

TRANSITION, FORGIVENESS AND CITIZENSHIP: THE TRC AND THE SOCIAL CONSTRUCTION OF FORGIVENESS

STÉPHANE LEMAN-LANGLOIS AND CLIFFORD SHEARING

8.1 INTRODUCTION

The function of forgiveness as a tool of governance can easily be overlooked. Yet, it always serves to articulate a culturally specific discourse about right and wrong, about victims and perpetrators, and about what should be done for social relations to begin, endure or improve. It is a discourse about what victims should do, what is expected from perpetrators, and the nature and function of the state and other institutions in the social world. In transitional, post-trauma societies, forgiveness has emerged as a discourse meant to open a new world, where both victims and perpetrators can coexist. In that context, forgiveness (re)distributes power.

Socio-political analyses of the meanings and uses of forgiveness are rare. What literature there is consists primarily of either psychological research, or philosophical, theological or legal exploration.¹ Empirical content is minimal, if present at all. Clinical studies tend to present forgiveness as a therapeutic resolution to various mental states deemed to be pathological (anger, confusion, fear, etc.). Everywhere the positive, desirable nature of forgiveness is axiomatic. It is also simply assumed that forgiveness is difficult. Further, this difficulty is thought

¹ See for instance Martha Minow, *Between Vengeance and Forgiveness: Facing History After Genocide and Mass Violence* (Boston: Beacon Press, 1998); Michael E. McCullough, Carl E. Thoresen, Kenneth I. Pargament and, *Forgiveness: Theory, Research, and Practice* (New York: Guilford Press, 2000); for an example of each, Robert Enright and Joanna North (eds.), *Exploring Forgiveness* (Madison: University of Wisconsin Press, 1998).

to be proportional to the severity of the harm to be forgiven. Forgiveness is seldom, if ever, thought of as having a political or governance face.² The assumptions outweigh the empirical evidence.

In this chapter, we explore the use of forgiveness as a tool of governance, by considering its conceptual position within the South African Truth and Reconciliation Commission (TRC).

8.2 THE ROLE OF FORGIVENESS FOR THE TRC

8.2.1 Christian forgiveness as the backdrop

In many cultures the space occupied by forgiveness is a colony of religious doctrine and practice. Christian tradition, among others, has set the meaning and function of forgiveness in occidental and occidentalised societies to the almost complete exclusion of other, competing discourses of what one might call 'social relationship-mending'. Within these traditions there are two non-exclusive sources of forgiveness: one god-granted and the result of private reflection, the other human and dialogical (requiring interaction between at least two persons). In both cases, 'true' or 'genuine' forgiveness is understood as freely given, rather than coerced, and must be disinterested. It will not be considered 'true' or really 'felt' if it is offered in the expectation of a reward or in fear of negative consequences. Further, forgiveness is also seen as requiring satisfactory knowledge, not only of the acts for which it is offered, but also of the intention(s) of the wrongdoer both at the time of his or her actions as well as at the moment when forgiveness is being considered.

Given this context, the possibility of institutionalising forgiveness is inherently problematic, since official processes may run counter to some or all of these principles. These, of course, are precisely the sorts of problems that organised religions which include institutionalised practices of forgiveness have had to find ways of managing.

The tension between the principles of forgiveness and their institutional setting became evident in various ways in the workings of the TRC. The TRC had to find ways to manage the paradox of forgiveness as a spontaneously proffered 'gift' surrounded by various strategies, some quite coercive, that were developed to facilitate and encourage

² Notable exceptions are Richard Wilson, *The Politics of Truth and Reconciliation in South Africa: Legitimizing the Post-Apartheid State* (Cambridge: Cambridge University Press, 2001) and Claire Moon, 'Narrating Political Reconciliation: Truth and Reconciliation in South Africa' (2006) 15 *Social and Legal Studies* 257.

this spontaneity. In addition, as the records of the TRC reveal, a ‘conceptual’ tension arose in situations where there was very little knowledge about either what had happened and/or the intentions of the actors involved. These difficulties are what first drew our attention to forgiveness within the TRC process. Our chapter will consider the conditions that enabled forgiveness, within the context of the TRC, to be perceived as ‘true’ or ‘real’ by those involved. Recurrent themes are the processes and conditions that constitute forgiveness as *legitimate*. Not in an ethical sense, where we might attempt to identify a standard of legitimacy in order to ‘measure’ forgiveness, but rather in the social sense of the construction of legitimacy among its participants. We will also not consider the genuineness of the feelings of forgiveness experienced by the actors.

8.2.2 The objective of the TRC Act

The Act that constituted the TRC (the Promotion of National Unity and Reconciliation Act 34 of 1995 or ‘TRC Act’) set forth an aspiration to be fulfilled without articulating, even in the vaguest terms, how this might be accomplished. The aspiration was that reconciliation (in the title of the Act) – establishment of harmony or at least peace where there had been conflict (individual and collective) – could, and should, be achieved through truth-telling (described in the contents of the Act). The Act specified a set of structures and processes through which truth-telling would take place, but left it to the Commissioners to work out the details: the format, the process and, more importantly, the construction of a narrative or discourse explaining how, when and at what cost truth might lead to reconciliation and national unity. The idea was that the TRC would somehow put together the conditions necessary for creating a new social world – the conditions necessary for governing the future South Africa.

