sup> Individual accountability to the law, enforced through prosecution and punishment, is a fundamental feature of the U.S. justice system, and Western liberal democracy more broadly. As Thomas Paine has said, “In America the law is king.”<sup>100</sup> However, Rowen explains that although scholars “usually include some notion of accountability” as a primary goal of transitional justice, many “specify that accountability is not necessarily judicial accountability or prosecutions of perpetrators.”<sup>101</sup> For many truth commissions, *accounting for*, or establishing an *account of*, the past provides a mode of accountability when, for reasons described above,

prosecutions may not be feasible. This form of accountability could be understood as a lesser substitute for legal accountability. To put it otherwise, it may be seen as the best, albeit imperfect and unsatisfactory, option available. However, it also presents an opportunity to reimagine justice and its relation to accountability and the law. This is the contrast between Leahy's "middle ground" and the TRC's "middle path."

The TRC and Leahy both used the rhetoric of a "middle path" or "middle ground" to support offering amnesty or immunity. As I described above, the "middle ground" or "middle path" rhetoric appealed to the goodness of compromise and the goal of reconciliation. Moreover, it suggested the proposal was not so radically divergent from accepted ways of doing things. Tutu's additional characterization of the TRC as a "third way," however, illuminates a significant difference between the rhetoric of a "middle *path*" (for the TRC) and a "middle *ground*" (for Leahy). While "middle ground" signifies an ambiguous, continuous space between points, a "middle path" is distinct and leads somewhere different, just as a "third way" is not simply a blending of two ways but a discrete *third* way. Although the TRC was established in a context that supported, if not necessitated, offering amnesty, the TRC did not justify its extra-legal contribution to justice and accountability as simply a necessary compromise. Rather, the TRC redefined justice and its relation to accountability and the law. Leahy, on the other hand, proposed his commission in a context in which many believed prosecutions, even if politically divisive, were plausible, if not required. Yet, Leahy, with his focus on maintaining the status quo and restoring trust in the justice system, defended his proposal as a necessary but deficient form of justice.

Tutu and the TRC redefined justice by appealing to the Bantu concept of *ubuntu* as the basis for a more restorative understanding of justice.<sup>102</sup> The concept of *ubuntu* has circulated

along with the TRC and has itself become part of the truth commission lexicon. It is commonly explained, as it is in the TRC's final report, as "*umuntu ngumuntu ngabantu*—'people are people through other people.'"<sup>103</sup> As Tutu observed, however, it is a very difficult concept to explain in Western terms. His longer explanation, therefore, is pertinent:

It is to say, "My humanity is caught up, is inextricably bound up, in yours." We belong in a bundle of life. We say, "A person is a person through other persons." It is not, "I think therefore I am." It says rather: "I am human because I belong. I participate, I share." A person with *ubuntu* is open and available to others, affirming of others, does not feel threatened that others are able and good, for he or she belongs in a greater whole and is diminished when others are humiliated or diminished, when others are tortured or oppressed, or treated as if they were less than who they are.<sup>104</sup>

Based on the value of *ubuntu*, Tutu and the TRC outlined a commitment to restorative justice, which aims towards healing and restoration—foremost for victims but also for offenders and the larger community—over prosecution and punishment.<sup>105</sup> Perpetrators might not be held accountable through criminal prosecutions, but the TRC argued "punishment is not a necessary prerequisite for the acknowledgement of accountability."<sup>106</sup> It understood accountability in terms of a "moral responsibility" that "goes deeper than legal and political accountability."<sup>107</sup> It "extend[s] to making a contribution to the restoration of the well-being of their victims" and beyond the individual to fostering social change.<sup>108</sup> Regarding the latter, the TRC explained that restorative justice included a "shared moral responsibility" for complicity in apartheid:

What is required is that individuals and the community as a whole must recognise that the abdication of responsibility, the unquestioning obeying of commands (simply doing one's job), submitting to the fear of punishment, moral indifference, the closing of one's eyes

to events or permitting oneself to be intoxicated, seduced or bought with personal advantages are all essential parts of the many-layered spiral of responsibility which makes largescale, systematic human rights violations possible in modern states. Only this realisation can create the possibility for the emergence of something new in South African society. In short, what is required is a moral and spiritual renaissance capable of transforming moral indifference, denial, paralysing guilt and unacknowledged shame into personal and social responsibility.<sup>109</sup>

Without discounting the importance of legal order or advocating impunity, the TRC described its “third way” or “middle path” as contributing to restorative justice, which required reimagining justice and accountability as extending beyond individual prosecution and punishment and accountability to the law to include shared moral and social responsibility.

Leahy, by contrast, framed his proposed “middle ground” not as a different type of justice but as a lesser form of it. As he told Rachel Maddow, “It’s not a perfect way of doing it, but it may be the only way to get the truth out.”<sup>110</sup> He defended his “middle ground” by highlighting how it could still contribute to legal accountability, specifically in terms of prosecution and punishment. He pointedly stated, for example, that witnesses could still be prosecuted for perjury.<sup>111</sup> He also reasoned that even with immunity, some people would refuse to testify and could then be prosecuted with the aid of information gained from others who did testify in exchange for immunity.<sup>112</sup> As Rowen also observes, Leahy maintained criminal prosecutions as the ideal of justice rather than considering a different standard or more comprehensive understanding of justice.<sup>113</sup>

More generally, Leahy suggested that even absent criminal prosecutions, “getting the truth out” would similarly provide accountability. He argued Americans should not “abandon

seeking ways to provide accountability for what has been a disastrous diversion from American law and values.”<sup>114</sup> In this regard, Leahy’s rhetoric is consistent with the discourse of transitional justice and truth commissions, in so far as they suggest that accounting for the past provides a mode of accountability. The TRC explained, for example, “While successful amnesty applicants could not be punished, the impact of public acknowledgment should not be underestimated. Perpetrators were not able to take refuge in anonymity or hide behind national amnesia.”<sup>115</sup> While the TRC understood this accounting as a foundation for restoration and social change, Leahy understood it as analogous to criminal prosecutions and punishments. As I described earlier, he argued finding the truth about the past would, like prosecutions and punishment, deter future wrongdoings. Recall his statement to Maddow that accounting for the past was necessary so future administrations would not “be tempted to break the law this way again.”<sup>116</sup> In another interview, Leahy made the case more strongly, stating, “I think the fact that it becomes very, very public and the way they find out about it makes it very clear to the next person, ‘You try the same thing, you are going to be found out; you are going to be prosecuted.’”<sup>117</sup> Leahy’s recourse to the threat of prosecutions, never mind being inconsistent with his proposal to grant immunity, plainly demonstrates his adherence to existing standards of retributive justice. Leahy’s focus on reaffirming the existing justice system severely constrained his ability to justify offering immunity; he was left defending what was, by his own framing, a deficient form of justice. Even more problematically, as I explain more in the conclusion, this perspective was blind to the ways the existing system supported the very abuses Leahy proposed the commission to investigate. Individual accountability to the law failed to protect individuals from the abuses of the Bush administration’s counter-terrorism policies. Leahy’s commission could reveal facts about what happened, and loopholes could be temporarily closed in light of these facts—another way Leahy

claimed his commission could restore accountability in the justice system. But loopholes can always be made again. Accountability to the law only and a general faith in the law to act as a neutral arbiter and protector of rights, allowed wiretapping, infinite detention without charge, and torture to happen. Leahy's justice was blind, but not in the way the U.S. justice system extols it to be.

