

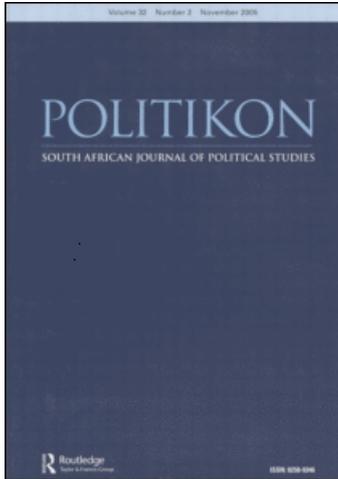
This article was downloaded by: [University of Ulster]

On: 16 January 2010

Access details: Access Details: [subscription number 773566367]

Publisher Routledge

Informa Ltd Registered in England and Wales Registered Number: 1072954 Registered office: Mortimer House, 37-41 Mortimer Street, London W1T 3JH, UK



Politikon

Publication details, including instructions for authors and subscription information:

<http://www.informaworld.com/smpp/title~content=t713442999>

Non-governmental organisations and the truth and reconciliation commission: an impact assessment

Hugo Van Der Merwe ^a; Polly Dewhirst ^b; Brandon Hamber ^c

^a Senior Researcher, Centre for the Study of Violence and Reconciliation, Johannesburg ^b Researcher, Centre for the Study of Violence and Reconciliation, Johannesburg ^c Coordinator of the Transition and Reconciliation Unit (Project on Truth Commissions), Centre for the Study of Violence and Reconciliation, Johannesburg

To cite this Article Van Der Merwe, Hugo, Dewhirst, Polly and Hamber, Brandon(1999) 'Non-governmental organisations and the truth and reconciliation commission: an impact assessment', *Politikon*, 26: 1, 55 – 79

To link to this Article: DOI: 10.1080/02589349908705070

URL: <http://dx.doi.org/10.1080/02589349908705070>

PLEASE SCROLL DOWN FOR ARTICLE

Full terms and conditions of use: <http://www.informaworld.com/terms-and-conditions-of-access.pdf>

This article may be used for research, teaching and private study purposes. Any substantial or systematic reproduction, re-distribution, re-selling, loan or sub-licensing, systematic supply or distribution in any form to anyone is expressly forbidden.

The publisher does not give any warranty express or implied or make any representation that the contents will be complete or accurate or up to date. The accuracy of any instructions, formulae and drug doses should be independently verified with primary sources. The publisher shall not be liable for any loss, actions, claims, proceedings, demand or costs or damages whatsoever or howsoever caused arising directly or indirectly in connection with or arising out of the use of this material.

Non-governmental organisations and the Truth and Reconciliation Commission: an impact assessment

HUGO VAN DER MERWE, POLLY DEWHIRST
and BRANDON HAMBER*

ABSTRACT *This article examines the relationship between Non-Governmental Organisations (NGOs) and the Truth and Reconciliation Commission (TRC). Based mainly on interviews with NGO and TRC staff, the article outlines the various ways that NGOs participated in the development of the TRC legislation and engaged with TRC structures. The shape of this engagement was very uneven depending on the stage of the TRC process: the strongest input came at the point of lobbying in response to draft legislation. Different NGO sectors (human rights, conflict resolution, mental health) also had different levels of engagement at different stages of the process. The article evaluates the impact that NGOs had on the TRC (and vice versa), and critically evaluates the general failure of NGOs to effectively mobilise around the principles and strategic concerns raised by the TRC. The constraints on the development of an effective relationship are found to be located both in the structure and processes of the TRC, as well as within the NGO sector as it struggles to redefine its role in the new political context.*

Introduction

The Truth and Reconciliation Commission (TRC) emerged as a major policy and legislative concern in the post-elections period in South Africa. Over this time, and during its life, numerous Non-Governmental Organisations (NGOs) engaged with it in one form or another. This article presents an overview of the various ways that NGOs (particularly those operating in the field of peace and justice) and the TRC interacted.¹ The article traces the process from the conceptualisation and lobbying regarding the TRC legislation through to the conclusion of the TRC, and examines the anticipated longer-term consequences for NGOs. The article examines the relationships that developed at different stages of the process, the constraints on NGOs in this engagement, and the impact of NGOs on the TRC (and vice versa).

The methodology relied heavily on interviews with NGOs and TRC role players who were part of the activities under examination. Twenty-six interviews were conducted between December 1997 and May 1998, primarily in Gauteng and the Western Cape (see Appendix). NGO staff interviewed during the research categorised themselves as human rights NGOs, conflict resolution/intervention NGOs and mental health NGOs. Documentary sources were also used. These included: the submissions by NGOs and NGO coalitions to the Minister of Justice, the Parliamentary Committee on Justice and the TRC; and NGO reports on their involvement in TRC activities.

The evolution of the TRC legislation

The initiative and momentum to establish a TRC in South Africa did not arise as a result of a grass roots or collective civil society ground swell. The incentive for the TRC was the product of party-political concerns and negotiations. The process was also shaped by ideas within the context of international debates about strategies for dealing with the past. Local human rights and victim perspectives concerning truth commissions and methods for dealing with the past were also considered. In essence, the development of the TRC in South Africa was crystallised by two specific political events, namely the Motsuenyane Report and the post-amble to the South African Constitution.

The Motsuenyane Report was the product of an ANC appointed commission to investigate human rights abuses within ANC detention camps during the apartheid period. While accepting the findings of the report, the ANC argued that there should be a commission to investigate all abuses, not only those committed by members of the ANC. This call for a TRC with a national mandate was particularly promoted by Kader Asmal, a key ANC negotiator during the transition and now a cabinet minister in the new government.

However, the deciding factors in the establishment of the TRC were the debates and finalisation of the Interim Constitution. At the last minute, when all else had been settled, the question of amnesty remained unresolved. The National Party was not prepared to sign an agreement that did not provide for amnesty. Purportedly in the interests of maintaining the peace and securing the transfer to democracy, a compromise was reached. It was agreed and written into the Interim Constitution that amnesty would be granted to those who had committed abuses. However, the mechanisms for implementing this amnesty were left undecided.

Support soon emerged, largely from within the ranks of the ANC, for the possible establishment of a commission that could combine amnesty and truth recovery. Moreover, a precedent had been established by the National Party when granting temporary indemnity to ANC members during the negotiations. These indemnities were only granted upon full disclosure by ANC members of the unlawful acts that they had committed, a requirement that the ANC had found highly unpalatable. As a result it became very difficult for the National

Party to oppose such a process when it came to the question of amnesty for its own members.

Certain people in civil society also anticipated this type of political manoeuvring and the differing debates that arose about how to deal with past abuses. A key figure to emerge at an early stage of discussions was Dr Alex Boraine, the Director of Justice in Transition.² Boraine left his post as Director of the Institute for a Democratic South Africa (Idasa) to set up Justice in Transition which was to become a central facilitator of discussion around the establishment of the TRC.

A close working relationship was established between Boraine and the new Minister of Justice, Dullah Omar. This served to link the party-political process and civil society debates that emerged around the question of a TRC. The ANC were, at the time of drafting the TRC legislation, partners with the National Party in a Government of National Unity. They were reluctant to push for the adoption of legislation that may have upset this relationship. Omar thus found it very convenient to have the TRC conceptualisation and drafting pursued via civil society organs³:

Dullah Omar felt that the drafting process should be outside the official justice structures. He did not want to take the issue to cabinet until he had straightened out the sticking points and built sufficient public momentum to carry the process through. He thus wanted to assist civil society in pushing the idea of the TRC.⁴

Rather than use Department of Justice staff to draft the legislation, funds were channelled from overseas donors to Justice in Transition to contract the necessary expertise.⁵

While not overtly manipulating the process unfolding in civil society, Omar was kept abreast of developments. He facilitated the establishment of an informal committee to work on drafting the legislation. The committee expanded and contracted out various tasks, drawing on individuals from a range of backgrounds.⁶ Input on the underlying principles that shaped these drafts came largely from conferences and workshops held by Justice in Transition. These were forums where selected NGOs were formally invited to make input into the policy process. A wide range of political and civil society organisations were involved in these discussions. Twenty-six organisations were on the invitation list compiled by Justice in Transition. National Party, military and police representatives declined invitations to participate in the workshops.