To accomplish this, the Commissioners had to answer two sets of questions. First, they had to decide what it meant to tell the truth, how the truth was to be told and what was to count as truth. As difficult and challenging as this was, it turned out to be the easier task.³ The second one was to find ways of linking truth to reconciliation and

³ Stéphane Leman-Langlois and Clifford Shearing, ‘Repairing the Past: The South African Truth and Reconciliation Commission at Work’ in George Gilligan and John Pratt (eds.), *Crime, Truth and Justice: Official Inquiry, Discourse, Knowledge* (London: Willan, 2004) 222.

nation-building. This not only proved to be far more difficult but was also a source of considerable controversy.

8.2.3 Forgiveness as the link between truth-telling and reconciliation

The TRC's Chairperson, Archbishop Desmond Tutu, grasped this nettle and presented forgiveness, from the outset, as the necessary link between truth-finding and national, as well as individual, reconciliation. In doing so he set the tone for the TRC's work. His leadership in this matter was made possible by the deep moral authority and political capital he could mobilise within a country where Christianity, while not the only religious sensibility, is deeply rooted and persuasive.

By selecting this pathway, the Chairman posed a difficult challenge to the TRC. Unlike a court, for example, which can directly deliver justice through its acts, the TRC could not deliver, or otherwise order, forgiveness without contradicting the common understandings of the term. The TRC could only produce reconciliation if those who appeared before it were prepared to spontaneously ask for and/or offer forgiveness. In settling on forgiveness as the path that linked truth to reconciliation and national unity, the TRC's outcomes were defined as products which it could facilitate but that only South Africans could deliver. Thus, in matters of 'national unity' the TRC's task was presented as a provider of opportunities and enroller of South Africans into its ultimate mission. The question we will address is: How did the TRC construct and then go about accomplishing this task?

8.3 THE INSTITUTIONALISATION OF FORGIVENESS WITHIN THE TRC

The TRC, in tackling this task, worked out of the established understanding of forgiveness as a spontaneous expression of personal emotions or feelings. It thus constituted its task as finding ways of enrolling or 'hailing out' the subjectivity of both those who were to appeal for forgiveness and those expected to grant it.⁴ What had to be established

⁴ We draw here on the notion of 'interpellation' or 'hailing' developed by Louis Althusser in his work on ideology. The basic idea is that by 'hailing' someone (addressing someone under a particular description of that someone), we are offering the person concerned an *identification*. In responding to this address, the person constitutes himself as a subject within a specific conceptual framework. Althusser contends that this is the way all ideologies function. For instance, democracies hail people 'as citizens' by calling upon them to vote, and in the act of

were the conditions within which human beings would be willing to engage in a forgiving relationship, within which forgiveness would emerge as a gift from one human being to another. This was not a legally required task, but one that became imperative within the TRC discourse of national unity.

How this was accomplished was context-specific – it varied both within and across the TRC’s subcommittees, each setting producing very different solutions. The principal setting was the Human Rights Violations Committee (HRVC). Its hearings are perhaps the best known and have come to epitomise the TRC’s activities as a whole, in part because they were often presided over by the Chairperson of the TRC. In these so called ‘victim hearings’, victims were invited to share their experiences with the Commissioners, the audience present at the hearings and with a wider public through the media. Victims’ testimonies were given without requirements for proof and without cross-examination. Sometimes, Commissioners would ask for clarification or expansion, but in doing so they always showed considerable deference to the victim. About ten per cent of the 20 000 victims who submitted statements were given an opportunity to appear in person before the HRVC. They were selected by the TRC staff as actors who were representative of each geographic area visited by the TRC in terms of ethnic background and the form of their victimisation (and, of course, they had to agree to appear). A variant of these hearings were the so-called ‘theme’ hearings which focused on institutions and events linked to the apartheid era.⁵

The second setting was constituted by the Amnesty Committee’s (AC) hearings, where amnesty applications were heard. Victims were free to attend these hearings and would be allowed to give evidence if they had relevant facts to present. They could also make statements to the Committee before it rendered a decision. The hearings were modelled on the Anglo-American adversarial judicial process. Besides more relaxed rules of evidence and the different nature of the final decision, these hearings unfolded in a way similar to conventional

voting they constitute and construct themselves as citizens of this political community. But the phenomenon is more pervasive. Other social practices also have ideological dimensions and operate through ‘hailing’ people: advertising hails them as ‘consumers’, social mores hail them as ‘mother-wives’ or ‘provider-husbands’, etc. In short, a person who is ‘hailed out’ is offered a self-identification which, if accepted by that person, enrolls him or her in the perpetuation of the practice. See Louis Althusser, *Lénine et la philosophie* (Paris: Maspéro, 1969).

⁵ For example, hearings were held on the business sector, the legal system, and the ‘Mandela United Football Club’.

trials. Applicants were invited to tell the truth about their activities, in exchange for which they would receive criminal and civil immunity. For the most part, the participants were questioned and assisted by legal representatives. As in conventional trials victims had a less prominent role.⁶

8.3.1 The ‘victim hearings’

Most victim hearings were well under an hour in length, the TRC taking typically between five and fifteen depositions a day. They were structured and presented almost always in much the same way.⁷ First, the chair of the HRVC would open the hearing, introduce the witness and ask a Committee member to lead the witness through his or her testimony. This would begin with details about the person’s life such as employment history, family life, etc. Then the principal events would be related, essentially as the victim saw fit to present them, but with clarification questions being interjected during the narrative or at its conclusion. On a few rare occasions when the victim would name and accuse individuals who had already denied their involvement, one of the Commissioners might raise this as a comment.

