

Anhang zur Dissertation

Die Wahrheits- und Versöhnungskommission
in Südafrika

Eine Wirkungsanalyse

Christina Livia Wendt

2009

Anhang

Kurzzusammenfassung (deutsch) 3

Abstract (englisch) 6

Interviews:

- Ntombi Mosikare (Khulumani Support Group) 9
- Mary Burton (TRC) 16
- Dumisa Ntsebeza (TRC) 26
- Thulani Grenville-Grey (TRC) 38
- Donald Skinner (Trauma Centre for Victims of Violence and Torture) 44

Interviewleitfaden 53

Lebenslauf

Der Lebenslauf ist in der Online-Version aus Gründen des Datenschutzes nicht enthalten

Kurzzusammenfassung

Die "Truth and Reconciliation Commission" (TRC) wurde 1995 in Südafrika eingerichtet, um die schweren Menschenrechtsverletzungen, die unter der Apartheid zwischen 1960 und 1994 begangen wurden, zu untersuchen. Ihre Aufgaben umfassten die Anhörung von Überlebenden, Amnestiegewährung für Täter im Gegenzug zu einem vollständigen Geständnis sowie das Erstellen eines Berichts mit Empfehlungen zur Vermeidung zukünftiger Menschenrechtsverletzungen und zur Opferentschädigung.

Die vorliegende Arbeit untersucht die Wirkung der "Truth and Reconciliation Commission" auf Opfer, Täter und Gesellschaft in Südafrika, hinsichtlich ihrer Zielvorgabe, der Förderung von "Wahrheit" und "Versöhnung". Diese Begriffe, deren vielfältige Deutungsmöglichkeiten zu unerfüllbaren Erwartungen an die TRC geführt haben, werden hierfür kritisch analysiert. Die Wirkung auf Opfer wird anhand von zwei Kriterien untersucht, nämlich inwieweit durch die Anhörungen das durch den Gesetzgeber formulierte Ziel des "Wiederherstellens der Würde der Opfer" erreicht wurde und ob die Empfehlungen zur Opferentschädigung in einer für die Überlebenden zufriedenstellenden Weise umgesetzt wurden. Es wird auch erörtert, ob durch Anhörungen und Entschädigungszahlungen ein Beitrag zur "Wahrheitsfindung" und "Versöhnung" geleistet werden konnte. Hinsichtlich der Wirkung auf die Täter wird der Frage nachgegangen, inwieweit das Amnestieversprechen Täter motivieren konnte, die von ihnen begangenen Verbrechen zu gestehen und welche Folgen solche Geständnisse zeitigten. Haben die Eingaben und Anhörungen von Tätern zur Wahrheitsfindung und zur "Versöhnung" beigetragen? Um die Wirkung auf die Gesellschaft zu untersuchen, wird gefragt, ob die intensive Medienberichterstattung über die TRC zu einem Einstellungswandel innerhalb der Bevölkerung gegenüber der Apartheid führen und interethnische Vorurteile abbauen konnte. Ein besonderes Augenmerk liegt auf dem Konfliktschlichtungspotenzial auf Gemeindeebene, da die Apartheidpolitik dort große, häufig übersehene Spannungen zur Folge hatte. Des Weiteren geht die Arbeit der Frage nach, inwieweit die TRC als Orientierung zur Einrichtung vergleichbarer Kommissionen in anderen "Transitional-Justice-Prozessen" dienen konnte und inwieweit sie auch zukünftig einen Maßstab setzen kann.

Ich komme zu dem Schluss, dass die TRC durch ihre öffentlichen Anhörungen vor dem "Human Rights Violation Committee" einen Beitrag zum Wiederherstellen der Würde von Opfern leisten konnte, da sie ein umfangreiches und eindrucksvolles Bild der schweren Menschenrechtsverletzungen unter der Apartheid vermitteln und damit zu einer Anerkennung ihrer Leiden führen konnte. Der respektvolle Umgang mit den Opfern war ein zentrales Element der öffentlichen Anhörungen. Gleichwohl hatten diese auch nachteilige Wirkungen auf viele Überlebende. So sind den psychischen Folgen der Anhörungen, wie Retraumatisierungen zu wenig Beachtung geschenkt worden und eine anschließende therapeutische Betreuung konnte nicht gewährleistet werden. Die Folgen der ca. 20 000 nicht-öffentlichen Anhörungen sind unklar. Durch die Standardisierung der Befragung konnte das individuelle Element der Schilderungen nicht erfasst werden und viele Opfer hatten den Eindruck, dass ihre Geschichte nicht adäquat aufgenommen wurde. Es liegen jedoch keine quantitativen Untersuchungen über Folgewirkungen vor.

Auch durch die Entschädigungszahlungen konnte eine Anerkennung des erlittenen Unrechts gegenüber den Opfern demonstriert werden, jedoch kann diesen lediglich ein symbolischer Wert zukommen, da die Summen sehr gering sind und den erlittenen Schaden in keiner Weise "reparieren" können. Die Anerkennung wurde darüber hinaus dadurch geschmälert, dass die Entschädigungen erst nach langer Verzögerung im Jahr 2003 ausgezahlt wurden und erheblich niedriger ausfielen, als von der TRC empfohlen. Darüber hinaus sind offensichtlich viele Opfer schwerer Menschenrechtsverletzungen durch die Kommission nicht als Anspruchsberechtigte eingestuft worden, was bei Opferselbsthilfegruppen Unmut hervorrief.

Die Eingaben und Anhörungen von Tätern, insbesondere von Angehörigen der Sicherheitspolizei vor dem Amnestiekomitee der TRC, konnten in erheblichem Maß zur Aufdeckung von bislang unaufgeklärten Straftaten führen. Manche der Täter baten öffentlich um Entschuldigung und versuchten durch Spenden, einen Beitrag zur Wiedergutmachung zu leisten. Es sind keine gravierenden Fälle von Racheakten bekannt geworden. Auch wenn viele Taten weiterhin unaufgeklärt bleiben, gilt zu beachten, dass durch die Amnestieanträge sehr viel mehr Fälle schwerer Menschenrechtsverletzungen aufgeklärt werden konnten, als dies durch Strafverfahren möglich gewesen wäre. Mit ihren Eingaben und Aussagen vor der TRC haben die Täter einen

wichtigen Beitrag zur "Wahrheitsfindung" geleistet, wenn man diese als Aufklärung von Fakten versteht.

Auf gesellschaftlicher Ebene konnte die TRC zwar einen Beitrag zur Aufklärung, aber keinen wesentlichen Beitrag zur Versöhnung leisten. Wie aus Umfragen hervorging, sah sich die Mehrheit schwarzer Südafrikaner durch die Arbeit der TRC nicht veranlasst, eine versöhnlichere Haltung gegenüber ihren weißen Mitbürgern einzunehmen. Angesichts des begrenzten Mandats der TRC konnte dies auch nicht erwartet werden, denn die Ursachen innergesellschaftlicher Feindseligkeiten liegen vor allem in den durch die Apartheid geschaffenen enormen sozialen Disparitäten begründet und nicht in schweren Menschenrechtsverletzungen, wie sie von der TRC definiert wurden. Allerdings bleiben Langzeitwirkungen noch abzuwarten, denn es ist nicht unwahrscheinlich, dass nachfolgende Generationen sich der Thematik der Apartheidverbrechen verstärkt annehmen werden. Auch auf der sogenannten Gemeindeebene war die TRC nicht sehr erfolgreich, weil über Jahre hinweg andauernde Spannungen, nicht durch minimale Interventionen, in Form von nur wenige Tage dauernde Anhörungen, behoben werden konnten und die TRC sich im Anschluss nicht oder nicht ausreichend in nachhaltiger Konfliktregulierung engagierte.

Die Wirkung auf andere Transitional-Justice-Prozesse ist unübersehbar. Viele Elemente der TRC wurden bereits in anderen Staaten weiterentwickelt und den jeweiligen Gegebenheiten angepasst, wobei auch ehemalige TRC-Mitglieder politikberatend tätig waren. Es ist wahrscheinlich, dass weiterhin Staaten auf die Erfahrungen Südafrikas zurückgreifen werden.

Abstract

The Truth and Reconciliation Commission of South Africa (TRC) was established in 1995 to investigate the gross violations of human rights that were committed between 1960 and 1994 under the apartheid regime. The TRC held hearings of survivors and granted amnesty to perpetrators who gave a comprehensive disclosure of their deeds. At the end of its work the commission published a report with recommendations for the prevention of such violations in the future and for the granting of reparations to victims.

This thesis examines the effect of the TRC on victims, perpetrators, and society in South Africa. The vague goals of the commission: the promotion of “truth” and “reconciliation”, led to unrealisable expectations. To what extent could the commission “restore the dignity of victims” – as it was expressed in the legislation – by holding hearings and granting reparations? And can this be regarded as a contribution to truth and reconciliation? I examine whether and to what extent the granting of amnesty motivated perpetrators to come forward and what consequences their confession had. As regards the commission’s effect on society I investigate whether the media coverage of the work of the TRC led to a change of attitudes towards apartheid and if the reporting contributed to a reduction of racial prejudice. Special attention is given to the commission’s potential for conflict resolution on a community level, where grave social tensions exist as a legacy of the apartheid policy.

Furthermore this thesis tries to assess the extent that the TRC has served as a model for other processes of transitional justice and if it will serve as a model in the future.

I conclude that by holding public hearings the TRC contributed to the restoration of the dignity of victims. The commission was able to give a comprehensive and impressive picture of the gross violation of human rights under the apartheid regime and with this, it led to an acknowledgement of victims’ suffering. The respectful atmosphere was a central element of the public hearings. However, hearings could have negative effects for the victims as well, such as post-traumatic stress disorder or retraumatisation. The consequences of the ca 20 000 non-public hearings are not

clear. The method of standardised statement-taking employed by the commission had the consequence that the personal accounts of victims' stories were lost and many survivors had the impression their stories were not adequately addressed. However, there is still no quantitative research on this subject.

Reparation measures could demonstrate acknowledgement as well, but their value must be considered as merely symbolic because the total amounts granted were very low and could not "repair" the damage that was caused. The acknowledgement was also limited by the circumstance that payments were only granted in 2003, five years after the TRC officially finished its work. Moreover, many survivors were not considered as victims by the TRC.

The amnesty hearings revealed numerous offences, especially those committed by the security police. Some of the perpetrators apologised publicly and tried to contribute to reparations with donations. There are no severe cases of revenge known. Even though many deeds remain undisclosed, it is important to note that through amnesty hearings many more human rights violations were disclosed than would have been possible through criminal procedures. The amnesty hearings contributed thus to "truth" as fact-finding.

On a societal level the TRC contributed to "truth" but not to "reconciliation". As inquiries into the public reaction to the TRC have shown, the majority of black South Africans did not feel more reconciled through the work of the TRC. This is unsurprising, because the hostility within South African society has its roots in the enormous social differences that still exist as well as the past discrimination of black people. It was not the TRC's mandate to deal with these problems. Of course, in the long run, the effect of the TRC remains to be seen. Future generations might deal with the subject of human rights violations under the apartheid regime in a different manner.