The final draft of the act that established the TRC was then presented to cabinet and it was approved to go before parliament. The Justice Portfolio Committees in parliament and the senate then engaged in another round of public input and discussion. Parties covering the whole political spectrum made substantial submissions at these hearings. Public interest at the time of the hearings also led to some media coverage and public debate about the policy issues raised by the legislation.

Despite attempts to make the process as objective as possible, political negotiations and political 'horse-trading' did play a central role in shaping the

final legislation. Within the context of the Government of National Unity, the ANC went to great lengths to ensure that the National Party would support the legislation when it was enacted. The interests of the IFP and PAC in ensuring that their members would also be covered by the legislation also contributed to defining the shape of the final outcome. The time spent by members of parliament on this legislation reportedly exceeds that spent on any other legislation that this parliament has considered. The bill was passed with the ANC, NP, Democratic Party (DP) and Pan-Africanist Congress (PAC) supporting it, the Inkatha Freedom Party (IFP) abstaining and only the Volksfront voting against it.

The role of NGOs in this process is fairly complex. While NGO staff were at times crucial role players in the process, they were often drawn in as individuals with particular skills rather than as representatives of a particular sector of society, or even as organisational representatives. However, some lobbying efforts by NGOs were undertaken. These are discussed below.

The role of NGOs in conceptualisation and lobbying

Very few NGOs were involved in the initial conceptualisation of the broad policy concerns around the TRC. Other than those who had specifically anticipated TRC-related issues⁷, most organisations were called upon for the individual expertise of some of their staff. For example the Legal Resources Centre's (LRC) George Bizos was asked to assist in drafting the legislation. Most NGOs saw the process of legislative development as being politically driven at a national level and they did not see themselves having much influence. The major countervailing force was that of Justice in Transition which facilitated the input of NGOs into the legislative process. Based on the interviews undertaken for this study, the process facilitated by Justice in Transition was also seen as not sufficiently transparent by many NGOs. Some felt left out of the loop: not being provided sufficient space to make formal input; not receiving regular report-backs or being kept abreast of developments. Yet, for other organisations, Justice in Transition provided a key linkage to the legislative process. Religious organisations were one group that was specifically targeted by Justice in Transition initiatives. A Religious Response to the TRC was launched in October 1994. This structure provided a networking function for a number of NGOs (not only religious ones) to engage with the policy issues raised by the TRC. However, it only became fully functional in 1995, at the time that the draft legislation was being debated.

It was only when the draft legislation was eventually made public that the NGO sector mobilised effectively to put their concerns on the table. This lobbying was, in part, done by individual organisations, but also through regional networks of NGOs. These networks included the NGO Coalition on the TRC (Johannesburg),⁸ the Religious Response to the TRC (Cape Town), the Mental Health Response to the TRC (Cape Town), and the Coalition of KwaZulu-Natal Mental Health and Human Rights Organisations (Durban). Justice in Transition

also provided a networking function regarding lobbying. They informed NGOs about the legislative process, urged them to make submissions, and got the backing of numerous organisations for its own submission to the Parliamentary Committee. These networks managed to pull together the input of a wide range of organisations and present their collective voice to the Legislature. The organisations that were more centrally involved in these networks were human rights organisations and those concerned with mental health services.

A range of submissions were made once a draft of the TRC legislation had been published. The substance of these submissions dealt with a wide array of issues raised in the legislation. The types of proposals raised in these submissions included the need for the bill (and the operation of the TRC) to make provision for: public education regarding the work of the commission (especially to deal with false expectations); counselling services for victims; counselling services for TRC staff; training for TRC staff in trauma management; victim-offender mediation; restricting amnesties to a minimum; strengthening victims' role in the TRC process; strengthening victims' rights to reparations; demanding that all hearings be public; and punitive measures to be taken against perpetrators.

The position of NGOs in these submissions was broadly supportive of the idea of setting up the Truth and Reconciliation Commission, but most were critical of certain aspects of the draft bill. A critical area in the initial draft was the question of closed-door hearings of the amnesty committee. This was particularly strongly opposed. After initial written submissions, a number of organisations also made oral submissions at the public hearing held by the Parliamentary Committee on Justice. At these hearings, NGOs specifically targeted the provision for in-camera hearings as anathema to the goals of truth and reconciliation.⁹

After the legislation was passed, NGOs also made an input on the selection of the Commissioners. While the legislation provided for the Commissioners to be appointed by the State President, the selection process had not been stipulated. A selection process drafted by the NGO coalition on the TRC in Gauteng was released at a press conference and then presented to Justice Minister Dullah Omar. The Minister accepted this proposal with only minor changes. As a result, the selection process was one that allowed for significant input by NGOs and the public.

According to the Promotion of National Unity and Reconciliation Act, the criteria considered for the selection of Commissioners demanded individuals who had a strong commitment to human rights and people who were not seen as connected to political parties in a high-profile capacity. Nominations for Commissioners were open to the public and 299 names were submitted. The vast majority of these came from NGOs. A selection committee then interviewed these nominees in public, then forwarded a short-list to the State President. President Mandela, in consultation with cabinet, then made the final selection. In this process NGO networks were active in nominating and motivating for candidates. Before the public interviews (in which only selected

nominees were interviewed), some NGOs also did profiles of the candidates in order to examine their suitability and assess their role in the political conflicts of the past. The NGO Coalition in Johannesburg was particularly active in this regard and researched the backgrounds of many nominees through examining newspaper archives. Specific questions to ask in the interviews were also proposed to the interview panel to guide them in determining relevant selection criteria.

While this picture is one of broad NGO involvement, the networks that made an input were often essentially driven by one or two more dominant organisations, with fairly limited input by most of the members, particularly those without a specific Truth Commission focus in their organisation. One interviewee expressed a common sentiment among interviewees: 'We attended NGO Coalition meetings, but did not have a unique role. Our input was mainly just to endorse the collective submissions that had been drafted.'¹⁰ Some of the individuals involved in these lobbying networks also did not bring an organisational mandate, as many of the organisations involved did not take clear positions other than being broadly supportive of the TRC idea. This was particularly the case among conflict resolution organisations that participated in the networks. On the other hand, human rights organisations saw the TRC as an initiative that directly impacted on and overlapped with their work.

Conflict resolution organisations were, however, ambivalent about whether the TRC would have much impact on their scope of work. Reconciliation, according to these organisations, was never seriously considered as a part of the TRC's role. While some feel that this is a gap that could have been addressed by more concerted lobbying by conflict resolution organisations, others feel that the agenda driving the TRC was fundamentally a political one that did not provide scope for introducing conflict resolution processes.

Mental health organisations anticipated extensive repercussions of the TRC's work, particularly for victims and survivors of human rights abuses. The mental health organisations expressed a deep concern that the basic concept of the TRC was a political compromise arrangement that only addressed individual victims' psychological needs as an afterthought. It was felt by many that while the activities of a TRC could fundamentally impact both positively and negatively on the mental health of victims, the process of victims' recovery was not at the centre of the policy debate that fed into the formation of the TRC. Rather, the TRC was essentially established to deal with the obligation to grant amnesty and build a collective national memory. The focus was on national rather than personal healing, in their perspective.

Organisations interviewed had ambivalent feelings about their role in the conceptualisation and lobbying process. Some saw it as a very transparent and participative process that allowed them adequate influence, while others felt that they had not been given sufficient space to make a contribution. However, on assessment, as a process of developing legislation, the Promotion of National Unity and Reconciliation Act was considerably more open to public input than had been the norm. The development of South Africa's TRC legislation was also

considerably more democratic, with significantly broader input from NGOs in comparison to other countries that have established truth commissions.