Once the details of the events were given, in most instances the Commissioners ritually asked four questions: 1) whether the TRC could do something to help the victim; 2) whether the victim would like to know the names of the perpetrators (when applicable – many victims knew fully well who the perpetrators were); 3) whether the victim was politically active at the time; 4) how the victim’s life had been transformed by the events.

Answers varied little from two generalised types: in one instance, witnesses adopted the discourse – if not the very language – of the TRC and produced what might be thought of as ‘TRC-compliant’ answers. In other cases, they tried to challenge or resist this discourse. But even these victims, as we argue below, tended to affirm the TRC’s project.

⁶ For a description of the procedure at AC hearings see Truth and Reconciliation Commission of South Africa, *Report*, 6 vols. (Kenwyn: Juta and Co., 1998 and 2003), Vol. 6 at 30–2. See also Antje du Bois-Pedain, *Transitional Amnesty in South Africa* (Cambridge: Cambridge University Press, 2007) Ch. 6, for a detailed analysis of victim participation in amnesty hearings.

⁷ We must generalise, of course, for the sake of brevity. In fact noticeable differences were present in the way each regional office of the TRC (Cape Town, Johannesburg, East London, Durban) conducted its hearings, and some changes also occurred over time. For instance, on the whole the Johannesburg HRVC hearings tended to be exclusively limited to the concrete facts of the cases presented.

There were few explicit attempts made by Commissioners to introduce the issue of forgiveness. The format of the hearings remained true to the framework just noted. In most testimony the issue of forgiveness was not raised by victims either. However, whenever victims spontaneously expressed an inclination to forgive, this was enthusiastically underlined by the Commissioners. This served as a figurative signal of the value accorded forgiveness as a pathway to reconciliation. Hailing out was done in these hearings not by explicitly calling upon victims to forgive, but by singling out examples that were constructed as exemplars of appropriate and TRC-compliant victim responses. Consider the following:

I would love to know who killed my father, so would my brother, I suppose, because it's very hard for us right now to do anything, because in order for us to forget, and forgive, we do want to forgive, but I mean I don't know what to say, we do want to forgive but I mean we don't know who to forgive, we don't know the killers, you know.⁸

In this passage the witness uses the two most important concepts linked to the TRC's work, the discovery of the truth and the willingness to forgive. At the closing of the hearing where this statement was made, Chairperson Tutu used it to draw explicit attention to the value forgiveness had for the TRC process and its objectives. In doing so he enfolds not only forgiveness but the process itself in a cloak of religious meanings:

And that she, your daughter should say, I want to forgive, we want to forgive, after what she has experienced, and seen what happened to her mother and to her father, and she says, we want to forgive, but we want to know who to forgive. We give thanks to God for you, and thank you for your contribution to our struggle, and thank you, even if it was reluctant in a sense, rightly, thank you for sacrificing your husbands.⁹

In another hearing, a policeman who had been shot gave this testimony:

The reason why my life changed is that I've now learnt from all the stories I've learned from and the example that our State President has brought us for forgiving after he went through all these atrocities as well, and he can forgive, and I became more tolerant now and more

⁸ Case EC007996. ⁹ Case EC007996.

understanding, which before I wasn't. I can understand now from both sides, and people's problems daily in my job as well.¹⁰

Again Tutu drew on the statement to underline the importance of the theme of forgiveness for the process, and for South Africa and South Africans. In doing so he, like this police officer, recommends both requesting and offering forgiveness as the appropriate attitude, not only for those at the hearings, but for South Africans generally. Forgiveness as a sensibility was hailed out at the hearings in ways that enabled the hearings to become a mechanism for recruiting South Africans as forgiving citizens, on the path to a new South Africa in which state institutions will be established as sources of unity and pride:

We hope that people like yourselves and the many who will be telling their stories, not always in public hearings such as this one, will help to contribute and we are glad that we can now begin to own the police and the defence force, and be able to say these are now ours, as you begin to change and are rehabilitated. We pray that that process will be accelerated and that we, all of us, because all of us need to change, all of us are wounded people, all of us are traumatised people, all of us are people who need to forgive and who also need to be forgiven. And for all of us then to move together into what is a wonderful prospect that God places before us, and look at the wonderful contribution that all of these wonderful people can make to this new South Africa.¹¹

It was not just those who forgave and those who celebrated forgiveness who were heralded as examples of a new South African sensibility. Those who explicitly resisted forgiveness or spoke against it were also mobilised to give value to forgiveness. The non-forgiving victim was positioned against the TRC process and against the new, reconciled South Africa – a South Africa made up of citizens who are creating a brighter future, leaving their past behind and embracing new ways of being and feeling. As Chairperson Tutu pointed out:

It's in an attempt to say, 'now we understand what happened and now we are reaching a point where we can try to put it behind us'. That may mean that some people have to say 'I am sorry', which is a very hard thing to do, that people have to seek amnesty for what they did and try and bring these things out in the open, not to be punished but to help break with the past. So it's okay for people to express their strong

¹⁰ Case GO0135. ¹¹ Case GO0135.

feelings and their anger but that anger mustn't be translated into revenge because then we go on and on creating bad and worse situations. So what I am saying is that we seek to understand what is happening, you asked us who is the guilty one, and it does help to know who is the guilty one, especially if you feel that you have been wrongly accused and wrongly punished.¹²

Here the TRC is implicitly set against the principal other option for governance, which the TRC's creation explicitly rejects – what came to be called the 'Nuremberg' option. Nuremberg-style justice was offered as a contrast to the TRC option to illustrate everything that could be destructive for South Africa: laying blame, retribution and division.¹³ In Tutu's language, the forgiving victim is used to forge a historic project of reconciliation, constructed as a divinely celebrated value. The forgiver is invited to participate, to be included with other heroes as iconic expressions of the new South Africa.