At the community level as well, the TRC was not very successful. Long-standing tensions could not be resolved by holding hearings for just a few days. The TRC did not engage in sustainable conflict resolution in communities.

As regards the impact of the TRC internationally, many elements of the TRC have already been adapted to the conditions of other states. In some of these states former TRC-Commissioners have worked as consultants. The South African experience thus already has had – and probably will continue to have – a substantial impact on other processes of transitional justice.

Interview mit Ntombi Mosikare am 15.06.1999 im CSV-Office in Johannesburg

Ntombi Mosikare war Koordinatorin der Khulumani Support Group.

Can you first say a few words about Khulumani?

Khulumani is a support group of victims and their families of past human rights abuses in South Africa. It was established in 1995 by the victims and at that time it was set up ...it was established pending the setting up of the Truth and Reconciliation Commission.

As I said, I think reparation, especially in this stage now, is one of the most important issues. What do you expect, will victims just receive interim reparation or will the government decide to grant final reparation and how will victims or survivors react on that?

I think there will be final reparation. What the government is trying to do is to cut down the number of recipients. They will probably look for the most needing ones and, you know, give them the final reparation. People like us will never get reparations. I think that's what they want to do.

So they would just cut down the number of victims?

Yes, in fact the TRC has already declared certain people victims but they still will cut down on that number as well.

And what do you think, how would people react on that, I mean if they actually were considered as being victims before and now ...?

People are going to fight. Right now they don't like it that some people are being declared victims and some are not. It's going to cause a division amongst the victims themselves. Those, who are not getting reparations are not going to associate with those who will be getting reparations.

But right now, I don't see that actually anybody reacts. There is no discussion in the newspapers about this issue actually. Maybe because there isn't any decision yet because nobody said anything about it yet - of the politicians.

In fact on our side on the 7th of October last year we sent a memorandum to the state president, you know, listing all our demands. We didn't get any reply. The only reply we got from them was only to say we acknowledge ... *(telephone rings)*. So we sent the memorandum and the government did nothing, absolutely nothing on that. We had a number of meetings with the minister of justice and we sent another letter in December, you know, to the deputy president and asking him, if he would consider having a meeting with us in March this year. We never got a reply.

And how did the minister of justice react?

He sounded very sympathetic. He was, you know, on our side, but when he is with the ANC he completely changes.

You said, people are gonna fight. How is it going to be like?

They will lobby the government, they will have campaigns. There was one demonstration that we had earlier this year. You know, the SABC was there, the Sowetan, you know, all the newspapers were there, but it was never reported.

It wasn't?

No, no. It's only the radio stations that reported that. All the newspapers, they took photographs. They did everything. I can show you the photographs.

It was suggested that there should be something, some payments from the industry, from the industry sector, some contributions. Did any of the companies react on that actually?

No.

Are there some donors?

It looks like they are from overseas. I know the Swedish government was the first government who contributed.

But it's not like that perpetrators or beneficiaries of the Apartheid state would donate anything?

We never had any feedback on that, but there were some rumours that some perpetrators were saying, you know, we have to take the money back to the victims. We don't know how far that is and how far they have taken that.

Another issue, what I heard from people is, that actually there wasn't enough publicity to make sure that victims know that the reparation committee was just making suggestions and people expected a lot and now they are not getting anything.

I think, when I heard it from the TV and the newspapers, that I read, it was stating very clearly that it was a recommendation. Though people turned that and said the TRC is saying that we must be given so much. It was said, it is a recommendation. That was very, very clear.

In how far had the scandals about some members of the R+R Committee an influence on the public perception of the TRC? Can you say something about that?

You know, they didn't want to say much about the money that they had, but there is one commissioner that I met, who actually said, you know, the TRC had the best budget and they didn't use it properly. That's how she put it and she said that Khulumani tried so hard to offer some psychological counselling to people and they didn't even have enough funding and she felt that the TRC was supposed to have done that out of the budget. They was supposed to have started something but they didn't do it.

And also like the protection of victims and ... how was that actually? Would you say that was good enough?

I am not sure whether to say, there was a protection. Because, I mean, the protection they were giving to people was to take you and keep you in prison. I mean that's trauma. It's not a protection.

Did they do that? Really?

That's the protection that they were going to offer the victims. Witness protection was to lock you up.

And did witnesses actually react on that?

No one wanted to go to prison. So we were totally against that. I never heard of a person ... maybe there were people, who were locked up in prison, because they considered it a safe place, I mean, it's trauma.

What do you suppose: How many people actually didn't make statements because they were afraid ... ?

In our memorandum and also in our meetings with the minister of justice - that's what we told him, that there are a lot of people who didn't make statements and for a number of reasons and one was that ... the wives of former policemen who had died, you know, who had been victims of political violence. They didn't know that they were victims. They thought, that because they were wives of policemen, then it means they fall on the side of the perpetrators, so they didn't make statements also people who were not reached by the TRC and people who stayed nearer their perpetrators they were afraid of coming up and make statements. So we made the government aware of that but they said nothing.

What was in your opinion the worst failure of the TRC?

One was the investigations. And number two it is the protection of people and they also failed to reach as many victims as they could and another thing was the failure to deliver interim reparations immediately. They failed to do that.

And it was planned to do that actually to pay interim reparations right away?

I mean they say they were working, they tell you about the act. That we have to work in accordance with the act. But the act was saying that they should for such a time when they felt that they couldn't do the work within this period they went to extend the time. They didn't care about what the act was saying, but when it came to what the victims wanted they said, you know, the act says this, when they had all the powers to influence the government deliver immediately.

How was it, how did actually the TRC try to reach the people? Because I wasn't there then, I would like to know more about the process. I heard from a lot of people that

the TRC failed in reaching all the people. It wasn't really public and people didn't know where to go.

Education workshops were not successful.

But there were education workshops?

There were. When they knew that they were going to go to Santon in the next few months then they were supposed to send somebody run a workshop there, educate people about the TRC, let statements be taken before the TRC goes there. But they failed. You know that the TRU department here, Brandon's department¹, they ran workshops, workshops all the time and we when we to form Khulumani groups, we had to run a TRC workshop first, before we could come and talk about Khulumani, we had to make sure that the people, you know, understand what the TRC is there for and what Khulumani does. We had to do both.

And how did the TRC actually inform the people about the workshop?

Very little publicity would be given on that. Maybe like telling individuals that we are coming to the Eastrand, imagine how big is the Eastrand or one township. So, if you tell individuals, then you have about ten people who come to that workshop. So with Khulumani when people phoned to say that want to know about the TRC, we would say , please can you gather people into one place and then you tell us the venue and the date, we will come.

How many people were at your workshops?

The first workshop that I attended in a small township in Duduza, we had about 56 people and immediately after we phoned the TRC to say that we want statement-takers in the same area and then they said they would come up in two days, they came for two days, but there were more people. They got more than 60 statements from that workshop that we had.

How many members does Khulumani have?

It's close to 10 thousand.

¹ Gemeint ist eine Abteilung des Centre for the Studie of Violence and Reconciliation (CSV), die von Brandon Hamber geleitet wird.

What would you say, what are the most frequently complains amongst victims? Is it that the TRC failed in making the process public?

And the slow release of the urgent interim reparations and also the final reparations which have not been discussed yet.

How many people actually got interim reparations until now? Do you know that?

In February there were about 1290 since last year.

And how many are supposed ...

There are 22 000 victims.

This is actually not your subject, but I would be interested in your opinion as well about amnesty. What do you think about the latest discussion concerning blanket amnesty. You could read it in the newspapers that ... ?

Which was saying that the Deputy President ask the minister to give blanket amnesty?

He didn't say actually blanket amnesty. He said collective amnesty but ...

We are totally against it (Yeah, sure), we are totally against it. I mean the perpetrators were given enough chance to apply for amnesty which they did not do it and to us it looks like they are begging them to do that. I mean they shouldn't bag them. Whoever doesn't want to come forward let the minister of justice deal with that person.

How will people react, if blanket amnesty is in fact going to be granted? I could imagine there will be a strong reaction on that.

Yeah, there will be not only from the victims. I think the society as a whole will react to that.

And what do you think, how will parliament decide?.

I think that has to be a decision that comes from ... the minister of justice. I mean, we will react, we will do whatever but ... he'll do it. They will go ahead and do it. I mean they have the powers.

What is the main reason for it? Is it because the ANC itself is involved in human rights violations?

I think so. Of course they are involved.

Yeah sure (Interruption. Somebody comes in the room).

We were talking about blanket amnesty. Oh yes! It is certainly because the ANC itself is involved in gross violation of human rights but there are maybe more reasons for it like ... I think that they've realised that a lot of their own people in the ANC have not applied for amnesty so they know if they grant it to the South African soldiers automatically their soldiers as well will have to be granted amnesty as well.

Thank you very much.

Thank you.

Interview mit Mary Burton am 24.6. 1999 im TRC Office in Kapstadt²

Mary Burton war eines der 17 Kommissionsmitglieder der TRC. Sie war zwischen 1986 und 1990 Präsidentin von Black Sash, einer Hilfsorganisation von weißen Frauen, die sich mit Rechtsberatung, öffentlichen Protesten und Mahnwachen für Inhaftierte und Verschwundene im Kampf gegen die Apartheid engagierte. Bei den ersten demokratischen Wahlen 1994 war sie 'Provincial Electoral Officer' für die Provinz 'Western Cape'. Geboren ist sie in Argentinien und aufgewachsen in Brasilien.

What do you think about the latest discussion concerning blanket amnesty or "collective amnesty".

Well, we know very little about what the governments intentions are about some kind of blanket amnesty. There have been references to it from time to time over the last year or so. So we know that there is some idea of trying to accommodate people who did not come forward to the truth commission or who would fall outside of our mandate for instance because of the period when they committed offences and very specifically that it might be part of a peace settlement in the province of KwaZulu-Natal. So we thought about it quite a lot and we have always said that any overall blanket amnesty such as has been used in other countries would be very negative for the work of the truth commission in fact it would make nonsense of the process of the truth commission because of the people who have come forward, exposed themselves, given information in order to get amnesty would feel completely betrayed through that process. We have always said that the only possible excuse for the kind of amnesty that we have been able to give has been that it has been in exchange for a full disclosure. On the other hand - and this is my own personal opinion now, not a commission opinion - I do see a need for reconciliation and peace. And there has been too much killing, there is too much ongoing killing in KwaZulu Natal and I would be interested to know what process has been considered. If for example there was a peace settlement in KwaZulu Natal which included some elements of amnesty which was completely separate from the truth commission process but which included some aspects of our work, for instance reparation for victims, an opportunity for victims to

² Dieses Interview wurde in gekürzter Fassung unter dem Titel "Eher Wahrheitsfindung als Versöhnung" veröffentlicht In: afrika süd. zeitschrift zum südlichen afrika Nr. 1/2000

be heard and full disclosure and perhaps there was a special court set up that might grant amnesty for those conditions than I don't know that I would personally oppose it completely. But for me the conditions there would have to be that there is full disclosure, that it's an individual amnesty, not a blanket amnesty and that the victims have some voice and some benefit.

But would it be possible to have a process just for KwaZulu-Natal?

Well I don't really think so, I am just saying if anything is to happen and I would to be asked if I would accept it, it could only be with those conditions.