Some organisations actively pursued a role in the process and found that there was room for their input. However, other organisations felt that they were not consulted and could not make input because they were not kept informed of developments. For many organisations it was also their first experience of directly engaging with the legislative process. It thus presented a steep learning curve. The difficulty and opportunities of the lobbying process were experienced as challenging by most. One interviewee described this challenge as follows:

The process was open, but there are many constraints on one's ability to engage in serious lobbying. It requires sustained energy and resources for you to have any real impact. NGOs are generally not equipped for such a process ... With the lobbying process we learned that it was not enough just to go knock on the door. While it was easy to get the door opened, you had to keep on going back and build a relationship with the gatekeepers. It was an open process for those who had the capacity to keep on coming back.¹¹

A number of constraints limited the capacity of NGOs to engage in such a process. Given the history of South Africa, it is clear that NGOs are used to operating within a framework of opposition and protest or as community service providers. Lobbying a government whose principles NGOs largely agreed with required a completely new orientation. Some NGOs struggled to make this shift.

Many NGOs became involved in the TRC in a somewhat *ad hoc* way. They would send representatives to coalition meetings, send staff for statement-taking training, or send staff to observe hearings without any clear plans regarding their organisation's role in relation to the TRC. This led to limited engagement with the process that proved to be relatively frustrating for some organisations. There were, however, a few organisations, particularly in the human rights field, that developed clear engagement strategies and a TRC programme. This allowed them to position themselves and build capacity in order to anticipate developments around the TRC. While some of these plans came to naught, the process of engaging in policy research and strategic analysis allowed these NGOs to develop a respected voice in the policy debates.

NGOs who pro-actively engaged with the legislative development process generally managed to gain access to relevant information and discussion forums. However, invitations to such events were not always inclusive and often invitations would arrive very late. Some NGOs remain resentful that the process was not sufficiently consultative and that they were not invited to preparative meetings and workshops. It is however not just the 'exclusion' of individual NGOs that concerned some interviewees, it was also the broader exclusion of civil society that concerned them.

Those NGOs who did try to build broader community input into the process found this very difficult. They were also frustrated by the fact that this burden was left to them without outside assistance. The legislative development process facilitators (Justice in Transition, the Department of Justice and Parliamentary Justice Committee) were not seen as providing any assistance in empowering

community-based organisations to engage in the policy process. The reason for this lack of assistance was seen by some as the political agenda driving the legislation. It was thus criticised as a political deal that allowed little scope for NGO influence, except where it conveniently overlapped with political agendas.

In retrospect it is clear that, due to its urgency, technical complexity and resource requirements, the policy engagement process was placed beyond the grasp of some NGOs and their constituencies. The result was that only larger NGOs, and those who had the capacity to overcome these problems, were able to engage relatively effectively with the development process of the TRC (such as the Centre for the Study of Violence and Reconciliation, LRC and Black Sash).

On the whole, it is clear that NGOs played diverse roles in the conceptualising and lobbying process. For those who managed to carve out a role for themselves and their coalitions to access the legislative process, some gains were made and the legislation was shaped by the NGO agendas. However, it does appear that the majority of NGOs saw this process as being steered by a select group of NGOs and Justice in Transition that only mobilised a limited number of people. Some groups were highly critical of the process headed by Justice in Transition, perceiving it as facilitating a deal between the old and the new government that mainly evolved around issues of power and money, with little community focus.

Those who felt that they were able to make an impact were those who worked directly within the political machinations of the time. For example, where the ANC were reluctant to fight very aggressively with the National Party on certain issues (because of their commitment to the Government of National Unity), NGOs that did not operate with the same constraints were able to build public support for their proposals and challenge the legislature quite effectively. The clearest example of this was the issue of public versus in-camera amnesty hearings. The nature of the issue (clear-cut contrast of options) also allowed greater engagement by 'non-experts'. The voices of victims could thus be mobilised very effectively by NGOs and it was this very process that gave the initial impetus to the development of the Khulumani Victim Support Group.¹²

Another significant impact by NGOs was on the selection of Commissioners, both in terms of the process as well as the individuals selected. The selection process was one for which the NGO Coalition on the TRC was directly credited, while it also presented a process that allowed for effective public input. The nominations, support for candidates and critique of candidates were all seen as effective NGO lobbying that did influence the process. Some of this impact was, however, circumvented when the names of the short-listed candidates were given to the State President, and he appointed two Commissioners (Adv. Denzil O. Potgieter and Rev. Dr. Khoza M. Mgojo) who had not been nominated, interviewed or short-listed. The NGO impact was thus, albeit to a limited degree, undermined at the final hurdle.

It is particularly on the issues where political and NGO agendas did not overlap that NGOs felt the most marginalised. Time and time again it was noted that the psychological needs of victims and local community dynamics appeared peripheral to the policy debates and political manoeuvring involved in establish-

ing the TRC. One source of frustration was confusion about the relationship between Justice in Transition and the Ministry of Justice. Some respondents built up unrealistic expectations of what Justice in Transition should deliver based on the belief that they were acting on behalf (and with the direct backing) of the Ministry.

Most of the NGOs also only developed a voice at the point where the draft legislation had already been developed, and they felt that their concerns were merely appended to the basic framework, rather than being incorporated as essential principles. Often, these were the tentative gains that became the first casualties of budget and time constraints encountered by the TRC once it started operating.

Conflict resolution NGOs expressed the greatest regret at not engaging more pro-actively in the policy-making process. At times, they also laid the blame at their own doors saying that they should have had a clearer TRC agenda:

If the conflict resolution NGOs were more involved in conceptualising the TRC, it would have been more balanced. The TRC would have taken more responsibility to work with and be sensitive to the needs of victims ... The focus was more on the election. When we realised where the TRC was going, it was already too late.¹³

Despite the significant role that was played by NGOs, their involvement in the conceptualisation and drafting process was not as extensive as it could have been, and certainly not nearly what they would have liked it to have been. Some NGOs did manage, often through their own persistence, to shape the process significantly, but on the whole the drafting and conceptualising process could not be said to be mainly a civil society product. This would turn out to have long-term implications. The words of one respondent highlight some of the consequences the limited NGO involvement would have:

The TRC has been good at revealing the truth. The reconciliation side of things appears to be almost an afterthought that was tagged on. The NGO community's involvement at various stages of the process could have contributed to build up the reconciliation side of the TRC's work.¹⁴

Role of NGOs in activities of the TRC

While the process of conceptualisation and lobbying revolved around NGO relationships with Justice in Transition, the Ministry of Justice and the National Parliament, once the TRC was established, NGOs had to engage with a completely new structure. The legislation that was developed had not set out any parameters for NGO involvement in the activities of the TRC. The NGOs who had engaged in the policy formulation and lobbying process had developed expectations around how they could interact with the TRC. Once the TRC was set up, and its structures and processes became clarified, additional NGOs also identified possible roles they could play. Most of these expectations were, however, thwarted in the months that followed.