The process is also constructed so as to create the sense that the non-forgiving victim leaves the TRC setting with less than the forgiving, TRC-compliant victim. This is accomplished by the meanings that the Commissioners, in particular the Chairperson, accorded to forgiveness and refusals to forgive. The conundrum of how to hail out that which cannot be hailed out was resolved by waiting for spontaneous acts of forgiving to present themselves and then constituting them as figurative markers of what was expected of victims and hearings, and through the hearings, of South Africans more generally.

The process validates and celebrates forgiving victims while the non-forgiving victims find themselves at odds with the official, historic process and its interpreters – an unstoppable, nearly unalterable institutional play that would eventually forgive *for* them, despite their objections, through amnesty. This provided very persuasive incentives indeed for hailing out 'spontaneously' generated sensibilities. One can easily see the effect of this context: victims generally tried to express themselves in the language of the TRC. As Claire Moon has noted,¹⁴ the TRC offers a cultural template, a language which can powerfully illustrate forgiveness – those wishing to express the absence of forgiveness were left to themselves.

¹² Case CT0513.

¹³ Stéphane Leman-Langlois, 'Constructing a Common Language: The Myth of Nuremberg in the Problematisation of Post-Apartheid Justice' (2002) 27 *Law and Social Inquiry* 79.

¹⁴ Moon, 'Narrating Political Reconciliation'.

Hailing out was also accomplished, in part, through an exchange of tangible values. What the Commissioners had to offer in exchange for forgiveness reached beyond the spoken validation of forgiving identities. TRC-compatible victims were at times offered the ability to mobilise state processes and resources. For example, Commissioners could, if they chose, require an investigation into matters raised during testimony and/or recommend to state authorities that financial compensation be paid to victims.

Within this exchange context, it may be appropriate to think of forgiveness not simply as the relinquishing of revenge or 'penal justice', but as a victim's currency that can be tendered within an exchange dynamic. From the TRC's and the state's points of view, the objective of this exchange was the public good of reconciliation and through it, nation-building. From the victims' point of view, reachable goals included increasing their leverage through their appearing before the TRC. These appearances could also become forums for moral denunciation and symbolic redress:

Mr Colane: I am left with those people, the perpetrators, because some of them I know, those policemen, I would like for them to come forward and ask forgiveness from me. And they should actually give me the costs, the money to go and consult with the doctors, because there were some doctors who had given us some help, but they couldn't give us medicine and treatment after they diagnosed you.¹⁵

Perpetrators were never actually required by the TRC to compensate victims directly, though in a few cases they did. But validation, through an official institution, of a discourse where compensation could be made, proved to be a significant form of rehabilitation for victims.

8.3.2 The amnesty hearings

The amnesty hearings followed a very different format. They were far more confrontational, owing to the presence and participation of conflicting parties. In this context forgiveness took on a somewhat different set of meanings. It worked more explicitly at the level of the community and was constructed as a collective tool or method for 'leaving the past behind' and 'beginning anew'.

Other than its somewhat relaxed rules of evidence and the different nature of the final decision, an amnesty hearing, as noted, unfolded

¹⁵ 'Mmabatho' Case.

much like a trial. The applicants spoke first, reading prepared statements from their applications and sometimes adding extemporaneous comments. Few explicitly asked for forgiveness, possibly because such a request would have seemed to contradict the ‘proportional’ political motives that their applications had to set out. The detailed description of the motives most often appeared as an attempt to justify their actions.¹⁶

In many cases, applicants formulated a desire to be forgiven independently from the logic of the events, i.e. outside of the narrative deployment of the story of the past, with its orders, justifications and political motives. Within a Christian discourse, this meant accepting wrongdoing (often referred to as ‘sin’) with limited or no caveats. The following statement by an ex-Security Branch officer who had murdered a police officer and his wife provides an example of an unqualified apology:

Chairperson, I’m also very grateful for this opportunity. With specific reference to the grandmother with whom I spoke, it is clear that at her age she has quite a responsibility to the son who remains, who is still busy with his studies and that it certainly isn’t very easy for her to keep a person of the age of 17 years in the position to which he is accustomed and that through our actions 13 years ago, regarding which I said to her and I have told you, that we are sorry for having placed her in this particularly disfavourable position. We are sorry for our sins of the past and that if they could forgive us, they should do so. She has indicated that it was a remarkable gesture on our behalf and that she has received our apology with pleasure. We thank her and we wish her and her remaining family strength with their road ahead, as we would also like to turn over a new leaf and start anew. Thank you.¹⁷

Forgiveness is here presented as a turning point, a doorway to a new era where people would be able to go forward into a future in which they live normal lives. This was undoubtedly made possible by the nature of the events in this case: the principal murder victim (his wife was also killed, as a witness), a police officer, was suspected of being a double agent working for the ANC, which turned out to be false. In fact, his superiors wanted him eliminated because he had filed a civil suit against the police force for mismanaging his pension fund. In other

¹⁶ Lemman-Langlois and Shearing, ‘Repairing the Past’.