### **Conclusion**

Leahy drew on the TRC's rhetorical tradition to articulate his goals for a U.S. truth commission using an abstract but appealing rhetoric of truth, reconciliation, and justice. He invoked the TRC and its rhetorical tradition but disregarded the particularities of its context and the more robust rhetorical practices and commitments represented by the language. As Rowen argues, the discourse of transitional justice is a useful framework for proponents of truth commissions to articulate their goals and desires precisely because of its malleability.<sup>118</sup> This same malleability, however, can also be a liability, as it can be used to support contradictory goals and can be too easily appropriated. Leahy demonstrated both of these liabilities.

One implication of this analysis is a better understanding of why Leahy's rhetoric failed to build the support he needed for his proposed truth commission. Whether Leahy failed to carefully think through his proposal, simply did not understand the particularities of the rhetorical tradition he used, or strategically exploited its ambiguities, my analysis illuminates numerous contradictory goals in Leahy's rhetoric and demonstrates how his proposal threatened to deepen partisan divides, despite his appeals to reconciliation. Leahy utilized the TRC's rhetoric of reconciliation to suggest his commission could bring the American people together and reconcile partisan divides. Yet, his limited understanding of truth as facts and answers about the previous administration's actions and recourse to criminal prosecutions as the standard of

justice directly opposed this formulation of reconciliation. Ironically, Leahy's limited configuration of reconciliation was self-defeating, as it resulted in the partisan, investigative nature of his proposal; without a concern for victims, his commission would essentially amount to an investigation of the Bush administration. Additionally, Leahy proposed a truth commission with the authority to grant immunity in exchange for testimony but upheld criminal justice, with its requirement for prosecution and retribution, as the standard of justice, leaving him with an unsatisfactory defense of his proposed commission as a lesser form of justice.

More profound than explaining Leahy's failure, my analysis demonstrates how Leahy appropriated the TRC's rhetorical tradition not to transform an unjust system or address the harms caused by that system but to strengthen and empower it. More profound than reproducing partisan divisions within the U.S. national community, Leahy's commission would reproduce social and political divisions between the United States and anyone excluded from the U.S. national community, particularly those othered as threats to U.S. national security. Leahy was ultimately concerned with restoring U.S. power and security and its privileged position in the world. He argued America was "less safe" as a result of the Bush administration's actions and "restor[ing] our moral leadership" required acknowledging mistakes that were made.<sup>119</sup> National security, Leahy claimed, meant "protecting our country by advancing our laws and values and not by discarding them."<sup>120</sup> In other words, national security required further extending American imperialism, a goal Leahy intended his truth commission to promote.

As I described earlier, Leahy characterized the Bush administration's actions as a divergence from American values and principles of justice, particularly the rule of law. Leahy's perspective failed to consider that it was not simply the Bush administration's failure to abide by the rule of law that resulted in the violent abuses made most visible in the photos from Abu

Ghraib; rather, it was a failure of the rule of law to protect those whose lives were deemed, as Butler observed after 9/11, not grievable, those who were invisibly excluded from Leahy's rhetoric of reconciliation.<sup>121</sup> The rule of U.S. law does not protect these people. Individual accountability to the law and faith in the law to act as a universal and neutral arbiter and protector of rights leaves the most vulnerable, vulnerable. Legal frames of accountability, Brown argues, also exclude considerations of cultural conditions of violence.<sup>122</sup> Faith in the rule of law—again, based on the assumption the law can act as a neutral arbiter and guarantor of rights—suggests the law is “an exogenous force in society” rather than “part and parcel of the social fabric.”<sup>123</sup> As Leahy upheld retribution as the standard of justice, he failed to consider how these very values were implicated in the abuses he sought to investigate.

Doxtader warns that understanding “South Africa's ‘unique experiment’” as “a model that can be installed and employed productively in other situations” is not “risk-free” and may result in “a new mode of colonial logic.”<sup>124</sup> In his proposal for a U.S. truth commission, Leahy appropriated the TRC's rhetorical tradition for the sake of reaffirming, reproducing, and extending the very values, political systems, and power relations that produced the violence he proposed to investigate. The coloniality of Leahy's proposal is evident in his appropriation of the TRC's rhetoric, recourse to Western liberal democratic formulations of law and justice, and explicit imperialistic goal of “advancing our laws and values” elsewhere in the name of U.S. national security. There were, thus, striking parallels between Leahy's proposal and the Bush administration's counter-terrorism policies, both of which were exclusively concerned with protecting American citizens and America's privileged position in the world and both of which would ultimately function to reproduce and extend American imperialism.



Rowen observes that the colonial logics evident here are not limited to Leahy's proposal. Rather, the entire transitional justice movement—with its goal, recall from chapter 1, of facilitating a transition *to democracy*—has been organized around programs to promote the rule of law. “The apolitical phrase ‘rule of law,’” Rowen argues, “provides cover for an imperial approach to Western legal systems as the only acceptable way to organize society.”<sup>125</sup> Across multiple case studies, Rowen observes that advocates of truth commissions “had to articulate their goals with judicial accountability as the reference point,” illustrating a “a renewed emphasis on prioritizing prosecutions to redress mass violence.”<sup>126</sup> Mahmood Mamdani similarly argues the model of justice that grounds contemporary human rights movements “think[s] of violence as criminal, and of responsibility for it as individual.”<sup>127</sup> Even the TRC's formulation of restorative justice was ultimately constrained by this logic. Despite acknowledging apartheid itself as a crime against humanity, Mamdani, and others, criticize the TRC for individualizing the victims and perpetrators of apartheid. The TRC, Mamdani contends, “described apartheid not as a system in which a racialized power disenfranchised and disposed a racialized majority, but as a set of human rights violations of a minority of individual victims carried out by an even smaller minority of individual perpetrators.”<sup>128</sup> Although the TRC prioritized reconciliation over prosecution, Mamdani describes its “victims' justice” and the model of “victors' justice” inherited from Nuremberg as “one side of the same coin,” as both focus on individual victims and perpetrators as the source of violence rather than the issues that drive conflict, limiting the potential for social and political transformation.<sup>129</sup>

If a truth commission in the United States, or anywhere, is to meaningfully contribute to the goals represented in the idealized discourse of the TRC's rhetorical tradition, it will have to reimagine justice as something other and more than Western liberal legality. It will require more

than faith in the rule of law and in criminal prosecutions and retribution to ensure individual accountability to the law. As Bryan Stevenson has said, “There is an urgent need for us to keep doing what we’re doing—but to actually do more. . . . We’ve got to find new ways to create justice.”<sup>130</sup> You have to have imagination and “become someone who believes things you haven’t seen . . . if you’re going to change the world, if you’re going to create more justice.”<sup>131</sup> If a truth commission is to be established in the United States, its purpose must not be to restore trust in the justice system but to radically reimagine what justice is or could be to restore justice to the justice system.