The relationship between the TRC and NGOs was never clearly delineated,

and despite numerous attempts from both sides to form more substantial relationships, these initiatives were seldom concretised. The relationships and interactions that did unfold were very uneven among different regions and were often quite informal in nature. Many NGOs also felt that the TRC did not have their interests at heart despite the TRC making public statements to that effect. As a result, NGOs were often left feeling used, excluded or simply ignored: 'The TRC approached us because they wanted to access our resources and skills. They were not interested in developing partnerships. They required sailors to come help on their boat.'¹⁵

In retrospect, TRC interviewees also expressed regret at their inability to develop strong working relationships with NGOs. While many had the intention of nurturing these relationships, they found themselves with an enormous task to accomplish in a short space of time. The day-to-day deadlines pushed them into a crisis-oriented mode of operation rather than the prioritisation of policies, structures and relationships. Alex Boraine admits that this was a problem of insufficient prior planning:

The TRC was thus established without sufficient planning. We started with nothing—we had to learn to run in a very short space of time. Once we got going we also could not slow down to allow others to catch up ... The process suffered because of the quick transition from the legislation to the establishment of a state body. We were often forced to rely on individual consultations with colleagues and friends rather than organisational networks. The relationship with NGOs suffered because they were left behind in this quick transition and the rapid momentum of the TRC.¹⁶

There was, however, also criticism from the TRC that NGOs were not sufficiently pro-active in this process: 'NGOs were also at fault in often sitting back and not getting involved. They sometimes were reluctant to take the initiative. Instead they waited to be asked to make an input.'¹⁷ Although some NGOs would share this perspective to some degree, their views on the complexity of the problems of the relationships between the TRC and NGOs varied.

The TRC organised a few workshops specifically aimed at clarifying roles and relationships between the TRC and NGOs, and to keep civil society informed of the TRC's systems and plans. NGOs brought a range of expectations to the table, as did the TRC. Each sub-sector (counselling organisations, legal structures, victim's groups, etc.) had different needs and proposals regarding their potential interaction with the TRC. While some felt that not enough effort was made to make these workshops sufficiently inclusive, there was generally a sense that positive plans were developed. However, the central criticism was that most of these plans did not come to fruition.

In addition, certain NGOs also organised their own workshops around the TRC either to clarify the relationship between NGOs and the TRC, or to strategise around certain areas of TRC work. The outcome of the wider NGO workshops was similar to those held by the TRC: positive plans that were never carried forward. The reason for this was largely laid at the door of the TRC for not creating sufficient space for NGO involvement in all programmes of the

TRC. On the whole, however, smaller NGO workshops were much more successful and pressured the TRC to recreate similar workshops in their own offices.

One of the TRC-civil society workshop initiatives that was implemented was a series of research seminars in Cape Town. It was a project in which regular seminars were convened to provide space for joint reflection on a number of critical issues such as truth, reconciliation, economic justice, the appeals court judgement on the procedures, and perpetrator rehabilitation. While it did not engage directly in concrete policy issues it provided the TRC staff with space and feedback to reflect on their work. Similar workshops were run by the TRC on different topics in the other offices. These were, however, more *ad hoc* in nature, sometimes poorly organised and selective in their invitations.

The pattern of NGO-TRC interaction was generally one of NGOs initiating ideas and pushing the TRC to engage in a joint process. There were, however, a few cases where the TRC identified a need and then approached NGOs for assistance. However, in most cases, these projects were launched or conceptualised by NGOs before the beginning of the TRC. The most notable examples of this include: NGOs handing over their records of human rights violation to the TRC to be incorporated in a national database (this project was initiated before the TRC and completed solely by NGOs before the TRC began);¹⁸ the training of NGO staff as statement-takers and community advisors (providing emotional and counselling support to those testifying at hearings); facilitating internal TRC meetings and workshops; and providing policy input on particular issues addressed by the TRC (such as witness protection, reparations and rehabilitation policies). All these NGO contributions to the TRC were made without financial compensation.

There were a few instances identified where the TRC contracted NGOs to provide specific services: the Trauma Centre for Victims of Torture and other organisations in other regions were contracted to provide counselling for TRC staff, and the Centre for Conflict Resolution (CCR) was contracted to provide conflict handling training for TRC staff working in communities. Beyond this, some NGOs contributed involuntarily through the employment of their staff by the TRC. The TRC were able to employ senior NGO staff who had been engaged in many of the policy and lobbying work and were thus very familiar with many of the key issues facing the TRC.

One area that some NGOs used quite extensively (and were, in turn, used by the TRC) was the sectoral hearings held by the TRC. NGOs made submissions in a number of these hearings. Submissions were made by NGOs in the Health Sector Hearing, Legal Sector Hearing, Conscription Hearing, Gender Hearing, Children's Hearing, and Religious Sector Hearing. The hearings that occurred well into the life of the TRC improved the relationships between the TRC and NGOs considerably. These so-called contextual submissions have been particularly useful in creating a broader picture of the operations of the apartheid system and helped shape the TRC final report. In addition, these hearings have mobilised those within these sectors (e.g. media, legal, health) to engage with the

TRC process to a greater degree than in other areas of the TRC's work with NGOs.

Given the lack of substantial NGO-TRC relationships, and the failure in implementing joint projects, many NGOs did TRC support work independently. Several NGOs took the initiative to implement programmes on their own that were funded by foreign donors. This, in some cases, was done reluctantly, because they had previously anticipated doing the work in partnership with the TRC. These initiatives, amongst others, included: development and provision of counselling and referral services for victims who went to the TRC; the development and support of victim-support groups and victim-support group structures; public education for communities on the operation of the TRC; victim-offender mediation services; the offering of legal services to victims; and welfare work for victims (such as providing food and blankets).

There were also initiatives undertaken by NGOs that essentially duplicated certain activities of the TRC. The NGO approach, however, was to extend and deepen the hearings undertaken by the TRC. The TRC was praised by most NGOs for essentially doing the right thing, but doing it too superficially. These initiatives, such as the development of victim-support groups, community hearings, and workshops where people shared their stories of abuses were attempts by NGOs and churches at building on the momentum of the TRC process and allowing those who were not afforded an opportunity to testify publicly to the TRC to participate more fully.¹⁹ Church groups were particularly involved in these sorts of activities at the local community level. NGOs have also participated in assisting internal reconciliation processes that were inspired by the involvement of certain institutions in the TRC.²⁰

Some NGOs were also active in monitoring the operation of the TRC to ensure that they remained accountable to communities and to the principles that NGOs had fought for in the lobbying phase. This proved to be extremely difficult. As with civil society's general relationship to the new government, there were inherent tensions involved in NGOs' multiple roles as critic, supporter, watchdog and partner. It was particularly this 'watchdog' function that was not well received by the TRC.²¹ For example, the Religious Response to the TRC made a submission after the first Cape Town hearing that they thought included some positive criticisms, but received a somewhat hostile response from the TRC to their input.

In a more adversarial line, the Khulumani Victim Support Group organised a picket at the Johannesburg TRC office at the start of the TRC, because they felt the TRC had not adequately informed victims about the work of the TRC or the implications of amnesty for them before it started hearings. The close affiliation between Khulumani and CSVR resulted in CSVR receiving hostile communications directly from some Commissioners. This strained the relationship between CSVR and the TRC thereafter. Similarly, certainly in the early phases of the TRC, the victims' families who opposed the amnesty provisions in court received very strong reactions from the TRC. These sorts of reactions from the TRC did, however, seem to ease up as the process developed.

Many NGOs received phone calls or visits from TRC staff requesting research assistance. Most of these requests resulted in NGOs sending their publications to the TRC. However, there were also many requests which required more work, such as compiling a new set of statistics or drawing together information for the first time. Most NGOs were eager to assist the TRC and set about fulfilling these requests as top priority, despite none of this work being paid.

These relationships, however, never moved beyond informal relationships between individual TRC staff members and certain NGOs. The nature of the requests remained *ad hoc* even as their numbers increased as more individual TRC researchers from all four offices started to realise that NGOs often had a wealth of information at their fingertips. For example, the Human Rights Committee (HRC) received so many requests for information that they ultimately had to designate one of their staff members full time to fulfilling them. Despite this the HRC felt that the TRC as a structure had never recognised the time and the effort they had put into meeting TRC needs.