¹⁷ Case AM5462/97, hearing transcript, day 2.

words, the perpetrator was clearly misled at the time of the events, he is therefore more excusable.

At times forgiveness was even more concretely linked to everyday life in the community. In one hearing an applicant was applauded after he made the statement below. In this case it was not the Commissioners who constructed this intervention as a figurative marker but the people at the hearing. They spontaneously took on the role of hailing out the sensibility of forgiveness as a tool for creating a new tomorrow. The applicant's moving statement on this occasion illustrates the power of the emotions evoked during some of the hearings. Those whom the speaker sought to enrol responded to his invitation:

I would like to ask all the grand-children from Batshitshi to stand up, please. So that the Committee could see them. My sister's children who are here. The lady there who is standing up is my sister's child. His mother is the second born in our family, second born. This child's father which is Tshitshi, the grandfather, and Mr Glad Makgale's wife are sisters. Therefore, I am very sorry that I killed their uncle. These children of Mr Glad Makgale are my brothers. Therefore, the trouble that I have here in Phokeng, didn't satisfy me because I saw that if I am in jail, it is not satisfactory for me to work for my uncle, because I have killed him. The better thing was to kill myself. Therefore I didn't have food for about 76 days. That was not the only deed that I did. I thought because I wouldn't die because of hunger, I tried to hang myself about three times, but I didn't succeed. That's why today I come here in front of the Commission and the Baphokeng tribe, and the grand-daughters of Mr Glad and I have come to please ask for forgiveness from them. I have come here to ask for forgiveness in front of the Baphokeng tribe and the children of Mr Glad Makgale, and also my grand-children, because I feel I am alone, I don't have any family any more. Thank you.¹⁸

By and large, in the amnesty hearings forgiveness seldom followed the normal TRC-compliant script. In the following, again moving, statement, 'community forgiveness' was used to subtly call for a shared victimhood and a shared responsibility:

Honourable Commission, I have been in prison for 3½ years in a single cell. I've had enough time to ponder the matter. We listened to statements made by our President which strongly supports reconciliation. I have a lot of remorse in my heart today. I don't know if Samuel Ranaka's mother is here today, but I want to apologise this morning,

¹⁸ Case AM0080/96.

I want to hold out my hand to her and say I am sorry. I am sorry for what I have done. Samuel had a lot of opportunities. I often told him and his colleagues that they were playing with fire but they wouldn't listen, they just continued with what they were doing. I would like to extend my hand this morning and to ask forgiveness and reconciliation.

But that's not all. I also want to apologise to my family from where I am sitting here this morning. I want to apologise for everything that I have done to them . . . only a small part of what actually took place has been disclosed to the public and to the world at large, but nobody has actually spoken about the assaults and attempts on us and our lives, how we were intimidated, shot at, houses burnt down and the terrible battle which we had to fight as well. And for that reason I appeal to everybody out there to come forward and to tell the Commission where things went wrong so that there can be reconciliation in this country.¹⁹

At the same time as he accepts blame for the harm he has done, the applicant draws attention to the fact that he also has suffered. In doing so, he moves away from the classic offender-victim binary by situating the events in a context of *conflict*. The issue, in this account, is not simple and one-sided wrongdoing. Here too, the objectives of the TRC were accomplished. Conflict and the wrongdoing associated with it are constructed as objects belonging to the past, showing a future free from a desire for vengeance. As in previous excerpts, Mandela is drawn upon as an exemplar of forgiveness and its value. Indeed, the nation's president often hovered as an unseen presence over hearings and was frequently invoked as a model in hailing out forgiving subjects, both by participants and by the Commissioners.

Despite its critical importance, the part played by participants was always unpredictable. For instance, the apologies made by applicants were often closer to offering condolences than to asking for forgiveness. This was most likely to happen in cases where applicants described themselves as subordinates who were receiving orders from superiors. Consider the following:

What I can say is this, to those relatives whose loved ones have been killed and those who had injured, and those who were badly hurt, as I was deeply involved in that mess, I threw a hand grenade, I fired shots obeying the instructions from my Commander, that resulted in what we are talking today about, I do regret, and please forgive me, because it was the situation in South Africa at that time. And as a soldier, obeying

¹⁹ Case AM0071/76.

instructions from the Commander, I was trained that the Commander is the only one that gives the instructions. You don't have to question that. You don't have to deny that. Do as you are told. I as Khaya, as I was deeply involved in this, but there was nothing I could do, to let this not happen because this was an order from above and as a soldier I had to obey the instructions. I am so sorry, please forgive me.²⁰

While not fitting the precise, and narrow, forgiveness script that Chairperson Tutu so often articulated, these 'near-forgiveness' utterances can best be seen as part of a single palette – like forgiveness they operated to forge conciliation and with it, the possibility of a new future.

Sometimes perpetrators used their own past victimisation in articulating their request for forgiveness:

MR MKHUMBUZI: I sympathise with the people who died in the church and I would like to ask for forgiveness to them. But we could not stop what was happening at that time, we could not stop it at that time. But now there is peace.

ADV BEMBRIDGE: Why could you not stop it at the time?

