

WHAT IS THE NATURE OF WITNESSES “BEING HEARD” IN THE SOUTH  
AFRICAN TRUTH AND RECONCILIATION COMMISSION TESTIMONIES?

A Dissertation submitted in partial fulfillment of the requirements for the degree of  
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## **LIST OF ABBREVIATIONS**

South African Truth and Reconciliation Commission .....	SA TRC
Truth and Reconciliation Commission .....	TRC
The Promotion of National Unity and Reconciliation Act, 34 of 1995 .....	SA TRC Act
Truth and Reconciliation Commission of South Africa Report, 1998 .....	SA TRC Report
Human Rights Violation testimonies .....	HRV testimonies

## ABSTRACT

### WHAT IS THE NATURE OF WITNESSES “BEING HEARD” IN THE SOUTH AFRICAN TRUTH AND RECONCILIATION COMMISSION TESTIMONIES?

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This dissertation investigates what it may mean for witnesses to “be heard” during the proceedings of the SA TRC and not only to have the *opportunity* to be heard. Selected testimonies from the proceedings before the SA TRC are investigated as an instrumental case study from within a critical narrative perspective, supported by perspectives from different traditions on the opportunity to be heard including procedural fairness (or due process more broadly); also aspects drawn from the literature on violence and trauma (termed the “voice” literature herein); and aspects from procedural justice, all which approach the question of “being heard” from different perspectives to form a broad framework in order to conduct the initial research. This initial framework was further supplemented subsequently with insights gained from the inductive research approach adopted in this dissertation. Key findings include that the concept of *elaboration of narrative* which also forms part of the critical narrative analytic approach emerged as a

central concept for a witness to possibly “be heard” and was therefore utilized to develop four narrative organizing principles to analyze and illustrate the different directions in which the testimonies and narratives developed, and also their respective impacts on a witness possibly being heard. A second key finding is that the *logic model* utilized in the international development to evaluate results could potentially be useful to better understand elaboration and “being heard” specifically within the SA TRC proceedings. This is so, as the TRC was seemingly focused on narrative “results” based on its mandate *inter alia* to seek facts, truth and reconciliation. The stories and experiences of witnesses were also a focus but still within the framework as set out in the TRC Act and the quasi-judicial nature of the TRC. The logic model was therefore adapted to broadly situate the perspectives, concepts and insights developed in this dissertation within that approach based on the notion that the “outputs,” “outcomes” and “impacts,” which feature in the logic model, are all considered to be the *results* of the “inputs.” Concepts such as (for instance) narrative public spaces; positioning and repositioning in the narratives; building of a witness’s moral agency; the impact of prior witness statements, interruptions and disruptions on the narratives; empathy from contrasting perspectives; narrative cues introduced by the witness as potentially valuable starting points for further elaboration; the narrative *resistance* of the witness as she develops her narrative; and even instances of a possible false consciousness being present due to an over-emphasis on procedural justice at the cost of substantive justice aspects, to name a few of the perspectives seemingly important (or not) to a witness possibly being heard, are accordingly situated in the logic model adaptation and discussed.

## CHAPTER ONE

### INTRODUCTION

“By providing the environment in which victims could tell their own stories in their own languages, the Commission not only helped to uncover existing facts about past abuses, but also assisted in the creation of a ‘narrative truth.’ In so doing, it also sought to contribute to the process of reconciliation by ensuring that the truth about the past included the validation of the individual subjective experiences of people who had previously been silenced or voiceless. The Commission sought, too, to capture the widest possible record of people’s perceptions, stories, myths and experiences” [SA TRC Report, 1998, Vol. 1(2), p.112]<sup>1</sup>.