## Notes

---

<sup>1</sup> Leahy was interviewed by Norah O'Donnell on *MSNBC Live*, Wolf Blitzer on CNN's *The Situation Room*, Bob Schieffer on CBS News's *Face the Nation*, Ed Schultz on MSNBC's *The Ed Show*, and twice by Rachel Maddow on MSNBC's *The Rachel Maddow Show*. Wolf Blitzer, "Investigating the Bush Administration; Obama Stimulus Plan; Senator Leahy Interview," *The Situation Room*, CNN, aired February 14, 2009, transcript, <http://edition.cnn.com/TRANSCRIPTS/0902/14/sitroom.01.html>; Rachel Maddow, "Interview with Senator Patrick Leahy (D-VT), Senate Judiciary Committee Chairman," *The Rachel Maddow Show*, MSNBC, aired February 10, 2009, transcript, Federal News Service; Rachel Maddow, "Interview with Senator Patrick Leahy," *The Rachel Maddow Show*, MSNBC, aired March 4, 2009, transcript, Federal News Service; Norah O'Donnell, "MSNBC Interview with Senator Patrick Leahy (D-VT)," *MSNBC Live*, MSNBC, aired February 10, 2009, transcript, Federal News Service; Ed Schultz, "Interview with Senator Patrick Leahy (D-VT)," *The Ed Show*, MSNBC, aired April 21, 2009, transcript, Federal News Service; Bob Schieffer, interview with Senator Leahy, *Face the Nation*, CBS News, aired April 26, 2009, transcript, Federal News Service; *Getting to the Truth through a Nonpartisan Commission of Inquiry*, Hearing before the Committee on the Judiciary, United States Senate, 111<sup>th</sup> Cong., 1 (2009); Patrick Leahy, "A Truth Commission to Investigate Bush-Cheney Administration Abuses," *Huffington Post*, February 12, 2009, [http://www.huffingtonpost.com/sen-patrick-leahy/a-truth-commission-to-inv\\_b\\_166461.html](http://www.huffingtonpost.com/sen-patrick-leahy/a-truth-commission-to-inv_b_166461.html); Patrick Leahy, "Restoring Trust in the Justice System: The Senate Judiciary Committee's

---

Agenda in the 111<sup>th</sup> Congress,” (public lecture, 2009 Marver Bernstein Lecture, Georgetown University, Washington, DC, February 9, 2009), available at [leahy.senate.gov](http://leahy.senate.gov).

<sup>2</sup> Timothy B. Tyson, *Blood Done Sign My Name: A True Story* (New York: Three Rivers Press, 2004), 10.

<sup>3</sup> Bryan Stevenson, “We Need to Talk about Injustice,” *TEDTalk*, March 2012, accessed January 5, 2020, [https://www.ted.com/talks/bryan\\_stevenson\\_we\\_need\\_to\\_talk\\_about\\_an\\_injustice\\_](https://www.ted.com/talks/bryan_stevenson_we_need_to_talk_about_an_injustice_).

<sup>4</sup> Donna Brazile, “After Ferguson We Need a National Commission on Justice,” *CNN*, December 1, 2014, accessed, January 5, 2020, [www.cnn.com/2014/12/01/opinion/brazile-ferguson-truth-and-reconciliation/index.html](http://www.cnn.com/2014/12/01/opinion/brazile-ferguson-truth-and-reconciliation/index.html).

<sup>5</sup> Sam McCann, “Is the United States Ready for a Truth-Telling Process?” *International Center for Transitional Justice*, August 9, 2017, accessed January 5, 2020, <https://www.ictj.org/news/united-states-ready-truth-telling-process>.

<sup>6</sup> Interview with Amy Goodman, “As FBI Seeks Capture of Assata Shakur, NAACP Head Calls for U.S. Truth & Reconciliation Commission,” *Democracy Now!*, May 31, 2013, accessed January 5, 2020, [https://www.democracynow.org/2013/5/31/as\\_fbi\\_seeks\\_capture\\_of\\_assata\\_](https://www.democracynow.org/2013/5/31/as_fbi_seeks_capture_of_assata_).

<sup>7</sup> Lakota People’s Law Project, *Truth & Reconciliation in the United States of America: A Call for the U.S. to Reconcile with the American Indigenous Community over the Mistreatment of Indian Children in Boarding Schools* (Bismark, ND: Lakota People’s Law Project, 2015), 8, accessed January 8, 2020, <https://lakota-prod.s3-us-west-2.amazonaws.com/uploads/Truth-Reconciliation-Report.pdf>.

---

<sup>8</sup> Kevin Baker, “Nothing in All Creation is Hidden: Why America Needs Truth and Reconciliation After Trump,” *The New Republic*, May 17, 2018, accessed January 5, 2020, <https://newrepublic.com/article/148270/nothing-creation-hidden>.

<sup>9</sup> The MWTRC, a joint project between the state of Maine and the Wabanaki tribal governments, is the only U.S. commission that has received government endorsement, though from the state of Maine, not the federal government. Bennett Collins and Alison M. S. Watson, “Examining the Potential for an American Truth and Reconciliation Commission,” *Carnegie Ethics Online Monthly Column*, February 5, 2015, accessed January 5, 2020, [https://www.carnegiecouncil.org/publications/ethics\\_online/0102](https://www.carnegiecouncil.org/publications/ethics_online/0102).

<sup>10</sup> See, for example, Collins and Watson, “Examining the Potential” and Joshua F. J. Inwood, “Dealing with Hate: Can America’s Truth and Reconciliation Commissions Help?” *The Conversation*, February 28, 2017, accessed January 5, 2020, <https://theconversation.com/dealing-with-hate-can-americas-truth-and-reconciliation-commissions-help-73170>.

<sup>11</sup> McCann, “Is the United States Ready for a Truth-Telling Process?”

<sup>12</sup> Brazile, “After Ferguson.”

<sup>13</sup> Around the same time as Leahy, Representative John Conyers also proposed a commission to investigate the Bush Administration. In January 2009, he, along with 24 co-sponsors introduced a bill titled “To Establish a National Commission on Presidential War Powers and Civil Liberties.” Conyers, however, never labeled his commission a truth commission or truth and reconciliation commission. John Conyers, “To Establish a National Commission on Presidential

---

War Powers and Civil Liberties,” H.R. 104, 111<sup>th</sup> Congress, 2009-2010. For more on Conyers’s proposal, see Jamie Rowen, *Searching for Truth in the Transitional Justice Movement* (New York: Cambridge University Press, 2017), 130-133.

<sup>14</sup> Erik Doxtader, *With Faith in the Works of Words: The Beginnings of Reconciliation in South Africa, 1985-1995* (East Lansing, MI: Michigan State University Press, 2008), 5. Jamie Rowen argues the International Center for Transitional Justice (ICTJ) professionalized the idea of transitional justice and promoted South Africa’s TRC as an exportable model. See Rowen, *Searching for Truth*, 32-56.

<sup>15</sup> James Edward Beitler, III, *Remaking Transitional Justice in the United States: The Rhetorical Authorization of the Greensboro Truth and Reconciliation Commission* (New York: Springer, 2013), vii.