MR MKHUMBUZI: As I've already said at that time we were fighting for our country and for democracy. It was very difficult at the time to stop such incidents because this country, we were oppressed in this country, South Africa, we could not at all.²¹

While this statement does not comply with a narrow understanding of forgiveness, it resonates with Tutu's statement, cited earlier, that 'we are all victims' and therefore all, in some sense, perpetrators – all in need of forgiveness and all able to forgive. The way in which forgiveness is constructed in such passages also underlines another important aspect of the conventionally understood meaning of forgiveness, namely, that it typically includes blame. Those who truly and steadfastly maintain that what they did was right cannot, within this conventional meaning, directly ask for forgiveness since it would mean accepting that their acts were wrong.

In most understandings of forgiveness it is not seen as deeply embroiled with claims to power. As we have already seen, however, where forgiveness is engaged as a meaning of acts and utterances power

²⁰ St. James Church Massacre Hearings. ²¹ St. James Church Massacre Hearings.

is not far away. It is perhaps in the amnesty hearings that this is most evident. Consider the following exchange:

ADV ARENDSE [THE AMNESTY APPLICANT'S LEGAL REPRESENTATIVE]: On the first part of being angry with me, I feel sorry for you, okay and I forgive you. Are you a Christian?

MR CERQUEIRA [VICTIM'S BROTHER]: I am.

ADV ARENDSE: Aren't you taught to forgive?

MR CERQUEIRA: Sir, what I am taught and what I am not taught, has got nothing to do with you. . . .

ADV ARENDSE: Mr Cerqueira, I want to suggest to you, I want to put it to you that because you are angry, angry at me, angry at the applicants, angry . . . (intervention)

MR CERQUEIRA: I am not angry at the applicants, Mr Arendse, I am angry at you.

ADV ARENDSE: Well, now that you are angry at me, I want to suggest to you and put it to you that because of your anger, you don't like to hear that there is a possibility that your brother may have had a firearm and may have shot at the applicants, at one of the applicants as he says he did.²²

Here the witness is attempting to contradict the applicant's version of events, claiming that his brother, the victim, was not armed and therefore could not have been killed in self-defence by the applicants. The applicant's representative has chosen to represent this as an expression of emotional, irrational objection to amnesty. The unwillingness to accept the 'truth' is, according to the argument presented, caused by the victim's inability to forgive, to understand what is necessary in the new South Africa.

This use of forgiveness as a tool of power (and associated enrolments) was, as we have already suggested, not rare. It could also be put to effective use by victims. Consider the following:

If I can be allowed to say this, and because I believe that God is God and I act under His orders and for me, His orders are to say to you and to all

²² Heidelberg Tavern Massacre Hearings Day 7.

here, yes, I have forgiven you. I will not oppose your amnesty because who am I, I am not your judge. I can never judge you, but there is a way to find the freedom more than amnesty can free you from. And that is if you give your hearts to Him. And you truly believe that He did send his Son for all of us here present, not only for a sinner, but for all and you give your hearts to Him, you will find the peace that I have found, with which I can say to you I have forgiven you and I will not oppose your amnesty.²³

We can see here that a refusal to oppose the process was not necessarily an admission of powerlessness; it could be inscribed within a wider discourse where allegiance to (and therefore association with) divine power was presented as something to be preferred to the technical aspects of amnesty granting. It is important to understand that for many witnesses, offering forgiveness not only served to accuse and to blame, it coexisted with demands that punishment take its course and with a strong opposition to the perpetrator's application for amnesty. Such cases show that discourses constructed around forgiveness did not always unfold quite as expected. Very often victims, TRC Commissioners and even perpetrators themselves assumed that forgiveness would come only once the wrongdoer had suffered at least the symbolic equivalent of what the victim had experienced, for example, through a period in prison or through what Antony Duff²⁴ and other penal theorists would refer as 'hard treatment'. In those cases, forgiveness and the so called 'Nuremberg option' were brought together rather than distanced from each other. Sometimes apology alone worked to move them apart.

It is simple to say I am sorry. You can make an error. But forgiving is something else. I don't expect you to forgive me. I know it is difficult, but I here and now apologise to you from the depth of my heart and I believe that you will consider forgiving me. I have suffered really, emotionally, physically. I had dreams that one day I will be a doctor, I will be able to afford my mom a decent house and afford him a living. Now all that cannot happen. I am sorry. I hope in your heart of hearts you will find a way, even if you don't forgive me now, but reconcile with me.²⁵

²³ Heidelberg Tavern Massacre Hearings Day 7, Andrea Langford.

²⁴ Antony Duff, *Punishment, Communication and Community* (New York: Oxford University Press, 2001).

²⁵ Case AM1702/96.

Requests for forgiveness sometimes appeared insincere rather than genuine – as attempts to avoid punishment. When this happened, the response often did not meet the expectations. Consider the following exchange:

QUESTIONER: Thank you, and how do you feel about the amnesty application, the fact that the applicants are asking this Committee to grant them amnesty. How do you feel about that?

MS MAKOPE: I'm not accepting that well because those people could have asked forgiveness long before. For them to ask forgiveness now I don't understand, they could have come to me and tell me what they have done, maybe I could have heard another alternative, but now I'm hurting after hearing what has happened.²⁶

From the point of view of interpersonal reconciliation, the processes of the TRC, precisely because they allowed a public interrogation of sincerity, at times appeared to produce not reconciliation, but a hardening of differences.