In the period between April 1996 and June 1997 Human Rights Violation (HRV) testimonies were delivered before the South African Truth and Reconciliation Commission (SA TRC)<sup>2</sup> in different venues across South Africa. These testimonies were subsequently transcribed and published on the SA TRC website for wide dissemination and have elicited enormous interest and scholarship across the world, as discussed below in context. However, as Chapman & Van der Merwe (2008) notes, “Significantly, many South African analysts and foreign scholars working in collaboration with South Africans do not echo the unqualified accolades for the TRC expressed by outside observers” (p. 13). Whilst many of the concerns about the SA TRC relate to the macro level in respect

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<sup>1</sup> Truth and Reconciliation Commission of South Africa Report, Vol. 1-7. At <http://www.justice.gov.za/trc/report/> which was accessed several times from 2012-2019, the most recent 2/28/2019. Hereinafter “SA TRC Report.”

<sup>2</sup> South African Truth and Reconciliation Commission. Human Rights Violations and Submissions, <http://www.justice.gov.za/trc/hrvtrans/index.htm> (accessed on several occasions during the period 2012-2015 to transfer the transcripts, the most recent on 11/28/2015).

to its establishment as a political compromise (ibid, and see also the discussion below), the focus of this dissertation is at a micro level, and specifically on the testimonies which were produced at and by the SA TRC. The purpose of the dissertation investigation is to learn more about what it may mean for a witness to actually be heard, beyond having the opportunity to be heard, in the SA TRC forum. This question is important as it is not at all clear what it may mean for a witness to be heard when she finally has an opportunity to tell her story before the TRC. Even just “listening” alone may not be enough for a witness to actually “be heard,” as one critique could for instance be what Jolly (2010) refers to as “deaf listening” (ibid, p. 5), where we do not hear because of what Jolly refers to as entrenched or cultured violence (ibid); or for instance that the witness’s narrative of suffering can come to stand for, or represent, the experience of the *hearer* rather than the *speaker* (Cobb, 2013, p. 173) which I would submit also pertains to the way we listen and maybe hear, or not. It could even be that some of the techniques such as “reflective listening” where the hearer seeks to understand the speaker’s idea by repeating the hearer’s understanding back to the speaker, and which is used in conflict resolution practice and potentially in forums such as the SA TRC, could actually potentially *deepen* and entrench the traction of conflict stories and victimhood (ibid, p. 190). It could also be said that the underlying assumption expressed in the final report of the SA TRC about the “healing potential of storytelling, of revealing the truth before a respectful audience and to an official body” (SA TRC Report, 1998, Vol. 1(1), p. 351) implies a certain expected dynamic to be present in respect to the delivery and receiving of testimony for that

“healing potential” to be realized, perhaps a dynamic which encompasses something more than just “listening.”

The question is therefore how to approach this puzzle of finding out more about what it may mean for a witness to be heard. Overall, different literary and practice traditions approach the question of “being heard” from different perspectives, and these traditions are explored in the Literature Review Chapter below and are used as the basis for developing a broad research framework within which to examine this puzzle, with a critical narrative analytic approach at the foundation of the research frame. The source material and focus for this investigation are the transcripts of the SA TRC HRV “victim”<sup>3</sup> testimonies, as explained in detail in the Methods and Methodology Chapter below.

The question can also be posed from a different perspective, namely to ask what did actually happen in that specific SA TRC context, and in those interactions and narratives at the SA TRC *as reflected in the testimonies*? Did the Commission in fact “...capture the widest possible record of people’s perceptions, stories, myths and experiences” (ibid), as the extract above says it sought to do, and what would that mean when viewed from within the context of the research frame as developed in this dissertation, for a witness to actually be heard?

In order to set the proper context it is necessary to provide some introductory observations about the SA TRC, but also at the same time to note that there is a more specific focus in the context of witnesses “being heard” on the SA TRC as institution;

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<sup>3</sup> “Victim” is used in this dissertation in spite of the critique sometimes levelled against the term, as this is the terminology used in the SA TRC Act, as further described below.

further on the SA TRC Act, and importantly also on the SA TRC literature, in Chapters Two and Three below.