Eighteen months into the process, the TRC raised money to pay NGOs and church structures to take statements.²² Albeit late in the day, this was very well received and was viewed as a creative method of supporting increasingly cash-strapped NGOs, whilst clearly bolstering the work of the TRC. The delay in this process was in part financial, but within the TRC, political differences also hampered the establishment of a civil society or NGO-driven statement-taking programme. Some Commissioners were reticent to have NGOs who were traditionally politically aligned (or at least sympathetic to the liberation struggle in South Africa) taking statements, as they felt the TRC may be accused of bias, and some Commissioners probably even felt these organisations could take partial statements. Nonetheless, the programme, when it did start operating, seemed successful.

On the negative side, because the statement-taking initiative by so-called Designated Statement-Takers (that is those in communities and NGOs not formally employed by the TRC) was not placed within the frame of a national civic involvement programme, statement-takers often operated as individuals.

Constraints on NGOs engagement with the TRC process

The inability of NGOs to engage effectively with the TRC was due to a range of factors, some internal to the NGO sector, and others due to the structure and mode of operation of the TRC. In terms of problems internal to the NGO sector, the main ones were funding, lack of co-ordination, wariness of losing their impartial status, and co-option of key staff members. Problems that NGOs experienced with the TRC were its framework of operation, political agenda, internal management structures and political tension within the organisation that affected the relationship between NGOs and the TRC. These problems are discussed in turn.

Many NGOs felt that the TRC did not provide any assistance when they did try to raise additional funds to take on TRC-related work. NGOs approached the

TRC for letters of support that they could attach with their proposals to funders, but were mostly turned down. The TRC's argument was that they would compromise their impartiality if they supported certain projects and not others. This was a frustration experienced by several NGOs. Hamber, Mofokeng and Simpson capture this when they reflect on the relationship between NGOs and the TRC:

The unfortunate irony is that these NGOs were probably marginalised because of their past track records of commitment to human rights—a disposition which under apartheid had led to a natural sympathy and affiliation with liberation and resistance movements. This allowed elements within the TRC to easily construe these NGOs as being politically biased, which in turn threatened the already delicate internal balance within the Commission.²³

As in the lobbying process, there was a lack of sufficient strategic planning by NGOs regarding their role, either individually or collectively. The result was a fairly *ad hoc* approach of engaging with the TRC when gaps arose, and some organisations committing resources (because of their principled support for the process) without a clear conception of the goals that were being pursued.²⁴ The process was further undermined at the start of the TRC when several key people who had pulled NGOs together prior to the TRC also left those NGOs to work for the TRC. It took time to re-mobilise these efforts and expertise.

The TRC-oriented networks that had been established prior to the TRC also had difficulty adjusting to a new role of critical engagement. Many organisations that felt strongly about the lobbying process did not see a clear role for themselves in the operation of the TRC. Many had high expectations of what the TRC would deliver and did not anticipate the need for NGO input to make sure these expectations were upheld. This was summed up by some interviewees:

The NGO coalition should have remained active through the life of the TRC. It could have played a strong role in interfacing between the TRC and the public. This would have been particularly significant in terms of developing strategy for any follow-through work beyond the TRC.²⁵

Some NGOs anticipated that the TRC process would not be well received by some of the constituencies with whom they worked, particularly IFP and PAC communities and those victims who were critical of the granting of amnesty. They were thus reluctant to be seen to be working too closely with the TRC as this would negatively impact on their image as impartial or politically unaligned. As one NGO worker commented: 'We do not want to be seen as too closely associated with the TRC as some of the constituencies we work with reject the TRC as being biased'.²⁶ For some of these groups, the TRC is viewed as a process that is not so much about reconciliation as it is about exposing the actions of certain parties or individuals. These groups thus question the sincerity of the TRC's commitment to reconciliation. One NGO staff member, for example, felt:

In doing work on reconciliation, linking too closely with the TRC would be problematic because the TRC also brings up other things in people's minds (that are not seen as

reconciliation-oriented). Their actions are also widely contested. It would thus not be a good entry point to deal with the basic concepts around reconciliation.²⁷

The TRC recruited extensively from civil society and many skilled personnel from the NGO sector were employed directly by the TRC when it began and during the course of its work. For example, almost all of the NGO staff that worked on TRC-related matters in Gauteng prior to its establishment were employed by the TRC when it began. It was generally those NGO staff with the most knowledge and those with extensive personal networks that were lost to the TRC. While some NGOs anticipated a closer working relationship with the TRC due to their staff having been employed at the TRC, the impact seems to have rather been a reduction in capacity of NGOs to engage with the TRC.

Many NGOs had to rebuild their capacity to engage effectively with the process. Those organisations most involved in the initial lobbying process for a TRC were often the most severely effected. One strong example is the Human Rights Committee, which lost three out of its twelve employees to the TRC, including its National Director. It took them two years to replace their Director and to rebuild organisational capacity to previous levels.

Many NGOs also felt that the TRC simply was not interested in rendering the types of services that NGOs felt should be prioritised. NGOs outside the human rights sector often felt that the framework of the TRC was seen as being based on a legalistic framework that emphasises investigation, and the use of rights-based mechanisms and procedures. In this respect the TRC was seen as acting within a framework that regarded the interests of the NGOs as peripheral, and disregarded the social support work that dealt directly with victims and addressed grassroots conflict resolution: 'The TRC is essentially a legal structure. The healing stuff was tacked on at the end. When funding becomes tight in the TRC, the first thing they cut is psychological services.'²⁸

Generally, NGOs felt that their input was ignored by the TRC, as it did not fit in with the political agendas that dominated the TRC's work. The TRC was often seen, in the eyes of NGOs, as a 'political game' that was weighted towards dealing with the power dynamics of the broader society, rather than the constituencies whose needs they claimed to be addressing. Several NGOs came away from the TRC process feeling disillusioned. On reflection, many felt somewhat naïve in thinking they could make an impact on a process that was ultimately driven by national political agendas.

The TRC had a complex internal management system. It was headed by 17 Commissioners, had three fairly independent Committees, different regional management systems and over 200 staff members nationally. NGOs who engaged with the TRC found it hard to understand with whom they had to talk in order to have decisions made. This was more apparent in the early phases of the TRC. NGOs complained that decisions were often referred to higher authorities within the TRC without any clear response being given to the NGO involved. If a decision was blocked or simply never implemented, NGOs could

often only speculate about the reasons and the individual(s) responsible. It was never clear with which higher authority the NGO should take up issues. In addition, NGOs—perhaps to their detriment—often built relationships with individual Commissioners. Often relations were particularly good with these individuals and even at times agreements would be reached on joint projects. However, the moment decisions were referred to a broader Commission meeting, consensus would not be reached by the Commissioners and the joint ideas or work would be dropped.

TRC Commissioners did, in part, represent a political ‘horse-trade’ that ensured that Commissioners of different political persuasions were selected. This was a major factor in producing internal political tensions. These tensions also played out in the way the TRC engaged with NGOs. The TRC made great efforts to portray itself as politically impartial and was seemingly willing to compromise its ability to act effectively in order to maintain this image. Some Commissioners were suspicious of NGOs with a strong human rights background or those with experience working with grassroots organisations. Some of the Commissioners were also sceptical of NGOs that were seen as linked to traditionally white universities and where whites were perceived to dominate senior management positions. From another angle, more conservative Commissioners distrusted various NGOs because they were assumed to be too closely linked to the ANC.

As a result, the TRC was generally reluctant to engage with any NGOs for fear of being accused of working too closely with politically aligned groupings. An exception was when the TRC contracted the Freedom of Expression Institute to do some research on their behalf. The TRC was then severely criticised by Africanists and white conservatives for aligning itself with these ‘white liberals’. These criticisms and tensions were played out both within the TRC as well as in public debates and in the newspapers.