8.3.3 The 'theme' and 'institutional' hearings

Institutional and thematic hearings varied considerably in their object, form and tone. By and large hearings where specific matters were investigated resembled the amnesty hearings but tended to be even more confrontational. In many of these hearings, given their institutional focus, no personal blame was assigned. Here forgiveness was mainly constructed within a political context. One of the most publicised of the theme hearings was the so-called 'Mandela United Football Club' (MUFC) hearing where, as a consequence of the symbolic status of Winnie Madikizela-Mandela (divorced from President Mandela at the time of the hearing), we find the most explicit plea to hail out a forgiving subject by the Commission's Chair:

We can never forget her outstanding contribution to the struggle and her indomitable spirit. Everything was done to seek to break that spirit and she was an incredible inspiration to many and her contribution to the struggle can never be [gainsaid], she was the most apt representative for her husband. . . .

²⁶ Case AM2797/96.

We need to demonstrate that qualitatively this new dispensation is different, qualitatively morally, that we need to stand up to be counted for goodness, for truth, for compassion and not (indistinct) to the powerful.

I acknowledge Mrs Madikizela-Mandela's role in the history of our struggle and yet one has to say that something went wrong, horribly, badly wrong. What, I don't know. . . .

I beg you, I beg you, I beg you please – I have not made any particular finding from what has happened here. I speak as someone who has lived in this community. You are a great person and you don't know how your greatness would be enhanced if you were to say sorry, things went wrong, forgive me. I beg you.²⁷

Madikizela-Mandela is of course a very important political and historical actor. It seems reasonable to conclude that the strength of Tutu's appeal was not prompted by the particular seriousness of Madikizela-Mandela's actions – the TRC had heard far worse – but by the importance of enrolling politically influential actors into the TRC process.

Another institutional hearing focused on the various churches of South Africa and their activities during the apartheid era. This hearing provided several opportunities for the Chair to articulate his understanding of the nature of, and the role of, forgiveness. Consider this prayer that Tutu used to open a hearing:

You know that in the theology of sacramental confession, you are meant to accuse yourself. You are meant to confess your sins, not the sins of another. You are meant not to justify yourself. A self-calpatory [sic] exercise is a futility. You are meant to say what went wrong with yourself and then other people may then say, 'Actually, he was not so bad. She was not so bad.' Because if you say it of yourself, then there is no need for others to try and be nice to you.²⁸

Here we see articulated as clearly as anywhere, both the task faced by the TRC and the difficulty it presented – the task of governing spontaneity by hailing it out not only within the context of its hearings but outside, throughout the country at large.

In the end, representatives of religious organisations apologised profusely for secondary matters regarding their past collective, corporate reluctance to oppose the apartheid state. It seemed understood by all

²⁷ Mandela United Football Club Hearings, Day 9. ²⁸ Faith Community Hearings.

that for the most part the churches, while offering apologies and asking for forgiveness for some collective actions and omissions, could not reasonably be held responsible for apartheid or human rights abuses.

The only church that had historically been directly linked to apartheid was the Dutch Reformed Church (DRC), which was actually still segregated at the time of the hearings. The DRC had for years supported the policies of the National Party with a justificatory theology of racial supremacy and purity, organised around a concept of divine mission for whites, and especially Afrikaners, in Africa. Dutch Reformed Church moderator Freek Swanepoel opened his statement to the TRC by contrasting erroneous public attitudes with the real nature of his church:

We are regarded as the greater portion of the negative of this history, but on this day we wish to come and to commit ourselves on this day to playing a positive role in reconciliation in this country.²⁹

Swanepoel did not explicitly ask for forgiveness, unlike every other church group present that day. Instead, he pointed out that his organisation's support of apartheid had already ended in 1982, when a synod had rejected apartheid as a sin. By and large his submission was centred on the need for reconciliation and 'dialogue'. This was, in essence, also the discourse of the 'New', post-apartheid, National Party. Prompted specifically by a member of the panel on whether he would apologise, Swanepoel stated that:

With this I want to say that we are attempting, although public confession in my view, must be a part of the process and I would believe that at the right time we will achieve this, so from our side we can come to the fore at a certain time to apologise for that which we had done wrong, so that we can take hands and walk into the future together.³⁰

On the whole the deployment of forgiveness in the Madikizela-Mandela and the faith communities hearings were typical of the special hearings of the TRC. Representatives of the business sector, for example, also offered apologies for the actions and omissions of their corporate entities while placing the deeds in a context of governmental repression. Some portrayed themselves as victims of apartheid, in that the policies of racial segregation hurt business because of international sanctions, because of their inability to hire whomever

²⁹ Faith Community Hearings. ³⁰ Faith Community Hearings.

they wanted, etc. while minimising the benefits of cheap, expendable black labourers and easy access to natural resources.³¹ In all cases, the discourse of national reconciliation was heavily used but ideas or plans for tangible reparation were absent.

8.3.4 Self-reflection: the TRC Report

In its *Report* the TRC refers explicitly to the difficulties it had in rising to the challenge of producing reconciliation. It states that 'with its short lifespan and limited mandate and resources it was obviously impossible for the Commission to reconcile the nation'.³² Further, '[a]lthough it was not part of the Commission's mandate to effect reconciliation between victims, the community and perpetrators, there were a number of significant instances where the Commission facilitated the beginning of this complex process'.³³ With this, the TRC rejects reconciliation as its mission (and thereby also, of course, as a measure of its success) and positions itself simply as an enabler of, or at least a provider of opportunities for, reconciliation. The *Report* explains that the exercise was meant only to lay the foundations for 'true' reconciliation. Throughout, Tutu is repeatedly quoted as describing South Africans as remarkable precisely for their capacity and willingness to forgive and reconcile. The implication is that it is these forgiving South Africans who must take the work initiated by the TRC forward.