### **1.1. SA TRC: Introductory observations**

The SA TRC was established as a political compromise against the background of the realities present in the South African society at the time. The policy of apartheid (“separateness”) which was formally instituted in 1948 after the National Party came to power led to a system of minority white domination of all aspects of South African society, within a legal framework which forced separateness and separation based on race and racism and which denied even basic political rights to the majority based on skin color, and which was “a systematic piece of social engineering that embraced every area from birth to death” (Boraine, 2000, p. 141). When the apartheid system ended due to a combination of factors in what was described as “nothing short of a miracle” (ibid, p. 142), and following on the first democratic elections in South Africa on April 27, 1994, the country was faced with a dilemma. Any attempt or approach by the anti-apartheid, liberation movement based African National Congress as the new incoming ruling party to establish “Nuremberg-like trials” (Rotberg, 2000, p. 12) would have wrecked the possibility of a peaceful transition from the perspective of the incumbent apartheid government and supporters, which still had control over the military (ibid; also Ntsebeza, 2000). On the other hand, providing the agents and perpetrators of apartheid with a blanket amnesty would have likewise wrecked the possibility of a peaceful transition from the perspective of the oppressed, and would have “infuriated the long-oppressed majority” (Rotberg, 2000, p. 12). Therefore, the SA TRC was seen as a “middle course”



(ibid) or what Boraine (2000) describe as the “third way” (ibid, p. 141). Given the realities prevalent at the time, commentators have written that the SA TRC was “cobbled together in the final stages of the (political) transition” (Chapman & Van der Merwe, 2008, p. 13), during a volatile political environment (Graybill, 2002, p. 1-8), predicated on forty-five years of apartheid rule in South Africa (Hayner, 2011, p. 27). Under apartheid, as the SA TRC Report explains, “one did not need to be a political activist to become a victim of apartheid; it was sufficient to be black, alive and seeking the basic necessities of life that whites took for granted and enjoyed by right” (Vol. 1 (2), p. 45). For this reason not all were satisfied with the nature of the SA TRC as a political compromise, as some of those involved in the previous regime remained in power, or were not prosecuted (Chapman & Van der Merwe 2008, p. 1-19). Nevertheless, President Nelson Mandela signed “The Promotion of National Unity and Reconciliation Act, 34 of 1995” (the SA TRC Act) into law on July 19, 1995 (Graybill, 2002, p. 5), the twenty-first of what have become known broadly as “truth commissions” (De Lange, 2000, p. 14). Its purpose was “to place in historical context what happened in Southern Africa in the period 1960-1994” (SA TRC Report, 1998, Vol.1 (2), p. 25).

Notable aspects in respect to the institutional arrangements and functioning of the SA TRC include that it is seen as “one of the best conceived, best funded, and well-staffed mechanisms of its kind” (Shea, 2000, p. 5); Also, that it was staffed with seventeen Commissioners who as a group were diverse in terms of race, gender and political affiliation (Graybill, 2002, p.6), and otherwise had a staff of three hundred (Hayner, 2011, p. 28); Furthermore, that it was functioning through an innovative

mechanism organized around three Committees, namely the Committee on Reparation and Rehabilitation, the Committee on Amnesty, and the Committee on Human Rights Violations (Hayner, 2011, p. 28) whose work is most relevant to the focus of this dissertation, and which is discussed in context under par. 2.2.2 (“HRV Committee and witnesses being heard”) below. Two other notable impacts of the SA TRC is first on the South African political transition where the reconciliation theology of the Chairperson, Archbishop Desmond Tutu played an important role (Graybill, 2002, p. 25-35); and second internationally, where the SA TRC has elicited interest across the world and has been studied and discussed widely (Hayner, 2006, p. 295, see also fn.2 above). In fact, one leading scholar has stated that the SA TRC “has become the model for all future commissions” (Rotberg, 2000, p. 6) and the TRC has indeed served as inspiration for the establishment of similar truth commissions, including more recently (in January 2019) when a Truth Commission modeled on the SA TRC<sup>4</sup> commenced its proceedings and investigations in The Gambia, into the abuses perpetrated by the dictator Yahya Jammeh during the twenty-two years of his rule.