Yes, and only for KZN and not ... ?

Well, I don't know that, but I can see the justification for KZN. The problem about doing it on the whole country is that it is basically an escape clause for people who didn't come in on the time available but we do sometimes see people with reasons why they didn't and yah ... I am not in favour but I am trying not to cling so much to our process to say that every other processes are illegitimate. I think there might be some circumstances under which it could be possible. But for me the paramount things are that it should not be blanket, it should be on the basis of individual application, that it should include a disclosure process and that it should include attention to the victims. Because otherwise it really does disempower everything that we have done.

But then you just change the cut-off date?

In a way. That's what would be happening.

And you would still like to have it on an individual basis?

I think that it is ... the thing, that has made this commission - I think - worth do it, had been that it has forced individuals to take responsibility and acknowledge their action ... ahm so ...

If you grant amnesty too easily - what does that do to society?

Well, that has been the big question about the commission all together. Are you than saying that these acts can be condoned in some way? Are you suggesting than that there is an ongoing impunity? I think that's a big argument against a new legislation.

But on the other hand, you know, we are saying that this is a model for other countries and other times. Does that mean that it can never be applied in South Africa again? It's hard to balance those things, very hard. And I think that we would mostly feel that it would not be desirable but we've always said that it was the price paid for peace and it still has to be the price paid for peace.

Why was it actually not be tried to sue perpetrators according to civil law?

Well, this decision of course predates the establishment of the truth commission and it was something that we ... all of us had to ... whether we could accept before we served on this commission because it was clear that it was the compromise that was being made. I think the experience of trials in other countries and what we know from our own is, that the trials would probably have been on a few well known cases and they would provide a kind of a vicarious judgement. They are very expensive for the state and for people who are having to defend themselves, they go on for a very long time and even then, they don't always bring justice, we have seen cases where people who ... everybody was sure that this person was guilty but because of a legal technicality, a lack of absolutely conclusive evidence, that a court could accept, they have been acquitted. And I think that it leaves more of a sense of outraged anger on the part of the victims than the process that we had to go through. So I think what trials would have achieved would have been convictions in some cases so a measure of justice. But one of the things that the commission showed was how many, many, many offences there were. Big and small in a way if you can classify them like that. And there is no way that this country would have been able to prosecute everyone.

Yes, but what I was talking about was: granting amnesty according to criminal law but still give victims the opportunity to get money out of the perpetrators.

Yes, to allow civil claims?

Yes, that was what I was talking about.

I see what you mean - Sorry about that. Well, I think that it was felt that if you were going to offer amnesty for people to come forward and make full disclosure that it would not help, to give amnesty only for criminal charges because part of the idea was to get the information that has been hidden for so long and that if people feared that if they are going to be sued in their personal capacities for civil damages that they would not come forward and make those revelations.

Do you think that the victims will actually get final individual reparations?

Well that's the next step that we ... not only the truth commission ... but I think South African society, civil society particularly has to start now exerting pressure on the government to indicate what its response is going to be to the TRC recommendations and my instinct, my guess is, there will probably not be approval of our recommendations. The spread over six years larger amount for individual reparations. There was only hints really although fairly strong hints in the then deputy presidents, now presidents address in the parliamentary debate of the TRC report where he spoke about community reparations and symbolic reparations rather than individual announce. So I think we must be prepared for the fact that there will not be - either no more or not as much more as we have recommended.

That's why I was asking the other question, because it's hard for the South African state to pay all those reparations. So if there would have been the possibility to sue the perpetrators ... some of them have a lot of money... So that would have been a possibility to get some money.

That's right. I think there is a great sense on part of the victims who came to the truth commission that they have not been adequately treated.

Would you say that the whole TRC process changed anything concerning acknowledgement of harm, guilt and responsibility of white people in South Africa and the attitude towards human rights or attitudes towards the democratic system. Did it change over the time and did the TRC help in that process?

I think so. I think many of us are at the moment in a rather negative phase about the truth commission. I think as it presented its report, the country was very tired of the things that have been revealed day after day ... people were probably feeling guilty, denying that guilt, there were all of those feelings and I think from the time from the second half of last year the euphoria about the truth commission faded away a lot - in all parts of society, white, black, privileged, unprivileged, beneficiaries, non-beneficiaries. And I think even us on the commission we became particularly concerned how little we have been able to do for victims and there was a sense of disappointment that we have not been able to do more to bring about reconciliation to do the great things, that we have talked about in the beginning: healing the wounds

and so on but I think that if one really faces the reality, I do think that the commission brought about a very, very, major change in the consciousness of mainly white people. I think that many, many white South Africans have managed over the years to pretend to themselves that everything was okay, to ignore the symptoms that were there, to not bother to read the pieces of the newspapers where the unpleasant facts were being reported. Even in spite of states of emergency and censorship the newspapers did try to produce the information and when I meet socially people who I have known for a long time and they say: 'Oh, how terrible it must be for you to work on the commission and to hear all these things, we never knew what was going on', I want to say to them: "Where were you, when we in the Black Sash and other organisations were standing on street corners, holding up posters, giving the names of people who have died in detention, asking questions about those issues" - they were happily ignoring it. And that is now no longer possible - for anybody - to say that they didn't know. And people deal with that knowledge in many different ways: sometimes with anger, which is a very typical reaction of guilt, but sometimes also really with a desire to change, a desire to be able to feel proud of the new society. And one of the things we did, was start these registers. I don't know if you heard about them. In each of our offices we had a book which we called a register for reconciliation. Where people could come and write their names and make their commitment.

I read it in the internet.

Oh yes, okay. A lot of people said ... were quite critical about it and a lot of black people said: „Ag, it's a cheap way to say you're sorry. You just write it off. Now you can ,walk away from it“ and so on. I think one shouldn't take it quite so lightly as that. I think that it actually takes quite a bit of courage anyway to take the trouble to find your way to the TRC office and to come in and put your name in the book. It is a commitment of sort, sure, it's not one that costs you very much. But I think it's an indication of a desire to be cleaned in a way of the past and that's very healthy. And what I ... what I found interesting, was talking about it in phone-in-radio programs: the tremendous response there was, the kind of relief that there was something you could do, especially younger people who were not themselves ... they could not really have done anything about it. And for them I think it was a healing thing. So ... and I think also just generally the process of the way the radio and the television covered the hearings extremely well, we were very fortunate in media's response because it was indelible (?). I know, people switched off the television because they couldn't

bear it. But even then they were forced to see some of it. And in that sense I think in another generation's time when we look back at this I think we will see that it made a difference.

I think it takes a long time. It might not be very proper to compare, but if you look at Germany in the Fifties ... how people were denying their guilt and the next generation was taking responsibility, although people themselves weren't guilty. So ... you can see some parallels.

Yeah, that's right. I don't know whether you have been put in touch with Karen Chubb. [... es folgen Hinweise auf mögliche weitere Interviewpartnerin, Klärung ihres Tätigkeitsfeldes, Notiz des Namen etc.].

In how far was the TRC in your opinion already a contribution to nation building, and reconciliation?

Well as I said ... You asked me in the beginning that ... you know ... what are the TRCs successes in a way. I think the TRCs success was much more in the line of truth than in a line of reconciliation but again, I think we shouldn't be too cynical now because some of the great, wonderful things that Archbishop Tutu said in the early days at the big, very publicised hearings about healing, about forgiveness, about bringing people together ... we began to be less able to say those things as we saw the depths of the hurt and the depths of the divisions and the extend of anger that people felt but on the other hand there is also a reality to that - and I think that the people who did learn to understand one another better ... maybe not forgive but to understand what motivated the other are many more than we actually realised. And I personally believe that we are very far from reconciliation in this country but the essentials before we can be reconciled and we can all be South Africans together is that we have to understand where the other person's history lies and what motivates people to act the way they act and think the way they think and I think the Truth Commission made a big contribution towards that: bringing people into everybody's home through televisions. You understood, you learned to hear what they were saying in a very different way than learning about it or reading newspapers and so on. I think that this impact is going to ... is going eventually to make a very big difference. And one of the things that makes me think that, is ... I am very concerned about how young white Afrikaans speaking people deal with everything that has been revealed

... Their parents, their schools, their churches, their universities, their political leaders denied it and yet they know that there is at least some truth in what has been revealed and so there is a big split for them between that taught world and the world that they now have to live in. That's not an easy thing for young people to face. Of course it's not the pain and the horror that many young black people have experienced. But nevertheless it is a reality and they need to be helped in some way to move from that place to a place where they can accept themselves as well as accept other people. And when I am going to talk to people like that, including older audiences and they very often say, if we have had some kind of a truth commission on the Anglo-Bure-War and we had revealed the things that we know now about what happened in the concentration camps ... then maybe there wouldn't have been the kind of hostility between English and Afrikaans speaking white South Africans and maybe we wouldn't have ended up with the kind of society that we had. And somehow that seems to open a door, so that an audience that was hostile to me as a truth commissioner was suddenly able to hear what I was saying in a different way and I think it's just that acknowledgement that people did suffer and it helps them to understand how other people suffer. Because black people say: „How can Afrikaners not understand us when they themselves have been through a history of oppression?“ But it's because that history was never dealt with, that they were unable to, I think. It looks almost (?) like a continuum of learning to understand where the other person comes from.(Excuse me, stop for a minute)

But isn't it something very different, if you experienced something like that a hundred years ago or just now. So, it's difficult to say: how can Afrikaners not understand - because they actually didn't experienced it themselves.

No, you are quite right but there is a way, there are ways in which as you yourself have said about Germany where the past keeps coming back to haunt you unless you have dealt with it.

Yes, that's true. So you would also agree on, that it is also something about achieving a common history?

Absolutely crucial. Absolutely crucial.

What do you think, how can the TRC-process now be taken forward?

I think, that's the question that really should be exercising many more people than it is, I think a lot of people now think, the truth commission finished, put it in a bottom drawer, we've done that and now we are going to go forward and forget all about it and I think it's up to many of us to assure that that doesn't happen. Not that we have to go on and on reliving what the commission has done so far - but what do we do next? And one of the questions and it comes back partly to your question about civil claims but I think more broadly than that, how do the beneficiaries of the past - whether they wanted to be beneficiaries or not - make some reparation, how do they demonstrate a willingness to build the new society and one could do that ...we've talked about things like a wealth tax or levies and so on. One could do that but it would be so much better if it was voluntarily. If people came forward to offer skills, money, commitments whatever ... and I think we have to look for creative channels that can provide for people an opportunity to do that. Perpetrators maybe who would ... there are some in fact who made offers to make some kind of contribution - but how? And I mean a lot of people have asked me: „I want to give something, who do I give it to?“ But you know, there isn't a channel at the moment. There is the president's fund for reparations but quite honestly, that reparation payments are going so slowly because we are finding it so difficult to process them efficiently that I can't in good conscience say to people that's where you should make your donation. So I said, wait and let's see what we can create. And that's why. It needs to come from the government, yes, something needs to come from the government. We need to see if there can be a national day of reconciliation where we can come together every year and maybe assess where we are. That would at least give us something to work around. That would have to be a government announcement. If the government is going to make community reparations, we need to know what they are, we need to see them work and to measure them in some way and assess whether they are appropriate. They can't just say they do it and then there is no check regularly. So we need some kind of a process and the question is how, who is going to do it , who has the right to do it. It's very important. And wherever I have an opportunity to talk in the NGO sector, on fund-raising issue , what happens next, what are we going to do next. What are we going to demand from the government and what are we gonna do ourselves as citizens? But there aren't any clear answers yet.

