

The interconnectedness of identity, power and justice

Brindley J Fortuin revisits the Truth and Reconciliation Commission and the formation of post-Apartheid national identity in South Africa.

South Africa's Truth and Reconciliation Commission (TRC), active from 1995-2002, has been heralded as one of the most impressive manifestations of restorative justice and post-conflict social order. The emphasis on healing after a violently racialised past is crucial to ensuring and sustaining peace within post-apartheid South Africa. This paper argues that, apart from its grounding in justice, the TRC provided the post-apartheid government with the opportunity to construct an integrated national identity, one based on democratic principles of human rights and freedoms, out of a heavily fragmented society. To understand the TRC and the criticism it has incurred, one must consider its efforts to address the problem of post-apartheid national identity. This problem must itself be considered through examining the construction of existing South African national identity and the ways in which it remains contested. The current public outrage at the continued presence of former President Frederick Willem De Klerk in South African politics is a useful example by which to consider these contestations in the post-apartheid 'rainbow nation'. I hold that they are a result of the continued socioeconomic inequalities manifested along surviving racial lines which mark post-apartheid society.

Apartheid was a racial oppressive political regime founded in 1948 and was upheld until the transition to democracy in 1994 (Holloway 1956). A cornerstone of the apartheid government was the idea of 'separate development', in which political and economic power was concentrated within the controlling white population (Holloway 1956) and away from the non-white population. To enforce this separation, a rigid system of legislation, policing, and violence was necessary to subdue the majority black population (Dubow 1992). Any human rights violations perpetrated by the South African Defence Force were legitimised through a political and legal system which ultimately devalued the lives of non-white South Africans (Holloway, 1956 & Dubow, 1992).

In 1994, South Africa had its first democratic election. The election formally severed the power of the apartheid government by allowing every citizen of the country one equal vote. The ANC (African National Congress) gained parliamentary majority and elected Nelson Mandela as the first black President. Through adopting a new constitution which solidified the rule of law, South Africa further legitimised its new democratic status and received global praise (Hendricks 2003). However, serious divisions and violence persisted during and after the transition to democracy (Hendricks 2003). The democratic state was met with the dual challenge of addressing past injustices while charting a new social order, agreed upon through political negotiations to end apartheid and begin to heal the wounds it inflicted (Mamdani 2002). Central to this negotiation was the granting of amnesty to those who committed crimes, violent or otherwise, which were accepted or legal – even encouraged – under apartheid. The TRC was South Africa's chosen answer to fulfil its promise of amnesty and the creation of new social order. Such truth commissions allow both perpetrators and victims to engage in honest dialogue to uncover truths about the previous violence and injustice in order to devise a way forward (Dimitrijevic 2006). Additionally, they review the past through documenting the extent of human rights violations that have taken place (Chirwa 1997). Furthermore, the sacrosanct authority granted to truth commissions work to legitimise the revised social order through discourses on healing, forgiveness and reconciliation within post-conflict societies. Dimitrijević (2006) argues that this 'moral' imperative does not stand inferior to the outright political transformations that post-conflict nations undergo. Therefore, a truth commission becomes politically

essential in shaping social order in a post-conflict society such as democratic South Africa.

In 1995 South Africa established the TRC. Akin to other truth commissions, its primary objective was to investigate human rights violations with the official period of inquiry spanning from 1960 to 1994 (Hendricks 2003). Consisting of three committees – Amnesty, Reparations and Rehabilitation, and Human Rights Violations – the TRC played a central role in reconfiguring the nation after apartheid (Hendricks 2003). The specificity in the South African TRC is that the commission was the product of the pre-1994 negotiations which both constrained and enabled the extent of post-apartheid state reform (Hendricks 2003). It removed the prospects for various processes of conventional criminalisation whilst also facilitating a process of truth-telling which would bring much-needed solace to the victims of apartheid. Concerning constraints of the TRC, Hendricks (2003) argues that in reality the 'peaceful' transition to democracy as a political system of governance and underpinned by values of equality, justice, and the universality of human rights, presented the new government with virtually no other option for meaningful, enduring reform. The alternative would have been a civil war or a radicalised new state which clearly went against the international capitalist discourse of the 1990s (Herbst 1991). Yet, South Africa did not descend into a civil war or any other form of mass political violence. Through shaping an honest collective memory of apartheid, the TRC constructed a national identity premised on reconciliation through its 'accessibility' and appeal to all South Africans (Gibson 2006). The TRC was thus the ideal institution to embody the values of democracy and restorative justice for the nation and to inspire trust in a new political regime (Hendricks 2003; Baker & Obradovic-Wochnik 2016). The TRC as a body therefore significantly contributed towards the construction of national identity, and this becomes vital to an analysis of how identity, power and justice are interconnected in post-apartheid South Africa.