In addition, many NGOs perceived the TRC as approaching the conflicts of the past in a way that was not in line with certain NGO perspectives. NGOs criticised the TRC’s understanding of the conflict as driven by the statements and submissions that it received. These are the TRC’s officially defined primary sources of information on which it decided to base its reports. The result was a number of sources of information being left out. For example, the thousands of records and statements compiled by NGOs over the years have not been considered. Some NGOs are disconcerted by the fact that some sides to the conflict were reluctant to engage with the TRC (for example, militarised youth have only been engaged to a limited degree) and, as a result, feel that their story will not be told adequately. Many NGOs felt that the TRC approached the conflict in a very simplistic fashion using broad categories that obscured the complexity of the dynamics. The criticism raised by some NGOs is that the TRC was trying to cover everything but only superficially because of the parameters of its mandate.

The TRC is also accused of not engaging with the local complexity of particular communities where they held hearings. It squeezed people into

pre-defined categories of victims and offenders. This was seen as denying the complexity of how people see themselves and their roles in the conflict. Moreover, the TRC's focus was excessively on the political parties as the main stakeholders and divisions that related to political ideology. NGOs felt that this under-emphasised conflicts around economic injustices and stakeholders involved in conflicts over the distribution of resources. Stakeholders were only recognised when they formed into political parties.

Many NGOs also felt that the TRC's focus on gross human rights abuses of the past was not necessarily appropriate when trying to promote reconciliation within the present context. The narrow focus on only gross human rights violations rather than other more common violations that made up the day-to-day experiences of most black people was also seen as potentially marginalising these experiences, and thus shifting the focus of attention to abuses that fall within the liberal framework of understanding the past.²⁹ Some expressed concerns that there was not sufficient focus on ordinary white South Africans who benefited, but now do not take any responsibility. The focus on perpetrators rather than beneficiaries, it is said by some NGOs, lets many that should be held accountable off the hook (the TRC began to look at beneficiaries but only towards the end of its mandate). The TRC's focus on the major divisions of the past, between blacks and whites—rather than those of the present was also seen as problematic. The lack of concern for conflicts between Africans and coloureds in the Cape, for example was seen as, in fact, helping to obscure issues of ethnicity that desperately needed to be addressed.

A final concern raised by some NGOs was of a hierarchical body such as the TRC (with its own internally skewed distribution of power and resources) attempting to interpret and critique South Africa's past. They felt that the TRC had so effectively replicated the inequalities of the country's past in its own structure and operation that it would not be able to reflect critically on these broader issues of injustice.

NGO impact on TRC operation

Engaging with the TRC as a body was found more problematic by most NGOs than the engagement with the lobbying process for the setting up of a truth commission. It seems that, despite initial progress and preparations, many initiatives simply did not amount to much once the TRC began. For example, in Gauteng about 35 mental health-orientated organisations had expressed at a Conference their willingness to offer services to the TRC prior to its establishment. However, once the TRC began—despite several meetings being held by the TRC—most of the organisations felt that the TRC did not draw them into the process or used their largely free services. A similar initiative in Cape Town seemed slightly more successful once the TRC began. On the research front, however, NGO work was used more substantially. NGOs provided support in the form of submissions and research assistance.

Where NGOs did implement projects related to the TRC, these were usually without the support of the TRC. An example of a serious failure at impacting on the TRC was the public education programme for which the CSVR tendered (with several supporting partners like the South African Council of Churches and others), but failed to get. In advance of the TRC's establishment, CSVR had developed a strong belief in the need for a public education programme that would ensure that the public had clear and realistic expectations regarding the TRC and knew how to access its services. Educational materials were developed and tested in the run-up to the establishment of the Commission. A public education programme that involved a broad network of community and media structures was proposed to the TRC. The TRC, however, opted to engage the services of a professional advertising agency that had almost no direct community engagement component. It thus largely relied on a media profile rather than a public education programme, although a limited number of education workshops were run in communities. The CSVR continued to run a successful public education campaign with donor assistance in communities within Gauteng and neighbouring provinces (running well over 100 workshops during the life of the TRC), though on a much smaller scale than would have been possible with TRC funding.

One successful example of NGO impact on the TRC was in the area of gender issues. In the early months of the TRC, the Centre for Applied Legal Studies (CALS) held a workshop around issues of gender and the TRC to which many key women's organisations and TRC staff were invited. Out of this successful workshop CALS produced a submission on the role of gender in the TRC which they presented at a larger follow-up workshop organised at the TRC offices. CALS considered their efforts in this area a success, as they were able to empower some TRC Commissioners to put the issue on the TRC agenda early into the life of the TRC. As a result they were able to push the TRC to do its own research in the area of gender, hold women's hearings and create statement-taking protocols which were gender sensitive. Yet even this initiative lost momentum in the last stages of the TRC process. Despite many stated intentions to do so, the TRC failed to bring on key CALS staff as gender consultants.

Many NGOs offered services connected to the TRC's activities (education, victim support, counselling) which were often perceived by the recipients as part of the TRC's activities, although almost all of these were funded by outside agencies or operated completely independently of the TRC. The impact was, in many ways, one of assisting the TRC in building a more 'victim-friendly' image than it would otherwise have had.³⁰

In conclusion, however, it should be noted that the regional differences between the various TRC offices were also quite stark when it came to certain NGO relationships. Interviewees reported that the Cape Town office was, for example, more amenable and accommodating to NGO input than the Johannesburg office. Similarly, the NGO roles differed from city to city and were largely lacking when it came to rural areas.

TRC's impact on NGOs

The TRC had a reciprocal impact on the NGOs with which it engaged, as well as more broadly on those that operate in fields related to the TRC. These are discussed in terms of: impact on existing NGO work; impact on communities served by NGOs; and impact on the broader context within which NGOs operate.

While many TRC staff members felt that the work of the TRC had revealed previously obscured events and new potential avenues of healing that would allow NGOs to explore new opportunities in their work, peace and conflict resolution NGOs involved in TRC-related work were somewhat less impressed by these new horizons. Most significant for the NGOs interviewed was the public profile that the TRC received, the victims' hearings, and the consequent broadening of acceptance of processes and issues (such as human rights) that they have been promoting for some time. Although the TRC did reveal new information, many NGOs felt that the 'truth' aspect of the TRC was limited and often only built on the findings of Goldstone Commission and the trial of Eugene de Kock. This, in retrospect, caused some NGOs to doubt whether the 'truth for justice' model did reveal enormous truths and to what degree this could successfully compensate for the granting of amnesty to murders and human rights violators.

NGOs did not feel that the TRC made a dramatic contribution to developing new or innovative healing and reconciliation processes or techniques—although most were grateful for the public exposure of the process. This is based on the fact that the process of story telling is something that NGOs have been facilitating for some time, and have incorporated in their conflict resolution and therapeutic processes:

The TRC has not brought anything new to the fore. We have not changed our work because of anything new that the TRC has opened up. Mediation is essentially about story-telling. This is however just the start of a process.³¹

However, by popularising the process of story telling, the TRC was seen as contributing to unleashing a number of personal accounts that have not been given space for expression. As a result, some NGOs found it easier in the post-TRC phase to draw these stories out and build on them:

The TRC contributed to the unleashing of stories of trauma. People are more capable of talking now. It provides a clearer context and framework of meaning for talking about the past.³²

It was also positively expressed that the way that the TRC has approached the issue of trauma has facilitated some NGOs' ability to engage with victims in counselling:

The TRC helped bring victims to the point where they realise they have psychological needs. Clients who come via the TRC are more focused—they have a context within which to make more sense of the healing process.³³

Simultaneously the TRC was criticised for having made many assumptions about trauma. Commissioners, especially those who have had limited (or no) psychological experience or knowledge were criticised for talking about healing and psychological rehabilitation in rather simplistic terms. This, it was felt, obscured the real issues and complexities of dealing with severe psychological issues. Thus, the TRC was praised for popularising the need for psychological support, which, to some degree is useful, but at the same time creating an expectation that healing is a simple linear process, or something readily remedied.