<sup>16</sup> Beitler writes, “As the most powerful and well-known truth commission to date, the SATRC has arguably had a greater impact on the field of transitional justice than any other truth commission.” Beitler, *Remaking Transitional Justice*, 31.

<sup>17</sup> John M. Murphy, “Inventing Authority: Bill Clinton, Martin Luther King, Jr., and the Orchestration of Rhetorical Traditions,” *Quarterly Journal of Speech* 83, no. 1 (1997): 72, 71.

<sup>18</sup> This is the central argument of Rowen’s book. Rowen, *Searching for Truth*.

<sup>19</sup> Rowen, *Searching for Truth*, 153.

<sup>20</sup> Beitler, *Remaking Transitional Justice*, vii.

<sup>21</sup> Rowen, *Searching for Truth*, 5.

---

<sup>22</sup> Bush first used the phrase “War on Terror” in a nationally broadcast address to a joint session of Congress on September 20, 2001. George W. Bush, “Address to a Joint Session of Congress and the Nation, September 20, 2001, transcript, accessed January 5, 2020, [http://www.washingtonpost.com/wp-srv/nation/specials/attacked/transcripts/bushaddress\\_092001.html](http://www.washingtonpost.com/wp-srv/nation/specials/attacked/transcripts/bushaddress_092001.html).

<sup>23</sup> Carol M. Bast and Cynthia A. Brown, “A Contagion of Fear: Post-9/11 Alarm Expands Executive Branch Authority and Sanctions Prosecutorial Exploitation of America’s Privacy,” *Cardozo Public Law, Policy & Ethics Journal* 13, no. 2 (2015): 362. John Murphy has also written on how Bush was able to use the climate of fear and vulnerability generated by 9/11 to dominate public interpretation of these events and support his justification for the War on Terror. John M. Murphy, “‘Our Mission and Our Moment’: George W. Bush and September 11<sup>th</sup>,” *Rhetoric & Public Affairs* 6, no. 4 (2003): 607-632.

<sup>24</sup> For more on Bush’s national security reforms and counterterrorism policies, as well as subsequent scandals, see: Arch Puddington, Thomas Melia, Jason Kelly, eds. *Today’s American: How Free?*, Freedom House, available from <https://freedomhouse.org/report/todays-american-how-free>; American Civil Liberties Union, *A Call to Courage: Reclaiming our Liberties Ten Years After 9/11* (New York: American Civil Liberties Union, 2011); Human Rights Watch, *Getting Away With Torture? Command Responsibility for the U.S. Abuse of Detainees* 17, no. 1 (2005)

---

<sup>25</sup> For more on Arar, see Center for Constitutional Rights, *The Story of Maher Arar: Rendition to Torture* (New York: Center for Constitutional Rights, 2008).

<sup>26</sup> Josh Risen and Eric Lichtblau, “Bush Lets U.S. Spy on Callers Without Courts,” *The New York Times*, December 16, 2005.

<sup>27</sup> Dan Eggen, “U.S. Attorney Firings Set Stage for Congressional Battle,” *Washington Post*, February 4, 2007; Adam Zagorin, “Why Were These U.S. Attorneys Fired?,” *Time*, March 7, 2007; “U.S. Attorney Firing Scandal Draws Coverage – From National to Local,” *Editor & Publisher*, March 13, 2007.

<sup>28</sup> See Rowen, *Searching for Truth*, 124-126; Amnesty International UK, “Guantánamo Bay: 14 Years of Injustice,” January 12, 2008, accessed February 15, 2020, <https://www.amnesty.org.uk/guantanamo-bay-human-rights>.

<sup>29</sup> Dan Rather, “Abuse at Abu Ghraib,” *60 Minutes II*, CBS, aired April 28, 2004; Seymour M. Hersh, “Torture at Abu Ghraib,” *The New Yorker*, May 10, 2004, 42-53.

<sup>30</sup> Amnesty International, *Iraq: Memorandum on Concerns Relating to Law and Order* (New York: Amnesty International, 2003); International Committee of the Red Cross, *Report of the International Committee of the Red Cross (ICRC) on the Treatment by the Coalition Forces of Prisoners of War and Other Protected Persons by the Geneva Conventions in Iraq during Arrest, Internment, and Interrogation*, February 2004. The *Wall Street Journal* published excerpts from this confidential report in May 2004. “Excerpts from Red Cross Report,” *Wall Street Journal*,



---

May 7, 2004, accessed February 10, 2020, <https://www.wsj.com/articles/SB108388925325204831>.

<sup>31</sup> Qtd. in Wayne Drash, “Abu Ghraib Photos were ‘Big Shock,’ Undermined U.S. Ideals,” *CNN*, May 20, 2009.

<sup>32</sup> *The Economist*, May 4, 2004.

<sup>33</sup> Amnesty International, *Iraq; ICRC, Report*; Reed Brody, *The Road to Abu Ghraib* (Human Rights Watch, June, 2004), accessed January 20, 2020, <http://www.hrw.org/reports/2004/usa0604/>.

<sup>34</sup> Joby Warrick and Karen DeYoung, “Obama Reverses Bush policies on Detention and Interrogation,” *The Washington Post*, January 23, 2009; Scott Shane, Mark Mazzetti, and Helene Cooper, “Obama Reverses Key Bush Security Policies,” *The New York Times*, January 23, 2009.

<sup>35</sup> Barack Obama, “New Hampshire Primary Speech,” January 8, 2008, transcript, accessed January 5, 2020, [http://www.nytimes.com/2008/01/08/us/politics/08text-obama.html?pagewanted=print&\\_r=0](http://www.nytimes.com/2008/01/08/us/politics/08text-obama.html?pagewanted=print&_r=0).

<sup>36</sup> Leahy, “Restoring Trust.”

<sup>37</sup> Leahy, “Restoring Trust.”

<sup>38</sup> Leahy, “Restoring Trust.”

<sup>39</sup> The extent to which this political and social transformation was successful is highly contested. See, for example, Mahmood Mamdani, “Amnesty or Impunity? A Preliminary Critique of the

---

Report of the Truth and Reconciliation Commission of South Africa (TRC),” *Diacritics*, 32, no. 3-4 (2002): 33-59; Mahmood Mamdani, “Beyond Nuremberg: The Historical Significance of the Post-Apartheid Transition in South Africa,” *Politics & Society* 43, no. 1 (2015): 61-88; Richard Wilson, *The Politics of Truth and Reconciliation in South Africa* (New York: Cambridge University Press, 2001).

<sup>40</sup> Leahy, “Restoring Trust.”

<sup>41</sup> Leahy, “Restoring Trust.”

<sup>42</sup> Leahy, “A Truth Commission.”

<sup>43</sup> Maddow, “Interview with Senator Patrick Leahy.”

<sup>44</sup> Truth and Reconciliation Commission (TRC), *Truth and Reconciliation Commission of South Africa Report* (Cape Town: Truth and Reconciliation Commission, 1999), 1:111, accessed January 22, 2020, <https://www.justice.gov.za/trc/report/>. (hereafter cited as TRC, *Report*).