The role of the press was also important, also in the context of the witnesses “being heard.” It has been observed that “the media attention (the SA TRC) has received is unrivaled” (Shea, 2000, p. 5) and in respect to the aforementioned media coverage, it has been noted that due to the impact of two years of the “daily barrage of media stories generated by the TRC, it is not possible for the average South African to credibly deny

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<sup>4</sup> <https://www.dw.com/en/gambia-truth-commission-starts-to-address-jammeh-era-rights-abuses/a-46990894>, <https://mg.co.za/article/2019-01-08-gambia-truth-commission-starts-to-address-jammeh-era-rights-abuses>; both websites retrieved January 9, 2019.

the nature and extent of the gross human rights violations that took place” (ibid, p. 3); and an important milestone was achieved when President Nelson Mandela received the TRC Final Report from the Chairperson of the SA TRC Archbishop Desmond Tutu, on October 29, 1998 (ibid).

Above I mentioned that the focus of this dissertation is at a micro level, and specifically on the testimonies which were produced at and by the TRC. The production of these testimonies was not an easy process. Just the fact that the SA TRC Report differentiates among four concepts of truth, namely “(1) factual or forensic, (2) personal or narrative truth, (3) social or ‘dialogue’ truth, and (4) healing and restorative truth” (Chapman & Ball, 2008, p. 146) shows that the process before the SA TRC which produced these notions of truth, and also produced the testimonies themselves, was not a neutral one. This was especially so in respect to “narrative truth” which relates to the TRC human rights violation testimonies and which was central to the work of the TRC, and also central to the investigation in this dissertation. In respect to the other concepts of truth, the TRC report views “factual or forensic truth” as related to evidence of human rights violations on the individual level but also on the more systemic, gross human rights violations level; “social or ‘dialogue’ truth” as reflecting the process of involvement of the public and the media in the open and therefore transparent hearings, and also the public scrutiny on the TRC, which was consistently present; and “healing and restorative truth” as the contextualizing of truth in various settings and power relations, including in the spheres of politics, history, and ideology where “contending visions of the social world compete in order to validate the experience of people” (ibid).

The SA TRC transcripts also do not always capture the full emotion, drama, ritual and importance of the events as they played out during the proceedings in that TRC forum. The SA TRC Report (1998, Vol. 5(1), p. 2-3) describes the care that was taken with the arrangements so witnesses would not feel that they were in a court of law; also the security concerns, and accommodating the media; the logistics, which included simultaneous translation into multiple languages as the hearings were held over time in multiple locations across South Africa, all of which could pose formidable challenges. There was always an audience. Witnesses were always supported by a “briefer” (ibid) and by family members at their choice; The hearings had a somber ceremonial dimension, always commencing with the lighting of a ceremonial candle and prayers, hymns and songs, even though this practice invited criticism from time to time. These practices were seen by many as an “excessively religious atmosphere and discourse of the proceedings” (Graybill, 1998, p. 109). The SA TRC Report acknowledges the critique directed at this largely Christian based approach but justifies these practices by remarking that “it became clear, however, that this is not inappropriate in a country where a considerable majority of the population is Christian” (ibid), and all the preceding illustrate some of the underlying complexity, atmosphere and dynamics in these hearings.

Already, just from the short extract at the start of this chapter above and the brief references to the events and tone at the hearings, one becomes aware of the possibility that the “narrative truth” which emerged was not an easy process, and perhaps even a struggle and a contest in many respects, especially if the notion of narrative truth “evokes the cathartic benefits of storytelling: victims make meaning and sense out of

their experiences through narration, and under certain circumstances, storytelling contributes to psychological healing after trauma” (Chapman & Ball, 2008, p. 146). The question is what factors and dynamics impacted the production of this narrative truth, and how were the very stories mentioned in the extract above impacted and shaped thereby as reflected in the transcribed testimonies?