For some organisations the TRC served positively to re-emphasise the huge amount of work that still needs to be addressed in terms of reconciliation. It has made it clear that reconciliation has not yet been achieved and requires extensive further work by NGOs. This has, in the opinion of many, been useful and left the door open for more and necessary reconciliation work in the future. It was also felt that the TRC, through its existence, has facilitated more extensive networking between NGOs. Some NGOs have developed new partners in the process of doing TRC-related work. These new partnerships have strengthened relationships between NGOs and the state structures, between NGOs and the private sector, and between traditional conflict resolution NGOs and welfare type organisations dealing with traumatised people as well as with organisations representing survivors.

Most interviewees felt that the TRC's activities had created greater funding possibilities for NGOs to do work in related areas in the future:

The TRC has put reconciliation on the agenda. It has not clarified what reconciliation means but it has identified a definite gap that needs to be addressed. Now that the truth is out, there are two options: drawing a laager and revenge, or a facilitation of a new relationship that looks at constructive options of the future.³⁴

The work of the TRC has raised awareness among some funders of the work that still lies ahead. We use the analogy of apartheid being like a rock that has been removed and now all the problems that were covered are exposed. The TRC's work validates this understanding. The TRC also creates greater awareness of the less visible aspects of peace and development. It is not just about building houses and stopping the killing. It is about the importance of attitudes and relationships that have to be addressed.³⁵

These attitudes support the notion that the TRC has opened up a range of fields, possibilities and areas of work, more through its process than through direct support.

While most NGOs felt that overall the TRC was making a positive contribution to social change in South Africa, there were many concerns raised about the TRC's impact on individual communities. The TRC was often portrayed as descending on a community, stirring up emotion and trauma and then moving on without leaving any process in place to deal with the turbulence that it leaves in its wake. It was noted that there was the very real danger that revealing truth can lead to more anger and deeper divisions, for example:

The TRC goes into a community like a circus. They open up the past and then leave the sores open. They do not provide any assistance in healing these sores. Peace organisations are the ones who have the skills to help with this.³⁶

The TRC has generated social and political conflict. This was to be expected because, in our circumstances, the goal of truth and reconciliation are often contradictory. Uncovering details of past abuses gives rise to hostility from both perpetrators and survivor communities. This is unavoidable and has to be managed in ways which lie outside the TRC's mandate.³⁷

Nevertheless, the process of unleashing the stories, revealing the hidden traumas and uncovering latent tensions was also painted as a positive contribution in that it has started the ball rolling. It is unequivocal, however, that the lack of co-ordination between the TRC and NGOs has not always allowed for effective follow through where NGOs could pick up on the community needs identified through the TRC process. It is felt that there is now a window of opportunity for NGOs to step in and do more effective intervention work with these communities, but the lack of hand-over strategy (that should have been devised at a very early stage), or the question of whether NGOs have the capacity to do this, has still not been addressed.

A number of areas were outlined where the impact of the TRC process has had both positive and negative outcomes for the environment in which NGOs work. Most importantly, it was positively expressed by many that the TRC helped break the silence about human rights abuses in the past. In South Africa it is indisputable that a large proportion of the population have been exposed to the atrocities of the past that have been brought to the fore by the Truth and Reconciliation Commission (TRC). The Special Report on the TRC had about 1.2 million television viewers weekly, and coverage in the press and on the radio was fairly extensive. It was considered critical by most NGOs that the act of speaking out had been very powerful in breaking the silence of the past. It has made it impossible to deny the systematic and inhuman nature of the repression of the apartheid government. It has also given victimised people a sense of recognition and acknowledgement.

Moreover, human rights organisations were generally positive about the potential contribution made by the TRC in helping to build a human rights culture. While a basic premise of the TRC was that of granting amnesty to perpetrators, its overall operation was seen as something that contributed to a belief in the rule of law, even if only through illustrating what happens when there is no rule of law. While perpetrators were not prosecuted, the amnesty hearings are seen as a process that still held them accountable, making them explain their actions (in terms of the logic of the past) and soliciting statements of remorse and apology from many of them. The TRC has built greater national consensus around the rejection of such abuses and made human rights a household concept. This work on human rights is, however, only seen by most NGOs as a starting point. NGOs are still required to carry the process through.

The unanswered question, however, is to what degree this human rights knowledge about the political violations of the past transposes to different contexts. In the months April–July 1997 it was reported by the Independent Complaints Directorate that 255 people died in police custody or due to police action in South Africa.³⁸ These figures are of grave concern and may point

to ongoing levels of impunity in the police service. Vigilantism is also on the increase, the majority of South Africans support capital punishment and people frequently blame the new human rights era for the rise in crime in the country.

In essence, human rights education and knowledge remains appallingly low in South Africa with regard to current issues. The TRC may have, for example, contributed to showing that torturing political dissidents is wrong but it is likely that the majority of South Africans do not see torturing criminals as the same type of violation and probably do not see deaths in police custody as problematic, if the person was a suspected criminal. This points to one of the central challenges for the future, that is to demonstrate that past political violations are as morally wrong as all types of present violations even if these are more hidden, not politically motivated and less pervasive in the new society.

Conclusion

The TRC was, in many ways, despite its successes, an opportunity that was not fully exploited. NGOs failed to effectively mobilise in response to a major new government initiative, and the TRC failed to draw effectively on existing resources that could have enhanced the services they offered to society. The challenge, of course, is to learn from this experience. As this article has shown, there were crucial junctures at which both the TRC and NGOs could have benefited from each other in terms of resources, access, experience and expertise. At times, the failure to capitalise on these opportunities led to strained relationships, breakdowns in communication and turned potentially creative partnerships into divisive and unproductive ones, thereby jeopardising their long-term goals of transforming society.

One area in which NGOs played a critical role was in the conceptualisation and lobbying process around the legislation of the TRC. Here, a productive exchange of ideas among NGOs representing various segments of civil society were introduced into legislative debates and the government was forced to engage with a broad range of perspectives. However, it is important to remember that this input was greatly enhanced by a strong relationship between the government, via the Minister of Justice, and specific NGOs (most notably Justice in Transition) that invested a large amount of time and resources into facilitating broader civil society input. Both entities overtly encouraged participation in workshops and conferences where NGOs were given the opportunity to play a significant role in the process. Nonetheless, the initiatives were criticised because involvement by NGOs was limited mainly to those who had the existing capacity to engage with complex conceptual debates and in a complex legislative process.

Similarly, the overall assessment has to be that the TRC did not go out of its way to accommodate NGO concerns in its operation. It did not draw on their existing strengths, or help them build capacity with regards to reconciliation, human rights and psychological services to the degree that it could have. Given

the recognition by the TRC that their intervention is but a small step in the process of promoting reconciliation and building a culture of human rights, and their insistence that NGOs have a central role in carrying this process forward, this could create problems in the future. The TRC has laid a foundation for a process of reconciliation. It has, however, not engaged sufficiently or bolstered directly the organs of civil society which are to carry on the more long-term work of rebuilding society. However, the TRC, merely through popularising reconciliation work, has opened some doors for future NGO initiatives. In addition, the Truth and Reconciliation Commission ultimately proved to be a learning experience for NGOs in which they had to develop a variety of new resources, skills and methods for working with statutory bodies. The major challenge for NGOs is to develop these skills further in order to carry their work forward.