What about the companies? There was a suggestion for a fund being established?

Yes, yes. Some of our senior commissioners, the chairperson and the deputy chairperson talked a lot to the private sector and they have indicated that they are very willing to make contributions but they didn't want to see it as reparations and I think we're all seeing some parts of the private sector ... some quite generous contributions, to housing and education especially things that President Mandela has specifically asked. I mean he keeps on saying if he takes a group of businessmen to say we need housing here and I need 20 million from you, the money is always forthcoming. So he was very proud and very positive towards the private sector, responding in that way. So it's not the way that we had hoped that there will be some kind of reparation levy and it would be nice to see either from the part of the private sector or from the part of the government these things being done and articulated as not the government doing good things but the government doing justice to the victims of the past. And I think that's one of the things I would like us to be asking the government. When you do these things, spell it out like that because then people would feel more that their rights and their history has been recognised.

Then you deal with the past in a broader sense, not just with human rights violations or gross human right violations but with apartheid as injustice itself.

That's right, that's right. For myself in fact ... although I think we must keep up the pressure on the government ... I would not be so terribly disappointed if they don't pay the individual reparations the way we have recommended, because the danger of that is, that there are many people who slipped through our net or who didn't come to us either because they didn't hear about it in time or they didn't know how to get hold of us, who suffered the same things as the people who we have identified as victims and so in that sense paying out reparations to individuals, where perhaps the people who live at the other side of them, went through the same experience, but didn't actually come to us ... I worry about how that impacts on communities. And there were lots of arguments both ways, but if the difference is too great between what some people get and other people don't get, I am scared that this might be a recipe for ongoing conflict in some areas where there is already a lot of tension. Will people then be identified as being luckier, unfairly luckier or something. In that sense if a community would be uplifted in some way it would be much better.

But if families lost a breadwinner and when you think about how they suffered ...

Yes, but if the family next door also lost a breadwinner, that's what worries me. Especially in some areas around Cape Town where ... a whole area for instance was destroyed. And some came to us and some didn't and then those ... say half of the population get some reparations and the others didn't. I am very frightened.

But when a whole area is destroyed then you talk about uplifting the community in general. Isn't that something the "Reconstruction and Development Program" is for?

Yes, I think so and some of the things are just things which our new government coming in after such a period of injustice has to do, one has to look at provisions of schools, provisions of clinics, provisions of roads, sanitation and housing as part of peoples rights but it is also a kind of reparation: It's a redressing of past injustice and the things that people criticised us for in the beginning, that we are not addressing the whole issue of apartheid as a crime against humanity is to some extent met by the RDP and other programs and that was our argument at that time but we need to see the government doing something about it and it's ... I mean one feels very sorry that the government has to do so much (laughs) at a time in its history where funding, both national and international funding is not so easy to come by. But especially going into the rural areas that were so badly hit by the repression which still remain so unresourced, so forgotten, I would like to see for instance that in some of the areas where we went and visited and took statements from 50, 70, 90 people ... that if a new clinic is build in that area or a school is build in that area it should actually be spelled out. The truth commission came here, 50, 60, 70 people spoke about it and as part of the process, we are deliberately targeting this area for a new school or a new clinic. So the people should see that it is, yes it's part of what the government should do anyway, but it's also caught up with making up for the past injustice.

Thank you very much.

You are welcome.

Interview mit Dumisa Ntsebeza am 28.6.1999 im TRC-Office in Kapstadt

Dumisa Ntsebeza war Chefermittler (Head of the Investigation Unit) der TRC. Zuvor war er als Richter am Obersten Gerichtshof (Supreme Court) in Umtata tätig und hat sich als ein auf Menschenrechtsfragen spezialisierter Anwalt einen Namen gemacht. Während der Apartheid musste er in der Transkei wegen 'Förderung der Ziele des Kommunismus' vier Jahre im Gefängnis zubringen und wurde zudem gebannt. Ntsebeza war sowohl Präsident der 'National Association of Democratic Lawyers' als auch der 'Black Lawyers Association'. Nach der Kommissionsarbeit war er wieder als Richter tätig.

My first question concerns the latest discussion about blanket amnesty or collective amnesty: If blanket amnesty will in fact be granted how are victims going to react on it, how will society react and what is your personal opinion about it?

Hmm, that's a ... Firstly let me say, there is not much that has come out about what this proposed blanket amnesty is about. The word has been used, mostly by the media and also through the media what I saw was what the minister of justice was saying, the former minister of justice was saying. And what I heard him say - and it is very important - was, that there is a need to accommodate certain interests which have not been fully accommodated by the TRC process. And he seems to mean that with members of the liberation movement who - when they came into the country - were acquired as a matter of necessity to reveal everything that they had done. It was a condition of them being granted indemnity for them to disclose everything that they have done. Something that the other side had not been required to do. How that links with the notion of blanket amnesty I was not able to comprehend precisely because the media ... it was a television interview. It was the minister on the one hand and Brian Karim of the Lawyers for Human Rights on the other hand. And obviously Brian Karim was critical of what was being said to be the direction in which the deputy president, now the president was wanting to go. Now what we know, all we know is that there is a proposal to accommodate the situation in KwaZulu-Natal, a proposal to accommodate army generals and the proposal seems to be that any of these categories of people who had not been able to take advantage of the amnesty process either because they didn't apply or for other reasons or ... it is now clear that they

may be prosecuted precisely because they didn't apply and the view of those who feel, that there needs to be an accommodation is, that if they were prosecuted then there would be a return to a condition of conflict which can be avoided if somehow they are given a further opportunity to get amnesty. Now ... I say now, that it is a very imprecise .. media have been quick to say: "That's blanket amnesty." Because I think there is a sense in which blanket amnesty was communicated somehow. Now I have two positions on that: Ordinarily I haven't got a problem with a position that says: I was a commander or a leader in the liberation movement: Personally I didn't do anything but I did instruct those who were under me to engage in a war of liberation and in the cause of so instructing these people to engage in a war, as individuals they committed gross violations of human rights in persuasion of the objective that I had indicated (?) by the liberation movement. So, in a way, I must accept political accountability in this responsibility for their excesses (?). If I say that - and the entire leadership of the African National Congress for instance, the South African Defence Force for instance ... they say that - I can understand that to that extent there is talk of blanket amnesty, but it should not deprive - and this is where I differ: If it means replacing individual account of individual incidence of gross violations of human rights, then it is a negation of everything the amnesty process has been about up to this point. One of the things that we in the TRC have been proud to manage has been that the amnesty process in South Africa is not cheap. It is not like what it was in Argentina, Guatemala and in ... everywhere else where people even anonymously were able to seek for and get amnesty. Here each individual was made to account for each individuals own actions, publicly and in a manner that should satisfy the requirements of full disclosure, reasonableness, proximity and proportionality. Now anything that (?) from that, is a (?) from amnesty as we know it and will therefor be a betrayer of those who risked public censure, being hated by people because they made public confessions. Now how can you justify giving people amnesty who will not disclose anything? When we had required the De Kocks, the Benziens, the members of APLA, the members of Umkhonto We Sizwe, we have required them to come openly in the public and face, you know, public censure and disapproval and in some instances public hatred for what they have done. It wouldn't be possible to justify that. So it would be unfair to the perpetrators who in the last three years had been doing that.

You talked about victims. Victims in South Africa were deprived of a constitutional right to pursue their actions in the courts of the land. It's a right, access to court is a right that is inshrined now in section 34 in our present constitution, that has been inshrined I think in section 23 in the previous constitution, which was challenged in so many ways in the case of AZAPO and others versus the President of South Africa. In that case AZAPO, Mrs Biko and the Mxenge family were saying the amnesty provisions in the promotion of national unity and reconciliation were unconstitutional because they were taking all their rights, because if a person is granted amnesty failed (?) on being granted it then ... they are absolved from criminal prosecution and civil liability. And consequently if they then are absolved and walk free, there must be something to justify it. First, the basis for arguing, that it was necessary for amnesty to be granted was, that we need a carrot for perpetrators who have up to this point been able to get away with what they have done, precisely because they had made sure that there will be no evidence against them. It's like to ask people to investigate themselves. They won't. But you say to them: "Look, you must come to terms with your past, because if you don't, it will haunt you. But that is the only of the options (?)... The evidence will come up in anyway ... And it will haunt you. But there will be no peace also in the country, you won't help just with yourselves (?) ... We are giving you an opportunity: Come forward, come clean, you'll get amnesty and then you can move." That was what was promised. So what was it for the victims? For the victims the promise was, that they will know the truth about things which for some of them for nearly two decades they had no idea of. When people were murdered in 1977 / 76 and nobody knew what has happened to them, it was for the first time an opportunity in almost thirty years for them to get to know. I mean people had not known about what had happened in the 67 / 68 and all that. So that was the justification: truth will be revealed. So as a truth process , as a truth revealing process, to that extend victims were assured it is not that you will get nothing out of it. You'll get knowledge, but more than knowledge: You'll get acknowledgement. Because then, there will be people who will be acknowledging, what they have done. Even if they don't say: "Please, I'm sorry about it." But there will be an acknowledgement by that public act of confession: "Look, I'm able to say, I did it." So, that was, what was being said to the victims. What was more? Precisely because there was this, the government must undertake to create a fund out of which reparating measures will be made. And some of our recommendations were that (?) that some of the perpetrators must be made ... you

know ... to pay reparations, but we didn't go that far. You see. We didn't go that far, because some of the perpetrators might take the view that's too much. Let's take for instance perpetrators of the liberation movement. Because ... you see ... there was the problem ... the problem was that, for the sake of evenhandedness the act was (?) in such a way, that what we had to look at, was not so much the motivation of the act. For as long there was a political motivation, we did not say then, this was a much more acceptable political motivation or much more acceptable act, because of the nature of the political motivation. Where for instance a member of Umkontho We Sizwe killed somebody by planting a bomb in Church Street in Pretoria. We said, well, that's a killing. It's a gross violation of human rights in terms of the legislation and therefore, to that extend, it is something in relation to, which the perpetrator must apply for amnesty. And therefore, on that basis, it's a killing, it's a gross violation of human rights. We have De Kock, who murders a member of the liberation movement in Kumbhat. We say, well, it's a killing. What was his political motivation? Because he regarded him as a terrorist, as a communist. Because now, when we look further, we will say, but surely the member of Umkontho We Sizwe, the member of APLA were fighting a just cause. It was a cause in (?) of liquidation of apartheid, which has been declared by the international community to be a crime against humanity. Now, are you going to settle (?) further a freedom fighter and a liberation movement fighter. Now, obviously it wouldn't be fair, to say to a freedom fighter: "Look, you now must pay, you know, for what you did." It may well be so, that it should. But felt it's going to go a little too far, because there might be incenses later for instance in De Kocks case or in some of the state security officers, who represented the Apartheid regime, who have benefited out of that, because some of them have become superrich. There might be a point in saying, but then they must pay. But this is something that we can morally prevail upon them to do so. But I don't think in the circumstances of the South Africa that is trying to get together people for purposes of reconciliation we could say that...