Table 8.1 lists the four main types or levels of reconciliation identified by the TRC in its *Report*. The *Report* speaks of 'multiple' levels of reconciliation, but only clearly lists those in Table 8.1. With each level comes a specific function for forgiveness.

The first level is the most clearly therapeutic of the list and has to do with the after-effects of violence for both victims and their victimisers. It does not involve interactions with others and only refers to one's ability to cope with one's memories of the past and with any new information which has surfaced – presumably, through the work of the TRC. Here, forgiveness is not dialogical; it simply represents the actors' ability to function in everyday life without interference from past events: 'Forgiveness is not about forgetting. It is about seeking to forego bitterness, renouncing resentment, moving past old hurt, and becoming a survivor rather than a passive victim.'³⁴

³¹ See the chapter by Barnard-Naudé in this volume. ³² *TRC Report*, Vol. 5 at 350.

³³ *TRC Report*, Vol. 5 at 392. ³⁴ *TRC Report*, Vol. 1 at 116.

TABLE 8.1 Four levels of reconciliation in the *TRC Report*

Level*	Actors*	Object	Desired outcome
'accepting the truth'	individual victims	traumatic revelations	inner peace
specific acts	individual perpetrators	personal guilt	
	individual victims and perpetrators	each other	absence of revenge
the community	social, ethnic and demographic groups	each other	peaceful communities
'national unity'	all citizens	no object	respect for democratic values

* *TRC Report*, Vol. 1 at 106–9.

The second level of reconciliation is that which is most commonly accepted as the conventional definition of the word. It involves making peace between individuals who were direct or indirect parties to the events: the specific victims and the specific perpetrators who have wronged them. Yet this does not imply that the actors have exchanged apology and forgiveness; the *Report* has a section where 'reconciliation without forgiveness' is described as peaceful coexistence when neither apology nor forgiveness have been offered.³⁵

Third, the TRC explains that reconciliation may have to extend to groups of people who have been identified with 'sides' to the conflict. One may have to reconcile with other ethnic, social, age, sex, professional, etc. groups which one has associated with wrongdoers. In this case the persons being reconciled may or may not have been party to any direct past victimisation. Their group identity becomes a role they are invited to play, as forgiver, as wrongdoer or as both, according to circumstances. Tutu, in articulating his vision of forgiveness, also clearly extends it beyond individual relationships to tribe/kin/ethnic/historical wrongs. In his introduction to the *TRC Report*, he points out that among those who must seek forgiveness from others in South Africa are the British descendants of those responsible for the gross

³⁵ *TRC Report*, Vol. 5 at 400.

mistreatment of the Boer during the Anglo-Boer war of the beginning of the twentieth century:

It would be wonderful if one day some representative of the British/English community said to the Afrikaners, 'We wronged you grievously. Forgive us.' And it would be wonderful too if someone representing the Afrikaner community responded, 'Yes, we forgive you – if you will perhaps let us just tell our story, the story of our forebears and the pain that has sat for so long in the pit of our stomachs unacknowledged by you'.³⁶

It is in statements like these that the TRC presents with considerable clarity its view of its role and the future that it sought to open up for South Africans. Needless to say, the profoundness of this relativism caused some controversy. Yet the central contention remains clear throughout: forgiveness is the solution for a better future.

Lastly, the *Report* speaks of a 'reconciliation applicable to democratic society', as opposed to 'a religious, indeed Christian, understanding of reconciliation, more typically applied to interpersonal relationships'.³⁷ Instead, reconciling the nation involves fostering respect for human rights, restoring the trust of the public in governmental institutions and a certain level of economic redistribution. This is not linked to any form of forgiveness in the *Report*.

In the *TRC Report*, the hailing function of reconciliation is manifested through detailed descriptions of its many possible definitions and manifestations. Viewed as part of a political discourse, all-encompassing reconciliation appears as a potentially powerful tool for the production of subjectivities compatible with the new socio-political discourse. As a universally positive and unquestionable desideratum, 'reconciliation' serves as an unshakable moral foundation for all of the TRC's actions and omissions.³⁸ In this narrative, forgiveness at all levels is the true, deep personal experience of the proper form of citizenship within the 'new South Africa' project. Forgiving is, in the language of ethnomethodology, *doing being South African*.

8.4 CONCLUSION

In this chapter we have sought to shed light on the way in which the TRC Commissioners went about realising the undefined task with

³⁶ *TRC Report*, Vol. 1 at 16. ³⁷ *TRC Report*, Vol. 1 at 108.

³⁸ Leman-Langlois, 'Constructing a Common Language'.

which they were presented. We have shown how, under the leadership of the Chairperson, they drew on and mobilised Christian discourses of forgiveness to produce a consistent institutional discourse of reconciliation through truth. The results, while highly complex, show that institutionalised forgiveness was deployed as a social technology of power and control, with variable results. We have seen how victims were given opportunities for personal empowerment when they chose to adopt the language of forgiveness and conform to the framework of the TRC's institutional narrative. The amnesty hearings put forward a history of the future through the concept of forgiveness as freedom from the past, the communal, peaceful future of the forgiven nation. Institutional hearings produced moral parameters for group participation in South African political and cultural life. Finally, in articulating what the TRC had accomplished and what was required, the *TRC Report* presented a web of reconciled relationships that were seen as linking nearly every aspect of South Africans' lives – the moral horizon for political participation.