<sup>45</sup> Antjie Krog, *Country of My Skull: Guilt, Sorrow, and the Limits of Forgiveness in the New South Africa* (New York: Three Rivers Press, 2000), 21-22.

<sup>46</sup> TRC, *Report* 1:110.

<sup>47</sup> TRC, *Report*, 1:112-113.

<sup>48</sup> Transcript, South African Truth and Reconciliation Commission Armed Forces Hearing, South African Police, Day 3, October 9, 1997, Cape Town, accessed January 5, 2020, <https://www.justice.gov.za/trc/special/forces/sap.htm>.

- 
- <sup>49</sup> See, for example, Tom Lewis, “South Africa’s Example Could Benefit Lebanon,” *The Daily Star* (Beirut), April 15, 2008, accessed January 5, 2020, <http://www.dailystar.com.lb/ArticlePrint.aspx?id=49012& mode=print>; Dieu-Donné Wedi Djamba, “DRC: Debating Reconciliation and National Unity,” *Pambazuka News*, December 21, 2006, accessed January 5, 2020, <https://www.pambazuka.org/governance/drc-debating-reconciliation-and-national-unity>.
- <sup>50</sup> Maddow, “Interview with Senator Patrick Leahy,” March 4, 2009; O’Donnell, “MSNBC Interview with Senator Patrick Leahy (D-VT)””; Schieffer, *Face the Nation*; Schultz, “Interview with Senator Patrick Leahy””; *Getting to the Truth*, Hearing before the Committee on the Judiciary.
- <sup>51</sup> Transcript, South African Truth and Reconciliation Commission Armed Forces Hearing.
- <sup>52</sup> “Transcript: Obama Takes Questions on Economy,” *CNN.com*, CNN, February 9, 2009, accessed January 5, 2020, <http://www.cnn.com/2009/POLITICS/02/09/obama.conference.transcript/>.
- <sup>53</sup> “Transcript: Obama Takes Questions on Economy.”
- <sup>54</sup> O’Donnell, “MSNBC Interview with Senator Patrick Leahy.”
- <sup>55</sup> Maddow, “Interview with Senator Patrick Leahy,” March 4, 2009.
- <sup>56</sup> Transcript, South African Truth and Reconciliation Commission Armed Forces Hearing.
- <sup>57</sup> TRC, *Report*, 1:2.
- <sup>58</sup> TRC, *Report*, 1:4.
- <sup>59</sup> Obama, “New Hampshire Primary Speech.”

<sup>60</sup> Rowen, *Searching for Truth*, 131.

<sup>61</sup> Leahy, "Restoring Trust."

<sup>62</sup> Leahy, "Restoring Trust."

<sup>63</sup> Leahy, "Restoring Trust"; Leahy, "A Truth Commission."

<sup>64</sup> Leahy, "Restoring Trust."

<sup>65</sup> Leahy, "Restoring Trust."

<sup>66</sup> *Getting to the Truth*, Hearing before the Committee on the Judiciary.

<sup>67</sup> TRC, *Report*, 1:114.

<sup>68</sup> TRC, *Report*, 1:112-113.

<sup>69</sup> TRC, *Report*, 1:114.

<sup>70</sup> Leahy, "Restoring Trust."

<sup>71</sup> Desmond Tutu, *No Future Without Forgiveness* (New York: Doubleday, 1999), 30.

<sup>72</sup> TRC, *Report*, 1:118.

<sup>73</sup> TRC, *Report*, 1:106-108.

<sup>74</sup> Leahy, "Restoring Trust."

<sup>75</sup> Leahy, "Restoring Trust."

<sup>76</sup> *Getting to the Truth*, Hearing before the Committee on the Judiciary.

<sup>77</sup> *Getting to the Truth*, Hearing before the Committee on the Judiciary.

<sup>78</sup> Judith Butler, *Precarious Life: The Power of Mourning and Violence* (New York, Verso, 2004), xiv-xv.

---

<sup>79</sup> Carolyn Shanahan, "Senator Leahy Speaks on Restoring Public's Trust in Government," *The Hoya*, February 10, 2009.

<sup>80</sup> Leahy, "Restoring Trust."

<sup>81</sup> Leahy, "Restoring Trust."

<sup>82</sup> *Getting to the Truth*, Hearing before the Committee on the Judiciary.

<sup>83</sup> For an analysis of Bush's rhetoric in response to the scandal, see Ryan Shepard, "Toward a Theory of Simulated Atonement: A Case Study of President George W. Bush's Response to the Abu Ghraib Torture Scandal," *Communication Studies* 60, no. 5 (2009): 460-475.

<sup>84</sup> George W. Bush, "President Bush, Jordanian King Discuss Iraq, Middle East," May 5, 2004, *The White House: George W. Bush*, accessed January 28, 2020, <https://georgewbush-whitehouse.archives.gov/news/releases/2004/05/20040506-9.html>.

<sup>85</sup> Bush, "President Bush."

<sup>86</sup> Dan Rather, "Abuse at Abu Ghraib." Michelle Brown also analyzes statements by Donald Rumsfeld and observes how his rhetoric "blurs categories of 'humanness,' normalcy, and torture into an official language of denial, culminating in the use of law to evade responsibility."

Michelle Brown, "'Setting the Conditions' for Abu Ghraib: The Prison Nation Abroad," *American Quarterly* 57, no. 3 (2005): 977.

<sup>87</sup> Brown, "'Setting the Conditions'," 977.

<sup>88</sup> Brown, "'Setting the Conditions'," 977.

---

<sup>89</sup> Slavoj Žižek, “Between Two Deaths,” *London Review of Books* 26, no. 11, June 3, 2004, accessed March 7, 2020, <https://www.lrb.co.uk/the-paper/v26/n11/slavoj-zizek/between-two-deaths>.

<sup>90</sup> Brown, “‘Setting the Conditions’,” 992.

<sup>91</sup> Butler, *Precarious Life*, 77.

<sup>92</sup> Leahy, “Restoring Trust.”

<sup>93</sup> Maddow, “Interview with Senator Patrick Leahy,” February 10, 2009.

<sup>94</sup> Tutu, *No Future Without Forgiveness*, 30; TRC, *Report*, 1: 118.

<sup>95</sup> Tutu explains, “It is as certain as anything that the security forces of the apartheid regime would not have supported the negotiated settlement which made possible the ‘miracle’ of our relatively peaceful transition from repression to democracy . . . had they known that at the end of the negotiations they would be for the high jump, when they would face the full wrath of the law as alleged perpetrators. They still controlled the guns and had the capacity to sabotage the process” (Tutu, *No Future Without Forgiveness*, 20). See also Erik Doxtader, “Making Rhetorical History in a Time of Transition: The Occasion, Constitution and Representation of South African Reconciliation,” *Rhetoric & Public Affairs* 4, no. 2 (2001): 223-260.

<sup>96</sup> Rowen, *Searching for Truth*, 140.

<sup>97</sup> Rowen, *Searching for Truth*, 11.

---

<sup>98</sup> International Center for Transitional Justice, “What is Transitional Justice?” 2020, accessed February 7, 2020, <https://www.ictj.org/about/transitional-justice>; Rowen, *Searching for Truth*, 8, emphasis added.