But considering the fact that the South African State doesn't have that much money to pay reparation especially right now ... I mean victims are afraid or concerned that they won't get any reparation or any individual reparations, wouldn't it have been a good idea ... I don't know, how to handle it, but ... that you can sue perpetrators according to civil law.

Well, the pact of the bargain was ...

I know ...

Yeah, so you can't go beyond what was in fact the condition of the bargain. So in fact to say these people must now be forced to pay compensation to the victims would actually be, to say, one of the conditions for them to come forward is being undermined. What I say, however is, that ... the whole proposal is problematic ... is ... that those people, who had an opportunity to apply for amnesty, didn't take advantage of that opportunity and there is evidence You must remember in 1994, when we started off, nobody had confessed. And therefore nobody had implicated anyone. Five years down the line, a number of people have confessed and therefore they have implicated some who didn't come forward. We are in a better position in 1999 to know more, even about those who ought to apply, but didn't apply. Who didn't take the risk. We can then prosecute them successfully. For me, those are the people, who not only must suffer the consequences of their inaction, because they should have taken advantage in all the ways. If the state will not prosecute them, because the state is trying to balance some things, the state should not, in fact should not take an initiative (?) of which will further deprive the victims of their right. Therefore it would be, that's one of the reasons, that it would be wrong for the state to legislate for the absolution of these people from civil liability. If they don't want to prosecute them and send them to jail, it's their prerogative. They can only say, well, at least we have not prosecuted you. But let the state not stop individuals on the basis of information, that has now come to light, prosecuting people who did not take ... or make use of the protective power of an amnesty.

Let's jump back to the individual reparation. It seems that the government intends to shift now towards just community reparations.

Well, I don't know. That what appears to be phrased of Mbeki's proposal in speech to parliament. I don't actually had the occasion to get the entire speech to read. From several re-accounts from the media, it's one of the disturbing features of his response. I always had taken the view that Mbeki had responded in the way in which he did, because he still was pleased with the way in which the TRC dealt with the ANC and other organisations in the public phase and I would hope as the time goes on, he would begin to ... because he is bright, he is intelligent, but the way he has reacted to the TRC doesn't seem to be consonant with the sort of intelligence he has. And it

may well be, that being in an political office, that he was not even told of all the facts and he has merely supported the decision to take us to court on information, that he could not at that moment verify. I remember at that time he was busy with this situation in Congo and whatever and there could easily been others to tell the president of the ANC: Listen, this is the position, that we must take. And he has felt, as a political leader, he must support the move and then he realised, that it was an unwise step to take. He couldn't very well turn around and therefor he feels, the only dignified thing to do, is to take a supportive position until the situation is such as for him again to manoeuvre himself out easily in an acceptable political position. Because I cannot see that in spite of everything, that was said, at the time, that the TRC was established before then when it was motivated not only inside parliament but outside parliament and the victims were assured every inch of the way not less by the TRC even though you will not get compensation in which you would have been able to claim in the supreme courts. You allow them again some reparation which will include interim reparation. Our recommendations are there for everybody to see and all that they need to do, is to implement those. They have in fact begun implement them. Interim reparation measures have been already paid out. So there can be no - whether or not they are adequate, it is a different question - whether or not they should continue with them is a different question- for me it is not different at all - they should! They should in fact go into the main reparations. It's not enough to ask a government to pay a 21 000 Rand per year for six years to people who did not really come to anything (?) I mean not all of the people who wrote statements, not everyone of those persons is in fact going to be found to be a victim in the requirement of the act. Not even those that were named in the amnesty process. Because some of them came out in the amnesty process, where you see, this person never applied in order to be declared a victim, but the conditions declare them to be victims and therefor there is an addition to that list of people, but even so, there is no way in which I would be persuaded, that it is more proper for some ways to be found to accommodate the victims. Will we get the money? Maybe instead of looking at perpetrators, we should look at those, who were not direct perpetrators but those who were there ... yes they were there ... the churches , the dutch reformed church - I can't se why the church, rich as it is... They got land, hospitals, ... they are very, very wealthy. They were the ones who provided the climate. That dominies, the people who were ministers in the

NR Kerk justified Apartheid for a number of reasons, until that day in the late eighties, that they decided, this was a crime against humanity.

But how do you want to do it, with a tax or ...?

Well, there was a recommendation ...

I know.

... that was made. A wealth tax. That is one of the ways. The other way is, to persuade them. Having taken the step of condemning publicly, confessing publicly, as a church, as an institution of your complicity in the crime of Apartheid. Don't you think, now that there are victims, that have identified. There is material need for victims. Not just sending them to a community .. There are good things, but these people need money. So there are a lot of persuasions that government must do. And I think government is not going about it the correct way. Because government is asking for those things, but because of the majority part in parliament, they have taken the public position that they had against the TRC. It seems that is heavy for them to say in fact we implement all the decisions of the TRC. We will by nature being forced by you and say why don't you assist with this, why don't you assist with that ...

But don't you think, that the government just doesn't want to get into trouble with the private sector, with big companies and they ...

I was gonna get... because the main issue .. let me tell... How better can you do it, by then saying: Look, here was a process, that not only was open and public and transparent, that had actually given you as business an instrument, an opportunity to be heard at the apartheid hearings. You did your best to justify yourself. There is a finding against you. We are not saying, it was a court of law. We are saying, it was a process, which not being a court of law however it had all the ingredients of natural (?) justice (?). You were able to be there with your legal adviser.. Now without being legalistic about it - purely on the basis that we consider, there is a moral duty to each and anyone of us, to assist those were disadvantaged by policies of the past. You are being prevailed up onto contribute to a presidents fund. Now, what's harmful about that? Why wouldn't anyone be prepared and willing to do that? Because they think, that big businesses will say: "Ah, so you are part of a witch-hunt." The thing is, there is enough will on the part of the government to try that process. In fact it may well be, that there are so many of these multinationals who are wanting a basis to be

able to put there money into the presidents fund. They are nearly (?) in a trigger, they are just needing a trigger, an encouragement. So, what I'm saying is we will never know, until and unless we are trying it, what the reaction of the business is. We may be loosing an opportunity that is there, waiting for us to take but which was not taken.

Would you say, that the TRC process actually really achieved an acknowledgement of harm, guilt and responsibility amongst the beneficiaries? And as a result, was it a contribution to nation building - actually not only to truth - but to something like reconciliation?

You know, a satirist or a cynic was recently quoted to have said, it is too early for us to know what the french revolution achieved - than you can imagine, how early it is for us to talk about the truth and reconciliation commission. Maybe it's an exaggeration to say that, you know, it's too early.

And what is your presumption, what do you think?

The process of the TRC is not even over yet. I mean, it is still ongoing. Maybe some of the things that were written in the report, that we handed to the president in October, will be seen that we not reflect upon when we present - what I consider will be the last final report, after the amnesty process has been concluded - but I also find ... say ... even after the amnesty period ... that will be totally insufficient for any conclusive views to be held about the achievements of the TRC, especially relevant on reconciliation, because you would assume that reconciliation was waiting for an event to take place, like, for instance, the closure of the TRC. That's like saying, now the TRC has closed, now that's reconciliation. That's it. Now it's where one looks at reconciliation as an event rather than a process. However ... there are usually indications, whether the process has or has not been successful. Now, success is always a matter of, you know, judgement, is a matter of opinion, what may be successful to me is not necessarily successful in your view. There are in South Africa right now as many opinions as there are individuals about whether or not the TRC, the revelation of ..

Yeah, but what is your personal opinion?

Let me reply you, very quickly. You were here in South Africa on the second of June. If there is ever a more eloquent testimony to what I consider the achievement of what the TRC was wanting to get, is the fact that five years into democracy in the general

election it is as violence-free as to be actually possible. It was not only no - or minimal incidents of violence - if we take, what had happened in 1994 as a scale - not only was it that, but the people of South Africa returned to the very liberation movement. They returned to that organisation with ever increasing majority. It says something. It says something about ... Because that organisation ... it stands for democracy, it stands for peace, it stands for freedom. And I can ... I tribute that to that process, because there are ever more people become convinced that this is the organisation .. What they did on the 28th or 29th is nonsense, it was an aberration. It was so out of character and maybe it was, because they thought that they might show up bad in the elections. Now, they now can see, that those of us, who said, we must reveal you, may actually acting in you favour. Because the people of South Africa have an capacity to forgive and forget, something you will hardly find anywhere else.

Yeah, it seems like that. But still - I was in Pretoria at the inauguration. And I was really surprised that there were actually no white people. I mean, it was taking place in their city, all the presidents of other countries were there and that was an event. And the only white people I could see, looked like tourists.

There is a radio program on SAFM that is called the (?) . You must listen to that every morning on SAFM between 9 and 10 it's a phone in program. It sometimes features very contrasting topical issues. One of the topical issues was exactly that question: Where were the white people? And one phoned in and said: "You know, I 'm white and you know, I was not there, because sometimes, you know, it's easier to watch TV, which is true. For instance, I never saw Ghadafi I never saw any of the people, even I was one of the invited guests, because where I was sitting in the amphitheatre, it was difficult to see. But ... that same white person ... the prejudice came, you know, as they began to talk. Because the longer they talked, the more he said: "Besides you know you never now, what is going to happen when you've got a crowd ...

Yeah, that's what I thought ... that's the real reason.

That's the real reason. In a crowd of so many black people you never know what might happen. They are still savages. You see? They want to kill the white man. They want to rape the white woman. Those are the things that they are after, you see. So, it's really sad. We'll get there. It's only five years.

Within five years it's quite a lot what South Africa achieved.

But, you know, the one important thing for me very subjectively, whenever the question will be asked .. I reply by asking another question. And the question is, how we manage the situation, what would South Africa be like if there has been no TRC. That's the question to ask. And then I have very clear in my own mind, that we have better having gone through that process, than if we have not, because some of the things that were suppressed just by the nature I don't even care, because ... As a head of investigations, you know, are you sure that everything, that we were told by those police persons and those APLA people, MK people, was the truth, the whole truth and nothing but ...? I say : now listen: truth ... you can feel (?) about truth. I don't know, if in fact anyone ever gets to get the whole truth, whether in the courts ... There is no method devised by human beings on the basis of which you can say, I know beyond the reasonable doubt or beyond doubt, what is the truth. Maybe there is a (?) philosophical description of what truth is and all that. If the question is, whether we now know more facts than we knew before the TRC process: Then we have uncovered the truth. If the Cradock Four ... their families know that Suggi van Sey (?) and whoever else were involved in the killing of their husbands and fathers, that (?) was stabbed so many times by so and so ... And therefore, had there been no TRC, I don't think that nation would have been shocked in the way which it was. The shocking value only of the TRC process even for those who have been saying: "Why are you opening up wounds, that were beginning to heal?" It is not because the revelations themselves. But it is because it disturbs human beings to realise that white people were capable of those things. Not even animals sometimes were capable of doing the things that people in those quarrels of violence were doing.