The TRC did create a space for healing and brought to light the hidden truths of covert murders, bombings, and violence carried out with the approval of the apartheid government. Questions regarding the disappearances of loved ones and the systematic ways in which violent repression was orchestrated by the apartheid government were finally allowed answers and closure (Mamdani 2002). The Commission also refused amnesty to some who gave testimony, for example Eugene De Kock, whose case was one of many referred to criminal court processing (News24 2001). Furthermore, it held proceedings in every province of the country, many televised by the state broadcaster SABC (South African Broadcasting Corporation) – all with the aim of mass accessibility and understanding. As TRC chairman, Archbishop Emeritus Desmond Tutu regularly held interviews with many media outlets (Baines 1998). Political leaders, civil organisations, religious leaders, and ordinary South Africans all participated in the inquiries of the Commission (Gibson 2006). The reconstructive justice project encapsulated within the TRC proceeded under the watchful eye of the international community and commanded the full attention of South Africans. Thus, the TRC was central to the construction of post-apartheid national identity by legally (and bureaucratically) delineating the parameters of justice and in conjunction with the socially constructed nature of collective memories, the state had considerable power in deciding what was to be forgiven, on which terms, and what was to be reconciled.

The idea of South Africa as a 'rainbow nation' (a term coined by Desmond Tutu and used by late president Nelson Mandela) referred to the unity of all races within South Africa, a national quality which quickly became the landmark characteristic of post-apartheid state-building (Baines 1998). The 'new' South Africa was to be seen as forgiving, as a just state premised on human rights which could even reconcile with perpetrators of apartheid through amnesty and inclusion within the national identity. The casting of responsibility for violence during apartheid onto both the oppressor and the oppressed further strengthened this integrated national identity. True justice and reconciliation required a collective effort (Gibson 2006); South Africans had to reconcile with the social realities of the end of a long period of violently and legally enforced 'separate development' along lines of racial hierarchy. Norval (1998) argues that processes of reconciliation were considered successful because they offered some semblance of justice and a return of dignity to victims. What happened in the past, often in private, finally came to light and the whole of South Africa had to confront this reality. This important process of confession and reconciliation was central to the peaceful transition, the legitimisation of a democratic state and a new national identity (Wambua 2019).

Yet, despite the triumphs of the TRC, many black¹ people vividly remembered a white government that exerted multiple forms of physical, emotional, symbolic and structural violence upon them. This legacy, both

¹ South African racial terminology used to racially self-identify and for the purposes of apartheid bureaucracy.

entrenched in memory and structural inequality, poses a continued contestation to the supposed legitimacy of a unified nation in a democratic South Africa. The resistance to ideas of a unified nation is aptly illustrated in at least two recent events that surrounded the legacies of apartheid. On one instance, during February 2020, the foundation of Frederik Willem De Klerk made a statement refuting the idea that apartheid was a crime against humanity (The Citizen 2020). On another occasion, the first official State of the Nation Address delivered by President Ramaphosa in 2020 saw chaos ensue around the presence of De Klerk at parliament (eNCA 2020). Political parties, news reports, and social media were all riddled with the fresh denials of apartheid's undeniably inhumane history in light of De Klerk's continued presence in South African political landscape. After more than two decades of democracy, these contestations around the legacy of apartheid persist, often embedded in memory and structural inequality (Harding 2020).

This national 'rainbow' of diversity was in reality cast against the backdrop of serious structural socioeconomic inequalities. Both the International Monetary Fund (IMF) and World Bank (WB) recognised the economic challenges South Africa faces, reflected by persistent youth unemployment and the concentration of wealth in the hands of a small economic elite (The World Bank 2018) (International Monetary Fund 2020). Despite valiant efforts at post-apartheid reform, the nation remains constrained by massive inequality that is distributed along racial lines (Van Der Berg 2019). Testament to frustrations with socio-economic challenges that South Africans face are the many protests which have come to characterise the South African political landscape; university students and other citizens have been demonstrating since 2015 on issues of decoloniality, free education, universal accessibility of basic resources (known in South Africa as 'service delivery'), the presence of De Klerk in South Africa's political landscape, and other social and economic issues. It is interesting that these frustrations have continuously been centred around reconciliation, as opposed to developmental programs like the Redistributive Programme (RDP) of the government (Mashavave 2020). One might assume that the protests surrounding unequal socio-economic realities would be based on the lack of service delivery or economic reform. However, the centrality of the TRC during protests around socio-economic challenges becomes telling of what black South Africans view as post-apartheid justice. Pairing the legitimate frustration with socio-economic challenges to the TRC illustrates that the project of reconciliation has still left different racial groups unofficially segregated, poor, and stuck within a hierarchy of access to state resources (Hendricks 2003).

Apart from the complexities of establishing non-racial bureaucratic and political institutions, I argue that the new democratic state had to create a viable social order that would bridge entrenched racial divides within South Africa. The creation of social order was paramount to supporting a functioning economy which could remain lucrative to international capital and would reflect the democratic liberal values that dominated governance in the 21st century. The democratic state strategically charted social order through its emphasis on restorative justice, binding justice and the process of nation-building process in post-apartheid South Africa (Becker 2011). This became the mandate of the TRC, rightfully elected to focus on the gross human rights violations and physical violence perpetrated by the previous regime. Yet, this process has not been sufficient. In light of resentment towards the legacy of apartheid which left many black people facing considerable socio-economic challenges, calling for the banning of De Klerk from the South African parliament becomes a legitimate expression for justice that extends beyond a collective national identity. Ultimately, it is the continuation of structural inequalities that contemporarily challenge the very processes and aims of the TRC.

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