<sup>99</sup> United Nations, “Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice,” March 2010, 2, accessed February 15, 2020, [https://www.un.org/ruleoflaw/files/TJ\\_Guidance\\_Note\\_March\\_2010FINAL.pdf](https://www.un.org/ruleoflaw/files/TJ_Guidance_Note_March_2010FINAL.pdf), emphasis added.

<sup>100</sup> Thomas Paine, *The Writings of Thomas Paine*, ed, Moncure Daniel Conway (New York: G.P. Putnam’s Sons, 1894), vol. 1, accessed February 13, 2020, <https://oll.libertyfund.org/titles/343>.

<sup>101</sup> Rowen, *Searching for Truth*, 4.

<sup>102</sup> Tutu, *No Future Without Forgiveness*, 31; TRC, *Report*, 1:126.

<sup>103</sup> TRC, *Report*, 1:127.

<sup>104</sup> Tutu, *No Future Without Forgiveness*, 31.

<sup>105</sup> Tutu, *No Future Without Forgiveness*, 31; TRC, *Report*, 1: 126.

<sup>106</sup> TRC, *Report*, 1:119.

<sup>107</sup> TRC, *Report*, 1:132.

<sup>108</sup> TRC, *Report*, 1:131.

<sup>109</sup> TRC, *Report*, 1:131-132.

<sup>110</sup> Maddow, “Interview with Senator Patrick Leahy,” February 10, 2009.

<sup>111</sup> *Getting to the Truth*, Hearing before the Committee on the Judiciary; Maddow, “Interview with Senator Patrick Leahy,” February 10, 2009.

- 
- <sup>112</sup> Maddow, “Interview with Senator Patrick Leahy,” February 10, 2009.
- <sup>113</sup> Rowen, *Searching for Truth*, 155.
- <sup>114</sup> Leahy, “Restoring Trust.”
- <sup>115</sup> TRC, *Report*, 1:120.
- <sup>116</sup> Maddow, “Interview with Senator Patrick Leahy,” March 4, 2009.
- <sup>117</sup> Maddow, “Interview with Senator Patrick Leahy,” February 10, 2009.
- <sup>118</sup> Rowen, *Searching for Truth*, 4.
- <sup>119</sup> *Getting to the Truth*, Hearing before the Committee on the Judiciary.
- <sup>120</sup> *Getting to the Truth*, Hearing before the Committee on the Judiciary.
- <sup>121</sup> Butler, *Precarious Life*, xiv-xv.
- <sup>122</sup> Brown, “‘Setting the Conditions’,” 979.
- <sup>123</sup> Rowen, *Searching for Truth*, 160.
- <sup>124</sup> Erik Doxtader, “The Potential of Reconciliation’s Beginning: A Reply,” *Rhetoric & Public Affairs* 7, no. 3 (2004): 380.
- <sup>125</sup> Rowen, *Searching for Truth*, 160.
- <sup>126</sup> Rowen, *Searching for Truth*, 156, 155.
- <sup>127</sup> Mamdani, “Beyond Nuremberg,” 62.
- <sup>128</sup> Mamdani, “Beyond Nuremberg,” 72.
- <sup>129</sup> Mamdani, “Beyond Nuremberg,” 80.



<sup>130</sup> Quoted in Kevin Davis, “Bryan Stevenson Calls on Lawyers to Get Uncomfortable and Deepen Commitment to Justice,” *ABA Journal*, August 14, 2018, accessed February 19, 2020, [http://www.abajournal.com/news/article/bryan\\_stevenson\\_calls\\_on\\_lawyers\\_to\\_get\\_uncomfortable\\_and\\_deepen\\_commitment](http://www.abajournal.com/news/article/bryan_stevenson_calls_on_lawyers_to_get_uncomfortable_and_deepen_commitment)

<sup>131</sup> Preet Bharara, “Cohen Testimony & Just Mercy (with Bryan Stevenson),” February 19, 2019, in *Stay Tuned with Preet Bharara*, produced by Cafe, podcast, accessed January 5, 2020, <https://cafe.com/stay-tuned-transcript-cohen-testimony-just-mercy-with-bryan-stevenson/>.

## Chapter 5

### Conclusion

Walk through the Serekunda Market in The Gambia today, and you will see patrons and business owners alike gathered around mobile phones, following the public hearings of the Truth, Reconciliation and Reparations Commission (TRRC) via Facebook, Twitter, and YouTube.<sup>1</sup> Truth commissions are not going anywhere, or, rather, they are going everywhere, as they continue to be exported across the globe. In societies seeking to address mass violence or transition from authoritarian regimes, truth commissions are now commonplace. The cacophony of calls for a truth commission in the United States, highlighted in the previous chapter, demonstrate the widespread popularity of these institutions, even beyond traditionally understood transitional contexts. This dissertation has worked both to better understand the widespread popularity of truth commissions and to resist the universalist assumptions and interpretations implicated in their popularity. In doing so, it has attempted to see and offer articulations of community and belonging that decenter the Western liberal democratic model of the nation-state and citizenship that has been central to the framework of transitional justice and rhetorical scholarship.

As James Beitler and Jamie Rowen separately observe, a distinctive rhetoric has emerged and circulates along with the institutional form of the truth commission.<sup>2</sup> Widely appealing and idealized terms such as truth, reconciliation, justice, and national unity dominate this discourse and help explain the popularity of truth commissions.<sup>3</sup> The nearly universal appeal of these terms in the abstract, however, is all too easily conflated with an assumption of universal meaning. The perspective of decoloniality illuminates the colonial logics by which scholars and practitioners of transitional justice and rhetoric alike map the assumptions and values of Western liberal

democracy onto these terms and the associated goals and practices of truth commissions. Consequently, they understand and evaluate truth commissions according to norms and standards of Western democratic liberalism. Thus, they tend to focus on things such as how well truth commissions promote and protect individual human rights, establish accountability, strengthen the rule of law, and build or fortify democratic institutions.

In this dissertation, I have analyzed how truth commissions in South Africa and Kenya and a proposed commission in the United States have understood and mobilized these key terms for the purpose of better understanding how truth commissions and rhetoric contribute to national unity and, ultimately, how they imagine different forms of community and modes of belonging. Through attention to how the primary terms within the rhetoric of truth commissions are understood and mobilized within their particular contexts, I have worked to resist colonial logics that confer universal relevance to the values and norms of Western liberalism and, consequently, have offered richer understandings of how truth commissions operate within and the contributions they make in their local contexts. Further, I have shown how two African truth commissions offer imaginations of the national community and belonging that decenter the nation-state and citizenship.