I think a lot of people wouldn't believe what had happened, if they wouldn't have watched the TRC hearings ... (Yes). and so it's also something about acknowledgement that these things happened.

I mean, for some of us it's an indication, because we used to say - I mean I was an ... not only I was an inmate in their prisons- I knew and I experienced first hand, what it meant to be, you know, in detention. But I was also a legal representative of some of these people. We brought applications upon applications with grave details of the methods of torture that had been used. Judges would disbelieve us. We became the

bad guys, because we were bringing to court lies about responsible police persons, that custodians of law and order. There was a thin red line between practising law in this country or ending in jail or worse because of our commitment to do that sort of thing. Most of attorneys, most advocates just stayed away from that sort of law, legal practise. But now, I was asking myself, I wonder, what those guys say, because some of them are alive, what are they saying, when Jeff Benzien unsolicited applies for amnesty and one of the things (?) for applying for amnesty on being us to demonstrate his torture methods ...says and demonstrates for the world not just for South Africa, for the whole world to see, how they used to apply the wet bag method. You go to any trial in which activist lawyers like ourselves were involved. In cross examination we put exactly the same things - the judges didn't believe us. So, it's not as some of those things, you know, had not been heard in the past. But what the difference is, is that in the past it would be denied by the perpetrators themselves to a point where the white community had begun ... because it was coming from the tradition ... the most respected elements in society ... that the allegations about torture were all part of the total onslaught theory. The willing of the Afrikaaner and the white people to resist communist onslaught, they began to believe that. Those who now don't want to hear the public testimonies are those who are afraid. Not much because these things are ugly in themselves. Because it shatters the myth that they have been good for all this long, the myth that the white person was incapable of the evils. Now we heard it from the people themselves, who say: "It happened." Shutter!

You were asking, what would South Africa be like, if there has been no TRC and you said it was better to have gone through that process. Now, if you look at KwaZulu-Natal: Don't you think, it's better not to have a blanket amnesty? I doubt that it will bring peace to KwaZulu-Natal.

You must take into account victims. That's the bottom line(?) for it. And it doesn't assist to say, we are buying peace by wanting to accommodate perpetrators, because you are not. Those victims, by trying to please perpetrators, actually become, you know, resentful and you actually lay down a recipe for further disasters, somewhere down the line.

The last question: How can the TRC process be brought forward? At what point are we now? How should it go on?

Well, you are talking about bringing it forward. It has not even come to an end. But you know I'm able to question it. There are very many ways, I mean, we put a number of recommendations. I think, there should be a lot of attention given by the implementers, who must remember, running the Country and making sure that's a peaceful society is prerogative in the (?), who are given the mandate to run the country from the electorate that put them into power. If there for, you know, 67 % almost of the people of South Africa put the majority party in the government, but they also put watchdog elements in the form of the opposition. And those people must be sensitised to the demands of society and if some of the demands of society are the recommendations in the final report of the TRC, then they can do no other than attend to the recommendations. We have creative ways in which we think this process, not only the healing process, but also the uniting process, you know, and there is a lot of detail we put in the rehabilitation and reparation issue in the Committees document. If proper attention would be given to that, what I was saying, yes we have revealed the truth now. But that is not going to feed people. In the end of the day it is shelter, it is health, it is housing, it is food, that is going to make the world go round for a number of people. And let me take those things for granted for those of us who were privileged. But for the majority of the people in this country those are real issues. This government will be no better than any other even though it does not cause physical harm to victims if, however, it will not deliver to the people clean water, food, healthy conditions and shelter - the basic conditions for human existence. Every else then becomes added onto those. Then people can begin to think about improving themselves by going to museums, libraries, schools and all that. But it is from the base – what Marxists would call the "base". You think about the superstructure after you have satisfied the basic issues.

Thank you very much!

Thank you!

Interview mit Thulani Grenville-Grey im Juni 1999 im TRC-Office in Kapstadt**Thulani Grenville-Grey war zuständig für die Koordination der Entschädigungszahlungen und der "Mental-Health-Specialist" der TRC**

Victims and NGOs are now really concerned about that victims don't get any final reparations and a lot of victims even didn't get any interim reparations yet. What is the opinion of the R+R Committee about it?

See, I can't give you the opinion of the R+R Committee ?

Could you give me your personal opinion then?

Well, my opinion about interim is that, it's a very labour intensive long process and I think a lot people don't understand how long it actually takes to - how can I say - process applications. I think as well as develop the regulations, basically make the process legal. I mean, you know how regulations are. But there is a number of drafts that have been made, who have been improved by government and then they have to go through and then we had to develop the actual tool, which was the application form we used. Then we had to meet with government to sort out -because I don't really know the interim - it's a service based approach, it's not just money. People think it's just money but the money is to facilitate access to a service but that had - the referral system had to be restructured, still being sort of tweaked if you like, improved. And then you got the issue, we got a list of victims, of findings, then we have to get the application form to the victims and often the address is a bad address, which could go back straight to the statementtaker. The addresses in South Africa are generally bad, I mean we're talking in the main our postal system doesn't really work. It is not the sort of workable system in this country, for example in rural areas or areas that fall outside you know, urban infrastructure. So we had to get the forms to the people and people were assisted by a field worker. I basically give you an idea of the actual passage. I mean people haven't received and they haven't received. We see that every day, the frustration involved, we get frustrated. We've also been very - how can I say - underresourced in terms of the kind of labour you need to process that ... ,you know, you need so many to help. If someone rings up and says: "where is my application form", we know it has to be registered and checked for the documents you need, which is certified ID, affidavit, proving dependency, medical records.

There is a lot of other documentation, that has to come in with the form, that has to be certified by a commission of oath. When you think about, how long it takes the people to get to a commission of oath to actually ... you know, I mean it has to be a policeman or a priest. It's a very labour intense ... then it comes to: it has to be checked, then it's pre-assessed and then it's assessed and we've got two commissioners who are able to assess the amount of 20 000 forms. So it's very .. it's frustrating but it's actually I mean in terms of ... if you look at sort of general delivery terms it's sort of ... I mean, we're doing all right but I ... the needs - out there are incredible - and I suppose to me - the shame is, that I think sometimes it's only the TRC that is aware of those consequences and those needs and see people every day saying: "But we lost a breadwinner and these are the consequences, our children can't go to school" so I mean it seems a little bit high to deal with it just within reparations, so I'm sure there are concerns about a lot of people haven't received interim yet, but it's a process that's not gonna stop and it's ongoing and it takes a long time to get a system, that is up in place and then you got the issue of beneficiary, you know, dependence if you read the regulations it ... I mean unfortunately ... it would be a wonderful world, if we would just have a big sort of cash book and just hand it out, as we saw the need but we can't do that because it's taxpayers money that's going out. Ask for final, people say, oh, they're worried that they're not gonna get any. I'm sure they ... I wouldn't like to speculate whether they're gonna get anything. But I ... the only concrete thing, you have to go on, really is the receptions of the proposals in the final report, the parliamentary debate, that took place, which made mention of it, which made supportive mention of it. I mean, to quote: they said, they agree in ... they agree broadly with the policy. They are more keen to focus on symbolic and community types of reparation, then kind of individual reparation - which I think, which where people probably get the kind of feeling: "Oh, we are not gonna get the individual, the individual amount." I think the debate ... it's positive, that that the debate is moving into government and not the TRC, because the TRC has made the recommendations, but I think it's a bit ... The debate tends to focus on the money issue, which is all well and good, but that was one of the recommendations. Now I don't know, what is gonna happen with that but it's gonna need a whole lot of creativity in terms of final ... my reading of it is: the government is committed. They know, what the issue is and they are ... I think they have ... they they're struggling with this kind of globalised nature of it. I mean you're dealing with ... there is a lot of things ...

there is the fact, that if you've been granted amnesty ... an act for which ... an act for which amnesty is granted, that victim later ... the amnesty application cannot apply for civil claim and that's a very direct link to say a monetary ... I mean a very sort of concrete loss. In other words: you could, if you've made a civil claim - although it takes a hell of a lot information and money to make a civil claim - that's a link, but the other one is ... I think we had a job, we had a job to do, to express the consequences and the needs of victims and the policy, you know, what I mean? I think government ... you got to see in a wider ... government got a broader agenda, which is how to address the consequences in a period across the whole nation ... and it's quite a difficult thing to get around the fact, you got a closed list of 21000 named victims, who came to the commission, where in fact everybody knows that that is a tiny percentage of the people who are victims in the country. So to just focus on those, is potentially problematic because then you've got ... what about everyone else? You don't wanna just ... At the same time you must acknowledge the people who came forward to tell their stories without advice. I mean, you just can't imagine the scenario if someone getting a lump of reparation, who lives next door to someone who suffered more, who just didn't make a statement or didn't even hear of the truth commission. You know, what I mean? It's quite ... that's the challenge: to acknowledge the people who came to the commission and also make it as global as possible because there are concrete things, I mean, you can see it's all charted on the facilities: It is schools, it is education, it is health, you know, health is a big one...

Yeah, but uplifting of the community is something that people expect anyway ...

Yeah, but that's what I'm saying. Can the ... If you can say: any transformation ... any transformation is a kind of reparation ... but you have to have a separate identity. It has to have a ... you could put all those recommendations just into any government program as good recommendations, you know what I mean? That's what I mean. The challenge is, that to acknowledge it, as give it a symbolic value, which is reparation, but not a compensational value because that's a nonstart. You can't start compensating for loss. Reparation is not compensation. You know, it's not ... we didn't suggest the people say, oh how many days did you spend in detention, then that's such and such an amount. Then you start getting to a very doggy area where putting monetary value to suffering.

But wasn't it actually the way it was recommended in the report? That you have a certain kind of individual reparation, which looks at the income of people and if they lost a breadwinner or not ... stuff like that.

No, the only two ... basically the two objective criteria in that final recommendation is family size and urban or rural. But it's not based on suffering. It's based on needs. In other words: your living needs are more expensive or less expensive in urban area or rural area and living expenses are more or less if you have such and such dependants. So it's not compensation. So, I mean if you say the baseline is the standard baseline, that was researched by the, you know, economists then obviously it's (?) if you are urban or rural. I would definitely, clearly and categorically say, any notion of compensation is not the case. In fact, I would say if anything more is ... kind of a more symbolic ... it's a concrete, practical, symbolic payment, you know ... I mean it's not ... it has more symbolism in it than real help. Some countries do. I mean ... I mean, if you studied internationally reparations ... Some sort of ... say, it's a hundred .. the highest civil service wage for every day detained, you know? So, they do kind of mix the reparation with the detention time. So, now anyway, I think our policy clearly doesn't do that.

You answered already a whole bunch of questions, I wanted to ask ...