Notes and references

- * Hugo van der Merwe is a Senior Researcher, Polly Dewhirst is a Researcher, and Brandon Hamber is the Co-ordinator of the Transition and Reconciliation Unit (Project on Truth Commissions) at the Centre for the Study of Violence and Reconciliation, Johannesburg.
1. This article was initially prepared for the International Study of Peace Organisations—South Africa, funded through the Aspen Institute.
 2. Justice in Transition was an NGO set up with the express purpose of facilitating the establishment of the TRC.
 3. A lack of suitable expertise within the Department of Justice may also have been a consideration.
 4. Interview with Medard Rwelamira (Department of Justice), 25-2-1998.
 5. The Community Peace Foundation (based at the University of the Western Cape) was similarly involved as a conduit for funds and expertise in the legislative development process.
 6. Names of individuals mentioned by interviewees included Alex Boraine, C.A. Norgaard (European Commission on Human Rights), André du Toit (UCT Politics Dept.), Arthur Chaskalson and Albie Sachs (Constitutional Court), John Dugard (Wits Law Faculty), Lourens du Plessis (University of Stellenbosch Law Faculty), George Bizos and Mohamed Nasvat (Legal Resources Centre).
 7. For example, Justice in Transition and the Centre for the Study of Violence and Reconciliation (CSVR). The latter had dedicated staff focusing on TRC-related issues as early as August 1994.
 8. The NGO Coalition on the TRC was really comprised of two parts. First, the wider coalition of 30–40 NGOs who endorsed press statements and attended conferences. Second, the NGO Working Group, which was a much smaller group of representatives from 5–10 Gauteng human rights NGOs who met on a weekly basis. It is also important to note that this group was initially organised not as a lobbying group, but as a group to manage the Human Rights Documentation Project, a national database project funded by Justice in Transition. For more information on the project see L. Levin, P. Dewhirst and B. Hamber (1997) 'The Use of EVSYS for Preparing a Human Rights Database for Presentation to the Truth and Reconciliation Commission (TRC) in South Africa', paper presented at the HURIDOCs Conference, Mexico City, 11–13 November.
 9. CSVR also arranged for victims of human rights abuses to speak in person against the provision for in-camera hearings. The initial roots of the Khulumani Victim Support Group, the largest network of victim support organisations in the country, were laid at this time. Staff from the CSVR and the initial victims who presented to parliament on the proposed secret hearing process founded the group on returning from Cape Town after making their submissions.
 10. Interview with Bea Roberts and Gareth Newham (Idasa), 21-1-98.
 11. Interview with Louis du Plooy (TRC), 1-12-97.
 12. The Khulumani or Speak-Out Support Group is largely a Gauteng based group. They have offered survivors and families of victims some support, albeit limited due to resource problems. This structure—and there are examples of smaller groups elsewhere in the country—in some cases introduced the TRC to the victims, found indigenous ways to reconcile with the past and lobbied the TRC concerning the rights and concerns of survivors and families of victims. For more information on the group see <http://www.wits.ac.za/csvr>.
 13. Interview with Andrew Shackleton (Quaker Peace Centre), 4-12-97.

H. VAN DER MERWE ET AL.

14. Interview with Athol Jennings (Vuleka Trust), 16-1-98.
15. *Ibid.*
16. Interview with Alex Boraine (Deputy Chair of the TRC), 25-5-98.
17. *Ibid.*
18. This process of co-ordinating all the human rights abuse databases held by human rights organisations in South Africa and abroad was implemented by the NGO Coalition on the TRC (and funded by Justice in Transition) before the TRC was established. It was done in anticipation of the TRC's role in investigating and compiling a national database. See Levin *et al.* (1997) *op. cit.*
19. Only about 10-15 per cent of victims who made statements to the TRC were given the chance to tell their stories at a human rights violation hearing.
20. See, for example, CSVr's assessment of the Wits University Faculty of Health Sciences Internal Reconciliation Commission (forthcoming).
21. See B. Hamber, T. Mofokeng and G. Simpson (1997) *Evaluating the Role and Function of Civil Society in a Changing South Africa: The Truth and Reconciliation Commission as a Case Study*, paper presented at 'The Role of Southern Civil Organisations in the Promotion of Peace' DHR Seminar, hosted by the Catholic Institute for International Relations, London, 10 November.
22. *Ibid.*
23. Hamber *et al.* (1997) *op. cit.*
24. In what appears an uncharacteristic stance for the sector, the Centre for Conflict Resolution (CCR) had internal discussions on whether to engage with the TRC process, *feeling that they should do it properly or not at all*. The decision was not to engage.
25. Interview with Bea Roberts and Gareth Newham (Idasa), 21-1-98.
26. Interview with Athol Jennings (Vuleka Trust), 16-1-98.
27. Interview with Andrew Shackleton (Quaker Peace Centre), 4-12-97.
28. *Ibid.*
29. See, for example, the submission of a collection of NGOs: *Submission to the TRC Concerning the Relevance of Economic, Social, and Cultural Rights to the Commission's Mandate*, 18 March 1997. It was submitted by among others the Legal Resources Centre, Black Sash and the NGO National Coalition.
30. The TRC did provide briefing and debriefing to those testifying at public hearings, and at times also made social and psychological support referrals. For more detailed evaluation see, Brandon Hamber (1998) 'The burdens of truth: an evaluation of the Psychological Support Services of the SA TRC', *American Imago*, 55 (1), pp. 9-28; and Trudy de Ridder (1997) 'The Trauma of Testifying: Deponents' Difficult Healing Process', *Track Two*, 6 (3/4), pp. 30-3.
31. Interview with Craig Arendse (Centre for Conflict Resolution), 2-12-97.
32. Interview with Joy Watson (Institute for Multi-Party Democracy), 1-12-97.
33. Interview with Trudy de Ridder (Trauma Centre for Victims of Torture), 4-12-97.
34. Interview with Craig Arendse (Centre for Conflict Resolution), 2-12-97. A laager is a circular formation of wagons for purposes of defence.
35. Interview with Andrew Shackleton (Quaker Peace Centre), 4-12-97.
36. Interview with Barney Beck (World Conference on Religion and Peace), 21-1-98.
37. Interview with Laurie Nathan (Centre for Conflict Resolution), 18-12-97.
38. It is unclear how many of these deaths were due to unlawful actions by the police.

Appendix: individuals interviewed

Craig Arendse (Centre for Conflict Resolution)	Cape Town	2-12-97
Vanessa Barolsky (TRC, formerly from Peace Action)	Johannesburg	30-1-98
Barney Beck (World Conference on Religion and Peace)	Cape Town	21-1-98
Alex Boraine (TRC)	Cape Town	25-5-98
Trudy de Ridder (Trauma Centre for Victims of Torture)	Cape Town	4-12-97
Louis du Plooy (TRC, formerly Religious Response to TRC)	Cape Town	1-12-97
André du Toit (Dept. Political Studies, UCT)	Cape Town	3-3-98
Beth Goldblatt (Centre for Applied Legal Studies)	Johannesburg	20-1-98
Paul Haupt (TRC)	Cape Town	2-12-97
Willie Hofmeyr (ANC MP, Portfolio Committee on Justice)	Cape Town	3-3-98
Abigail Johanessen (HRC)	Johannesburg	24-2-98
Athol Jennings (Vuleka Trust)	Durban	16-1-98

NGOS AND THE TRUTH AND RECONCILIATION COMMISSION

Patrick Kelly (TRC, formerly Human Rights Commission-HRC)	Johannesburg	21-1-98
Eddie Makue (SACC)	Johannesburg	6-4-98
Tim Marchant (HRC)	Johannesburg	24-2-98
Xola Mlandu (Religious Response to the TRC)	Cape Town	9-12-97
Laurie Nathan (Centre for Conflict Resolution)	Cape Town	8-12-97
Gareth Newham (Institute for a Democratic SA)	Pretoria	21-1-98
Bea Roberts (Institute for a Democratic SA)	Pretoria	21-1-98
Medard Rwelamira (Department of Justice)	Pretoria	25-2-98
Andrew Shackleton (Quaker Peace Centre)	Cape Town	4-12-97
Graeme Simpson (CSVR)	Johannesburg	24-3-98
Alison Tilly (Black Sash)	Cape Town	10-12-97
Wilhelm Verwoerd (TRC)	Cape Town	3-12-97
Joy Watson (Institute for Multi-Party Democracy)	Cape Town	1-12-97
Paul van Zyl (TRC—formerly with CSVR)	Johannesburg	27-2-98