### **Review of Chapters and the Key Terms of Truth Commissions**

In chapter 2, I focused on the concept of truth in the context of South Africa's TRC. I demonstrated how the complex and multi-layered notion of truth the TRC gestured to in its final report is constituted across and between various texts produced in response to the TRC. These include but are not limited to the three texts I studied in this chapter—the TRC's final report, Antjie Krog's *Country of My Skull*, and the Global Art Corps's *Truth in Translation*. Taken together, these texts demonstrate the importance of affect, embodied performance, and an ethic

and practice of listening for capturing and translating the TRC's truth and for constituting belonging in the new national community. In chapter 3, I considered how Kenya's TJRC combined a focus on promoting national unity with reconciliation and ethnic identification. In doing so, it decentered citizenship and the nation-state as the primary mode and locus of belonging and foregrounded the more immediate social and moral relations that constitute Kenya's ethnic communities. Finally, in chapter 4, I analyzed Senator Patrick Leahy's focus on justice in his proposal for a truth commission in the United States to investigate the Bush administration's counter-terrorism policies. By prioritizing restoring trust in the justice system as the overarching goal, Leahy oriented his proposed commission toward reaffirming U.S. values and extending its position of power in the world.

As must be obvious by now, although a particular key term—truth, reconciliation, and justice—oriented the analysis of each chapter, these terms are co-constitutive and cannot be understood independently of each other or other related terms, such as national unity, belonging, and accountability. I teased them apart but only for the sake of better understanding their relations to each other and to their political and cultural contexts. Consider, for example, how the reconciliation Leahy's truth commission could offer was constrained by particular configurations of truth and justice. That these terms cannot be understood independently of each other, any more than they can be understood independently of the contexts within which they are mobilized, is itself a significant implication of this study.

### **The Rhetoric of Truth Commissions: Looking Beyond the Institutional Form**

There are several additional implications related to truth commissions, rhetoric, and decoloniality. First, this dissertation demonstrates the importance of looking beyond the institutional form of truth commissions. The proliferation of truth commissions is tied to a focus

on reproducible, or improvable, institutional characteristics that can be connected to measurable outcomes of democratization. These characteristics include, for example, a commission's organizational structure and investigative mandate and whether or not it produced a final report. The decolonial rhetorical perspective of this dissertation, by contrast, focuses not only on the language truth commissions their proponents use but also on how that language is understood, mobilized, and enacted and the moral and political commitments it entails within particular contexts. Additionally, from the perspective that all rhetoric is situated and that all knowledge is geopolitically specific, I have studied truth commissions not as abstract exportable forms, but as products and producers of both their local contexts and larger historical, political, and cultural frameworks. As summarized above, this approach yields important insights. It need not replace the empirical studies of transitional justice that focus on organizational characteristics and measurable outcomes to evaluate effectiveness; rather, it is a crucial supplement.

Beyond methodological contributions, the findings of this dissertation suggest some of the greatest contributions of truth commissions exist beyond their official activities and stated goals. Chapter 2, for example, contests the exclusionary emphasis by transitional justice scholars and practitioners on a commission's final report as its ultimate product and bearer of its legacy. It demonstrates how various creative works produced in response to the TRC added to and more fully realized the TRC's notion of truth and functioned as important modes of constituting belonging in the new nation. Moreover, the overarching purpose of this dissertation to illuminate how truth commissions imagine new forms of national community and belonging looks well beyond the goals of truth commissions as stated in their mandates and dictated by the framework of transitional justice. The reality is that truth commissions often fail at their stated goals and the (Western liberal) democratizing ambitions mapped onto these. The gross economic inequality,

largely along racial lines that mirror apartheid-era social and economic structures, and sustained racial violence in South Africa is a widely observed example of this.<sup>4</sup> States have rarely followed through on truth commission recommendations to provide reparations, especially any sort of material reparation, to victims. Commissions often fail to produce reports or, when they do, are frequently coerced by government officials to expunge unfavorable findings, as was the case in Kenya. Some victims report feelings of catharsis and empowerment from participating in truth commission processes, but many are re-traumatized by the experience.<sup>5</sup> I could continue. My point is that if one looks only to the direct accomplishments of truth commissions in relation to the explicit goals included in their mandates or prescribed by the framework of transitional justice, they would, by most accounts, be spectacular failures. This dissertation has demonstrated, however, that they make other meaningful contributions, including presenting an opportunity to rethink these goals and how to achieve them, a point I will return to momentarily.

### **Reimagining National Unity and Belonging: Decentering and Articulating Alternatives to Rhetoric's Citizenship Narrative**

Although this dissertation is about truth commissions, it is also about more than truth commissions. Ultimately, my goal has been to learn *from* truth commissions new ways of understanding and being together in community that decenter the nation-state and citizenship as the primary locus and mode of belonging. Chapter 3 did this most explicitly, as I juxtaposed the TJRC's reconciliation model of national unity to rhetoric's citizenship model. By foregrounding individual experiences and reconciliation among Kenya's ethnic groups in its pursuit of national unity, the TJRC acknowledged the existence of other identities and relationships alongside of and prior to belonging to the Kenyan nation-state and, moreover, recognized these as a source of strength for and constitutive of the national community. Based on the social and moral relations

that constitute Kenya's ethnic communities and the role of truth telling in the TJRC, the reconciliation model consists of more immediate relations among community members than the abstracted attachment of the individual to the nation-state and is attuned to the material conditions of everyday life.

In chapter 2, in addition to more fully actualizing the TRC's notion of truth and providing a more robust account of both South Africa's past and the activities of the TRC, the acts of truth telling I studied were also modes of constituting belonging in the new nation. In contrast to the distance maintained by the authors of the final report, Krog and the *Truth in Translation* actors wrote themselves into their stories of the TRC and its narrative of nation building. The texts demonstrate the importance of affect, embodied performance, and an ethic and practice of listening to both capture the nuances of the stories they told and to promote non-appropriative identification as the basis of the national community and belonging.

In chapter 4, by contrast, Senator Leahy reaffirmed citizenship and the nation-state as the central, if not exclusive, form of belonging and illuminated the violent exclusions inherent but often invisible within this model. His truth commission, he argued, would unite the American people through a shared faith in constitutional values and the U.S. justice system. In other words, the national community would be constituted through individuals' abstract attachment to the nation-state. Moreover, Leahy was concerned only with those individuals already included and protected by the political borders of the U.S. nation-state. In addition to uniting the American people, he sought to protect them by strengthening U.S. national security and power abroad. Meanwhile, his proposal included no concern for reconciling with or providing justice for the true victims of the Bush administration's actions. The detainees at Guantánamo Bay, Abu Ghraib, and other military prison complexes were vulnerable to the abuses they endured—and,

for some, continue to endure—because they were excluded from the protections of citizenship. Leahy’s proposal reproduced this exclusion. It demonstrates the urgency of disrupting “rhetoric’s embeddedness in citizenship.”<sup>6</sup>

In both Kenya and South Africa, individuals constituted belonging through their engagement with the truth commission and its other participants. Truth telling was a means of writing oneself into the national narrative, changing both that narrative and what it means to belong in the national community in the process. The national community included and foregrounded other identities and modes of belonging prior to, alongside, within, and beyond belonging to the nation-state. More than an abstract attachment to the nation-state and its associated beliefs, values, and practices, individuals’ relations with the nation and with other members of the national community were imagined as social, moral, and material. These reimaginings of the national community both require and help us to reimagine rhetoric and its role in constituting the national community.