You see, I think basically reparations should ... I think, the interim model is quite a good one. The trouble is, how well people are hooked up with the service and its issues, where they're fast tracked or not, whether they get, it's like a red card, where you go into a government department and say, well I am a victim therefore I get priority treatment. You know I mean, apart from the kind of those that kind of those delicacies... if you can ... any policy or any approach should address the consequences and that ... it's not that's why I mean government ... In the parliamentary debate they would say: "yes, but nobody went into the liberation struggle to be paid." And that's not what reparation is, reparation is not pay for someone's like participation in the struggle, you know it's not like that. But it could be viewed as that, which generates a negative reaction to even the very thought that people, ... do you know, what ... I mean, then the actual people who need means and services would turn around and say, "oh no, you're damn right, of course, I didn't do it. I don't want anything." That's the endpoint of that debate, which I don't agree with. What it should do, is address things, that have been mentioned: housing, education, all those things. The important

thing, I think, for instance: the money you can't dictate, what people use the money for. There was a letter from somebody who ... there was a letter from a woman with, who seemed to spend the money that she got, very responsibly and used it for all the right things: It was a tombstone, it was registration for the children (*Yeah, I heard about this letter at the conference.* Oh, Jasmine had it, yah. ... But, so what I'm saying is ... I think on my .. I don't know, whether the government is that much aware of interim, but if interim works better or works at the service level, then that's the way to go. I think it's the (?) to say, that we've got this special group of people, they've been identified, they are in the system, they must be held in the system and government must facilitate them getting what is available.. And if they gonna get money - that money needs to help them address the consequences without being paternalistic or without saying you should spend it on this but give the money the best chance helping that person get to the service.

If you'd had to do the whole process over again what should be different?

No, that's a tricky question. You're trying ... you want me to criticise this one and say what it hasn't got. This very process has got its flaws. I mean that's a cliché phrase: "With all it's flaws we accept the report." With all it flaws whatever- But I think I would empower the Commission more in terms of its process issues, not product issues, in terms of process. Be that mental-health-awareness, be that, having people at amnesty hearings, to sort of jump on opportunities, reconciliation more ... I'd like to see it, I think it took too long to sort of hear a respond of regulations. I mean bureaucracy of preparation policy took too long. On the other hand, I mean conversely, I think, maybe it should have been delayed maybe reparation should have been on any part of the commission (?). It should be about truth gathering and then have a separate reparation policy, where there is more profile as the first section is, which is what most countries do, they have the truth gathering phase and then the reparation phase ... I think so and maybe I mean I don't mind ... yes ... we've got a whole range of issues, that were thrown up. ... There are times where somebody will come and need a wheel chair and need this and need a transport or need this. And we haven't got the power to deliver, which maybe we shouldn't have ever had .. but I mean just on the kind of everyday meeting with victims level it would be nice sometimes to just immediately help someone access services and bring ... we just have to be creative and use NGOs and you know, do all that, so...it's like the untied (?) of hands would

be quite good. I don't know where you can get around that, because it's based on a legal process and it has to follow, has to be completely rigorous. So, I don't ... have the answer to that question, when I have digest the process , I don't think there is time at the moment to digest it. We're to busy trying to deliver. But I ... and also while you're in it, you don't really think, what could have been.

Yes, I know but for me it's a question.

Yeah sure. you've got to live with its flaws, you have to get around somehow, you know. I don't think, I think ... find the victims and go back and ask them to fill out application forms can be quite sort of retraumatising and the trouble is, if you asked the questions and if you asked the questions, in the application form, we asked in the first time round, if you ask about peoples bank accounts, then you raise even more expectation. So that's ... you couldn't get around. You had to have the facts corroborate the finding, then say, now you're a victim. Fill out this. But timewise is the way we could have got the information in the first place in one go and then we would have finished by now. So that's hell of a job, to go back to revisit the victims.

Thank you very much.

Interview mit Donald Skinner am 01.07.1999

Donald Skinner war Mitarbeiter beim "Trauma Centre for Victims of Violence and Torture" in Kapstadt und zuständig für Forschung, Planung und Entwicklung

Right now it looks like victims won't get as much individual reparation as the report recommended. How are NGOs actually reacting on it, is anything planned and what is your personal opinion about it?

Okay, I think when the TRC set up its process with interim reparations it was a flawed process, Individual reparations as it is going to happen shouldn't happen on a blanket thing as the same thing for everybody. You need to look at needs and process that from that. Decide how much each person needs is complex and difficult. But the TRC had set up some sorts of formula based on actual practices to look at different options for individual ... for different individual (?) it wouldn't be a single blanket amount. But it was still fairly flawed and you had contradictions: Like a person who presented to the TRC but actually gets a six figures bigger salary would draw almost ... almost the same as somebody who was living in a shack in Crossroads and had no money and nothing. The two could draw almost the same amount. So, yes it was a flawed process the way they were drawing it up. And it also didn't take into account ... who didn't present before the TRC ... didn't take into account ... it didn't take into account different relationships to the trauma. So if one person presented what they would give to them, it wouldn't necessarily provide for the whole family. And also I don't think that the TRC took sufficient account of community reparations. My own sense is that reparations need to further fit into a broader schema of redistribution of income. And I think the Reconstruction and Development Program (RDP) was one, say I think the special pensions was another and I think reparations was a third ... I think that the TRC individual reparations (*telephone rings*) Sorry... Sorry we were on .. Yes, I think having said that and I think individual reparations are important. You can't just have community reparations. So I think people do suffer on individual basis and a community reparation isn't going to cover for somebody who has lost an education, lost their house and lost their lives, lost family members ... and there were significant losses and many of the losses you can't actually replace. And if you take - saying - the

community lives in Salani- a lot of people lost their homes, they lost family members, they lost access to education and it's very difficult to get jobs 'cause they are black-listed, people are still being blacklisted for involvement in the struggle and in some cases they are unable to work with their physical injuries. Now those people need individual reparations and I think the state is there making a severe mistake in saying we're just doing symbolic reparations. I don't think symbolic reparations are...well, you do need some symbolic reparations ... I think that's ... it's a bit insulting quite frankly ...if you are going to do symbolic reparations it has to be along the lines of ... they are going to build a clinic and they name it after a keyperson in your community ... saying Worcester Tribatutu - Clinic or whatever.

Uplifting the Community - Isn't that something what the RDP is for?

Well you see, you can't do that. The RDP is directed on a national basis. It's directed more globally and I think community reparation attached to the TRC could be focused. So for example in a community that is more particularly effected like "A" you could focus more energy there than you would say in "B" were is considerably less political action, considerably less political suffering. So in that sense I think yes, community reparations attached to a community basis can work but you are going to have to take into account what happens in those communities. What disturbs me about the state taking over is that the TRC had some sense of that was going on. I don't think the government has got... it has got less sense of what was going on. They have to go back and read the TRC report and be again one further distant. Yeah the thing is (plagued?) with complications, 'cause you then have to add the complication that the TRC has resolved and most of the commissioners disappeared to far higher paid jobs. Most of the staff have left because they aren't getting salaries ... it's based on they're retrenched and the TRC has really lived way beyond what it was meant to. If you want my general opinion I think the problem came in with the bill was drawn up initially. It was far too ambitious. It didn't take into account the realities, what was going on. And I suppose on some level it was a naive approach. ...I realise I'm jumping from point to point all over the place... but what I'm trying to say is that I think there are criticisms of the TRC approach. I do believe there should be more community I do believe there should be some symbolic reparations, they should be tied to some real service delivery as well as there should be individual reparations. Those need to be relooked at both in terms of the amount, how they get delivered

and who they get delivered to. It shouldn't just be a blanket thing. How they could actually take them about is a very complex issue. Then the costs of setting up such a system are horrendous and particularly if one goes beyond the people that are applying to the TRC so it might end up that the most feasible process is what the TRC said initially, said, yes, give everybody an amount of R 6000 a month for two years ... I can't remember what exactly the recommendations were ... You heard different responses of NGOs: When the government made that statement it was an, I think an immediate response from a lot of NGOs. It created a conflictual situation. A lot of NGOs and certainly the Trauma centre is saying: It doesn't help to give somebody R 10 000 and say get yourself a healthcare. Rather set up organisations and provide the health care to a broad range of people. Instead of a person gets a R 10 000. If they go to a private psychologist they're going to pay R 200 a session. For a service that is not directed specifically at their needs and will be used up in ... if you're going twice a week, it's about a R 1000 a month, one and a half thousand Rand a month. You're going to use that R 10 000 up in two to three months and still need educational services and other things ... Having said that, yes, obviously that's saying, that we should get some of the money (*laughing*). And yes ...there is some sort of interest in there somewhere. But then I think were we're trying to direct a lot of our services.

I talked to Mary Burton earlier and she said individual reparations might be unfair because it might cause then some aggression amongst those victims who get money and those who wouldn't for whatever reasons.

There are already cases of that, I mean, in Robertson ... what's the community ... anyway. In Robertson when I went back there, they put us to talk about the urgent interim reparations. There are a lot of people who haven't presented statements. When the TRC came in, they say , "where is our money"? and they said, "well, you didn't apply, you didn't make statements, so we can't get it". And they were getting angry and said, "but we suffered in the same way". So yes, it is creating ... it is right, it is creating some of those conflicts.

But doesn't create more conflicts if the people who expected to get money, don't get anything at all?

Certainly yes, it will create conflict, but I don't think that conflict needs to be used as an excuse. And I think that conflict also represents an inefficiency of the part of the

TRC because the TRC operated fairly poorly when it went into communities. For instance in the Robertson area. Its advertising was extremely poor. They didn't even have a publicity person on the organisation at the time. So there were very confusing messages going out and I did research in that area and - yah, there were confusing messages going out. And a lot of people even thought they haven't applied when they had.

Okay let's jump to the other subject.

Yeah sorry I ...

No just I read in the newspaper a few days ago that the new minister of justice said, that there won't be any blanket amnesty. But earlier there was a big discussion going on about blanket amnesty or collective amnesty . Do you think, blanket amnesty might have a positive effect on KwaZulu Natal?

Okay my personal opinion is, that blanket amnesty should not be given. People had the opportunity to come forward and to make their statement, to apply for amnesty. If they didn't, that's their own thing. If there is an extension of amnesty, I would argue, that it has to be on exactly the same process. I would reduce some of the protections that were on the TRC. So say for example in the TRC, if you gave evidence and you didn't give a full statement and you're still ... If you made a statement to the TRC and didn't give sufficient detail to qualify for amnesty ... I think it's written in the legislation, that that information that you gave, cannot be used against you in court. Now that's a bit of a misnomer, because than everybody knows that you did it. But then they can't say in court that you did it. That's why I never understood law. It has nothing to do with justice. But ... on the other hand ... I think KwaZulu Natal is a slightly separate issue, but I think I would be very opposed to general amnesty being given. I mean in KwaZulu Natal you have got a very complicated process because the war is continuing. Or in reality there is an ongoing conflict in the Western Cape, Eastrand, in the Orange and other areas where amnesty might make a difference. But my sense of Natal is, that it's not about amnesty. That's about current power struggles. And what you are doing is just throwing out another carrot. Fairly some (?) to the golden handshakes given to people to leave the police force. So you can sort of ... so you can have affirmative action to people coming up into senior positions. That's just another form of golden handshake. And if you're going to say to Gatsha Buthelezi, "I'll give you general amnesty but in the next elections you're probably going to be wiped of

the map" and he knows, if he continues with the armed struggle in the area and continues arming the vigilantes there, he's gonna stay in power. He's not gonna move, he's not gonna stop arming his vigilantes, he's not gonna stop the .. the Zulu chiefs, the chiefs and sangomas (Wunderheiler) from continuing to support IFP. So I don't actually think ... I think it's a misnomer saying that a general amnesty will bring peace. I don't think the conflict is about amnesty, I think it's about power.

Is maybe the other way around?

Yeah, that the amnesty might increase the violence because now they can't be convicted for things in the past. And certainly I'll be opposed to the ANC people getting a general amnesty as well. I think the ANC tried to apply for general amnesty for everybody and other organisations. I think what was nice about that, that it was a political statement of having taken responsibility. You can't name what (?) taken responsibility for the action of the guerrillas. Realistically they can't say we're taking responsibility for that bombing or for that conflict in Natal because they don't know.. you know... just within a liberation movement they can't ... nobody is sure who was responsible for what ... and very often that actions on the ground were the actions of individual guerrillas but the political action taking responsibility is important. It cannot be used as a general amnesty they also need to (list?) And if it means that Winnie Mandela or even Nelson Mandela has to go to court ... so be it. I think I'd loved to see Winnie Mandela being charged (*laughing*).

But if it turns out, that blanket amnesty will in fact be granted ... what do you think: how will society react? Will there be a reaction at all or ... do people care?

This is really difficult to say, I mean I think people were ... society is a too broad a term. I can't ... you can't comment on society .. I think different sectors would respond differently ... I think certainly some of the people that were responsible will react with relief, certain people, victims will be very, very angry ... People at a more general level, depend on where they associate their interest. I don't think that this is... and I think there'll be a limited sense of a limited group of people that respond on a personal level. I think there will be a principle response saying that this is contributing to lawlessness etc., etc. So at a level of a media response that's probably the closest you can say to society's response will be ... I would expect it to be a response of a rejection of the idea cause that's been the response in newspapers and media prior.

With the exception of SABC which tends to follow the government line more closely. I would expect the human rights NGOs to respond if they get to a general amnesty and say that it shouldn't happen and that .. again it's difficult and it's gonna depend on a lot of what other issues are in that time ... What I'm more concerned about is not so much that a general amnesty will be granted in terms of form of government statement but there will be a de facto general amnesty and people will just not be charged. And that is a danger, that is more likely than ... nobody is rushing to charge Winnie Mandela for murder and abduct or she was charged for murder and abduct then ... there is a whole lot of other evidences why she should be recharged. The same with Gatsha Buthelezi - full in power - and a lot of other people. And what's tended to happen is that's tended to be governments objections to put Eugene de Kock and others in court and put in prison. They are missing the real culprit and missing many of the other culprits. Such as F.W. De Klerk, Piek Botha, Constant Viljoen ... Now okay, that sort of .. the difficulty with bringing that people to court is that what happened with the Magnus Malan trial, where he was put on trial and it costs the country millions of Rand - a very strong case - but the attorney general stuffed (?) it up. Now the attorney general is a fairly old National Party's supporter. Now was his intention to stuff that up, to proclaim it on further cases? I don't know. There had been some arguments that he couldn't win the case. I query that. He left out a lot of evidences etc., etc. From what I've heard from the court reports. I haven't followed it extremely closely so. But that's more my concern: that general amnesty will happen by virtue of people not being charged, by virtue of convenience and by virtue that this costs too much or not getting around it. I mean our justice system is really, extremely overloaded.

Something really broad now at last: What were in your opinion actually the worst failures of the TRC. If the whole process had to be done over again what should be ... what should work better, what are the most important things, that should work better?

Okay, I would reduce the legalistic emphasise, the TRC, I think, took unfortunately a legalistic start. I would increase ... I would put effort into the healing aspect, I think I would deal with the issues seperately, the amnesty versus the rest of the TRC as a separate issue ... I think the amnesty process should have been tied to ... real actions for convictions. So in other words, if somebody didn't apply, then they should be fairly quick put a movement onto prosecutions. I think ,I would also give a greater time in

the beginning. The people that started work for the TRC had no offices, they had nothing. So actually the first four months of the TRC was waste, was lost. Let them have four months before they start. And in that interim period appoint an overall manager in the guidance of the TRC, to set up the offices, to employ the staff, so they start efficiently and well. I would change ... I wouldn't have appointed, who they've appointed. I think they had appointed on bases of figurehead rather than on the basis of efficiency. So you had a lot of very important figureheads who would say wonderful things on stage but most didn't have administrative skills and a number of them were being lazy or using it for personal advancement. I don't think all the commissioners ... I think those were a minority, that were bad. Certainly I had suspiciousness about some. Yah, I think that would be the major things, that I would ... and a general more emphasis on the healing role and I also made appointments more carefully and I think ... and certainly some people didn't have the skills to run their positions. Like the research division. I don't think that this was particularly well done. I think the religious emphasise was far too strong and you need ... I think the technical aspects ... I suppose, what I'm saying is, that the healing stuff versus the legalistic stuff was a poor combination. I don't think they had adequate preparation, I don't think they had the technical skills to really do the job and I think that was shown in several reparation policy where it (?) they had problems with the technical skills. There were problems in the research and how they initially searched for documents, which meant that a lot of documents were destroyed before the TRC could get access to them. So all of that stuff should have been done in advance.

People are now really tired about the whole TRC- issue. If you talk to people... nobody actually wants to hear about it anymore ... Do you find it necessary to react on that or bringing the process back to the public interest?

People do need to move on and need to move to new lives and make new decisions and go on with their lives. You can't be tied purely to the past. This is more an issue of the TRC now completing the role adequately ... I think yes, they do need to be ways of going back but I think we now need to be talking about it in different ways. We need to talk about it ... lets say with documentaries or movies according to history, there need to be ways of creating that history, making that history alive in different ways to people. In the United States there has been a more and more historical (?) start to emerge around that in popular media like movies or books or whatever

and this needs to start in emerging in terms of the history of South Africa. And I think constantly be bombarded with the pain of the past. And that we all were able (?) (inform of ?) emerging to the TRC , a country or people can't sustained that definitely. You can't do that. Even academics working until now ... it's significant that most of the work that has now being done are the technicality of memory processes rather than sort of documenting and looking at what is this pain and how to heal this pain, the conferences are all about that. And which in fact is not listening to the people at all. It's taking it into a very abstract different part, different level. It's not listening to the pain. It's listening to this is the stories. It's getting on to fairly poor approaches. I think on some level, yes it is still listening but it's been a different process and it's an academic way of establishing these distances. I know, that would be fairly unpopular to a lot of academics, including some friends of mine, working on oral history (laughing). And then I think a lot depends on the process in the way of doing it and I've seen some very good papers and some very good work that's been done but also I've seen some horrendous stuff. That sort were it gets into detail of whether memory can be (?) as valid or not. And yes, there is a role for that, but I don't think that's the way of resurrecting the TRC. It's a way of a further academic debate and issues of memory using the TRC as a vehicle. So yes, I do think we need to constantly go back. We do need to remember the past and I think the Holocaust is a very good example. I don't think that we need to resurrect at the same level as the Holocaust. But something like Steven Spielbergs project of recording stories of everybody that is still available would be an extremely useful way of doing that. So those stories are on record and they are available. Picking up on stories of individual heroes would be another way of doing it and making that into popular stories, popular history. We need to rewrite the history of South Africa and that's.. the TRC is part of that. That is another way of doing it. And there need to be ways of recognising. I think that's were your symbolic reparations come in - on that level. You don't do symbolic reparations, if you don't want to do individual. Do symbolic reparations and construct and reconstruct and give people meaning for healing. So if you're going to go in Salani you'll do a particular thing around something that was (Telephone rings). Yeah symbolic reparations that is the way of reintroducing those memories. But I think the focus needs to be on issues of the pain and the healing process rather than resurrecting the TRC. I think the TRC is a historical process and it needs to take its place in history, in movies that are made or whatever it is, is the next phase of doing that.

Thank you very much.

Pleasure.

Interviewleitfaden

- *Einleitungstext*

Im folgenden Interview soll es darum gehen, inwieweit die TRC die angestrebten Ziele erreicht hat und wie langfristige Erfolge aussehen könnten: Es geht dabei auch um die Begrifflichkeiten "Wahrheit" und "Versöhnung". Mich interessiert, wie Sie persönlich die Arbeit und den Beitrag der TRC zu o.g. Zielen beurteilen und Ihre Einschätzung darüber, wie die Leistung der TRC innerhalb der Bevölkerung beurteilt wird.

Themenblöcke

- *Wahrheit/Wahrheitsfindung*

- Inwiefern, würden Sie sagen, hat die Arbeit der TRC zur Wahrheitsfindung beigetragen? Hat sie in erheblichem Maß dazu beigetragen, wichtige Tatsachen aufzudecken oder würden Sie sagen, dass das was aufgedeckt wurde, ohnehin schon bekannt war und es nur noch einmal offiziell bestätigt wurde?
- Hat das Aufdecken von Tatsachen dazu geführt, dass mehr Menschen zugeben, dass in erheblichem Maß Unrecht geschehen ist?
- Ist das Anerkennen von Wahrheit tatsächlich ein Beitrag zur Rehabilitation der Opfer oder würden Sie eher sagen, es wurden durch die Anhörungen nur alte Wunden aufgerissen?
- In welchem Maß hat die "Wahrheitsfindung" einen Einfluss auf die Geschichtsschreibung?

- *Versöhnung*

Aus der Ferne betrachtet, mutet ein "Gesetz zur nationalen Versöhnung" merkwürdig an, da das Wort Versöhnung im allgemeinen Verständnis des Wortes einen Akt der Freiwilligkeit darstellt, zu dem sich zwei oder mehrere Personen bereit finden. Ein Gesetz hierüber zu verfassen, wirkt unangemessen. Dies hat auch damit zu tun,

dass wir Versöhnung als etwas Individuelles betrachten und nicht als ein Akt zwischen Bevölkerungsgruppen.

- Wie definieren Sie das Wort "Versöhnung" im südafrikanischen Kontext und glauben Sie, dass die TRC einen Beitrag hierzu geleistet hat und wenn ja wodurch?

- Betrachtet man das Wort Versöhnung im gesellschaftlichen Kontext, so könnte man es weniger pathetisch mit "nation-building" übersetzen. Hat die TRC hierzu einen Beitrag geleistet oder würden Sie eher der vielfach geäußerten Meinung zustimmen, dass das Gegenteil sei der Fall?

- *Entschädigung*

- Was denken Sie über die pauschalen Ausgleichszahlungen?

- Halten Sie die Auswahlkriterien, nach denen gezahlt wird für gerecht?

- Wäre es sinnvoll gewesen, Täter, Tätergruppen oder die Industrie, die von der Apartheid profitiert hat, für Ausgleichszahlungen heranzuziehen?

- Was halten Sie von einer Apartheidsteuer?

- Ist Versöhnung im gesamtgesellschaftlichen Sinne ohne soziale Gerechtigkeit möglich?

- *Öffentliche Meinung*

- Wie beurteilen Sie die Statistiken über die Einstellung der Bevölkerung gegenüber der TRC. Halten Sie die im Großen und Ganzen für glaubwürdig?

- Welche Bedeutung messen Sie der öffentlichen Debatte über die TRC bei (Medien, Infoveranstaltungen etc.).