These reimaginings of national community also align with the perspective and commitments of decoloniality that have driven this project. They decenter the nation-state, itself a colonial creation, as they resist abstraction, form relationships, instill moral obligations, and lay the foundations for political and social transformation. These same commitments can and should guide rhetorical scholars as they reimagine rhetoric and its role in constituting national community. We must resist abstraction by denaturalizing the nation-state and citizenship as primary and exclusive forms of belonging. We must form relationships with the communities we study and engage in an ethic and practice of listening with those communities. We must imagine new forms of community to begin to imagine a more just world.



## **The De/Coloniality of Truth Commissions: Implications, Limitations, and Opportunities for Future Study**

The perspective of decoloniality has been a driving force of this project and also carries important implications for understanding and evaluating truth commissions. My overarching purpose has been to resist colonial logics whereby the abstract and idealized rhetoric of truth commissions is mapped onto Western liberal democratic norms, values, and practices and to imagine alternative ways of being, specifically alternative constellations of national community and belonging. While I argue truth commissions offer a decolonial potential, I have also called attention to the coloniality of truth commissions and the rhetoric I have studied here—Krog’s appropriation of witness testimony, the TRC’s individualization of victims and perpetrators, Leahy’s appropriation of the TRC’s rhetoric for the purposes of reifying and reproducing U.S. power, for example. As Walter D. Mignolo argues, coloniality is “the darker side of Western modernity.”<sup>7</sup> That is to say, coloniality is constitutive of modernity. Identifying all the ways truth commissions conform to these logics and are constrained by these structures would, thus, be an endless and futile exercise. In a similar vein, dismissing truth commissions as colonial creations because of their failure to wholly disrupt these logics would be counterproductive.

Nevertheless, it is imperative to recognize that truth commissions operate within global political systems and discursive frameworks that continue to be structured according to colonial logics, structures of power, and knowledge production. The very borders of nation-states—the borders that frame the territorial limits of a truth commission’s authority and investigative mandate and that define who should be included in the pursuit of national unity—are direct products of colonialism.<sup>8</sup> Recall the TJRC’s observation that “it was under the colonial power that the political entity now known as Kenya was formed.”<sup>9</sup> Still, it was “the political entity now

known as Kenya” that established the TJRC. Further, the goals and mandates of truth commissions are established according to the framework of transitional justice and further influenced, refined, and constrained by inter- and transnational discourses of international law, human rights, development, and democracy, all of which are saturated with and intended to extend Western liberal values and democratic forms. Both the belief in the universal relevance and beneficence of these values and the power—political and economic—that promotes and reproduces them are the result of colonialism and evidence of the contemporary regime of coloniality. Although Leahy’s proposal for a U.S. truth commission in many ways seems like a counterexample to my analyses of South Africa and Kenya, it also casts in bold relief the limited transformative potential of all truth commissions, so long as they are tethered to the framework of transitional justice.

Truth commissions are de/colonial institutions; they operate in both registers—decolonial and colonial—at once. As I have argued, they do decolonial work. By foregrounding alternative forms of community and modes of belonging, they help us begin to imagine the world otherwise and to reimagine rhetoric’s place in and contribution to creating that world. Yet, they operate within colonial matrices of power. Just as truth commissions should not be celebrated as cure-all solutions for societies recovering from mass violence, neither should they be celebrated as radical decolonizing projects. More attention must be paid to how the coloniality of transnational discourses of transitional justice, development, international law, human rights, and democracy shape and constrain the rhetoric and practices of truth commissions and how these discourses might be disrupted. The new imaginations of community, belonging, rhetoric, and rhetorical study I have proposed in this dissertation offer important contributions for pursuing this work.

## Notes

---

<sup>1</sup> *The New York Times* reported on this in Julie Turkewitz, “Now Streaming on YouTube: Confessions from a Presidential Hit Squad in Gambia,” *The New York Times*, August 31, 2019, accessed March 2, 2020, <https://www.nytimes.com/2019/08/31/world/africa/gambia-truth-commission-yahya-jammeh.html>. I also spoke to photographer Yagazie Emezi, who took the photos for the article. Emezi was struck by the large groups of people crowded around phones to watch the hearings.

<sup>2</sup> James Edward Beitler, III, *Remaking Transitional Justice in the United States: The Rhetorical Authorization of the Greensboro Truth and Reconciliation Commission* (New York: Springer, 2013); Jamie Rowen, *Searching for Truth in the Transitional Justice Movement* (New York: Cambridge University Press, 2017).

<sup>3</sup> I am drawing on Rowen’s description of the discourse of transitional justice as an “idealized discourse” that “includes vague but appealing terms such as reconciliation, truth, reparation, and even justice.” Rowen, *Searching for Truth*, 153.

<sup>4</sup> See, for example, Catherine Besteman, *Transforming Cape Town* (Berkeley: University of California Press, 2008); Sisonke Msimang, “All Is Not Forgiven: South Africa and the Scars of Apartheid,” *Foreign Affairs* 97, no. 1 (2018): 28-34; Zeida R. Kon and Nuha Lackan, “Ethnic Disparities in Access to Care in Post-Apartheid South Africa,” *American Journal of Public Health* 98, no. 12 (2008): 2272-2277; Bongani M. Mayosi and Solomon R. Benatar, “Health and Health Care in South Africa—20 Years after Mandela,” *The New England Journal of Medicine*

---

371, no. 14 (2014): 1344-1353; Bernadette Atuahene, "South Africa's Land Reform Crisis: Eliminating the Legacy of Apartheid," *Foreign Affairs* 90, no. 4 (2011): 121-129; Kenichi Serino, "How Apartheid Haunts a New Generation of South Africans." *The Atlantic*, September 21, 2016, accessed March 4, 2022, <https://www.theatlantic.com/international/archive/2016/09/south-africa-apartheid-mandela-born-free-university/500747/>.

<sup>5</sup> See, for example, Karen Brounéus, "The Trauma of Truth Telling: Effects of Witnessing in the Rwandan Gacaca Courts on Psychological Health," *Journal of Conflict Resolution* 54, no. 3 (2010): 408-437; Sean Field, "Disappointed Remains: Trauma, Testimony, and Reconciliation in Post-Apartheid South Africa," in *The Oxford Handbook of Oral History*, ed. Donald A. Ritchie, (New York: Oxford University Press, 2010), 142-158; Geraroid Millar, "Performative Memory and Re-Victimization: Truth-Telling and Provocation in Sierra Leone," *Memory Studies* 8, no. 2 (2015): 242-254.

<sup>6</sup> Karma Chávez, "Beyond Inclusion: Rethinking Rhetoric's Historical Narrative," *Quarterly Journal of Speech* 101, no. 1 (2015): 163.

<sup>7</sup> Walter D. Mignolo, *The Darker Side of Western Modernity: Global Futures, Decolonial Options* (Durham: Duke University Press, 2011).

<sup>8</sup> The Truth and Reconciliation Commission of Liberia is a notable exception, as it specifically reached out to and involved members of the diaspora in the United States and United Kingdom in its activities.

<sup>9</sup> Truth, Justice and Reconciliation Commission (TJRC), *Report of the Truth, Justice and Reconciliation Commission* (Nairobi: Truth, Justice and Reconciliation Commission, 2013), 3: iii, emphasis added.