Also, the SA TRC was at its foundation a quasi-judicial forum which although thereby enabling the witness’s opportunity to be heard, also presented several potential challenges inherent in the nature of such an institution for the witness to tell her story. These challenges include the more formalistic procedural requirements inherent in a TRC forum and also the presence of a power dynamic. These and other challenges in respect to the TRC as a quasi-judicial forum are illustrated and discussed in context in this dissertation.

## **1.2. Acknowledgement**

It is to be noted that the discussion in this dissertation is often at a granular level, and at no time do I intend for what may present as critique and discussion to reflect negatively on the stellar work that the SA TRC accomplished; nor to diminish the importance of the SA TRC in any respect; nor to undervalue its contribution to the all-important (and relatively peaceful) initial political transition process in South Africa. Having read and reflected upon the SA TRC transcripts, and the volumes of the SA TRC Report, and much of the other literature and news reports on the SA TRC besides, and having lived through the process, it is only right to recognize the SA TRC as an institution, and also the effort, diligence and scholarship that went into this massive effort

compressed into a relatively short period. Its value and contribution must be acknowledged, which I hereby do.

### **1.3. How the dissertation is organized**

Due to the overall extent of the research and analysis conducted in the context of this dissertation project, I mostly discuss only key extracts from testimonies in the main body of the dissertation to illustrate the main points made. Following this (Chapter One) Introduction, Chapter Two sets out the “Subject and Significance” of the study, and situates the dissertation within the SA TRC literature and relevant TRC institutional and legislative aspects, but all specifically in the context of witnesses “being heard.” Chapter Three explains the rationale for drawing upon the different literatures impacting the opportunity to be heard, and the linkages to “being heard.” Also how these approaches complement the main focus of the dissertation, which is a critical narrative analysis of the HRV testimonies of the SA TRC. Chapter Three further sets out what the dissertation aims to achieve, also what it does not aim to achieve, and possible limitations of this study. The chapter concludes with the research questions which support and inform the title and main research question of the dissertation, namely what the nature of witnesses “being heard” in the SA TRC forum may be.

Chapter Four focuses in some detail on a review of the different literatures which form the theoretical foundation for the research approach in this dissertation, especially the critical narrative analytic frame. In addition, the literatures which supplement the critical narrative frame are discussed including procedural fairness, the “Voice” literature, and the procedural justice literature, as they may all provide different perspectives and

insights in respect to the witnesses' opportunity to be heard, and being heard, at the SA TRC forum.

A broad framework of themes and concepts drawn from these literatures, particularly the foundational critical narrative analytic approach, is also central to the “Methods and Methodology” which is used as the basis for the research approach in this dissertation, and which is discussed in Chapter Five. The utilization of the SA TRC testimonies as the source material for this dissertation is addressed in some detail, including the possible challenges and critiques that could be leveled against the use of these testimonies as the research “data.” I explain why in the context of this dissertation I refer to the testimonies as “source material” rather than as data. In addition, Chapter Five also sets out the other methods and methodologies utilized for the research approach in this dissertation, notably the case study approach; the inductive and qualitative research approaches; elaboration of narrative which emerged partially from the inductive research process and which is used as a main focus and organizing principle for the research, and the broad analytic frame drawn from the literatures. The reading and review process (and approach) which led to the selection and the initial analysis of the testimonies is also explained in Chapter Five, including the evolution of the broad initial framework into a more dynamic and integrated approach and perspective. This more dynamic and integrated approach which evolved further as the research progressed is utilized as the starting point for the in depth analysis and discussion of the selected testimonies and excerpts, which is the focus of Chapter Six.

Chapter Six (Analysis and Discussion) is organized in two Parts, A and B. The purpose of Part A which is an integral part of the analysis and discussion is to illustrate how the evolving research process connects to the testimonies through utilizing examples from the testimonies. Part A concludes with an update of the research approach, in preparation for the analysis and discussion which follows in Part B. This update includes two additional key and indeed foundational insights which form a central part of the analysis and discussion in Part B, namely *first* concerning the four narrative organizing principles, and *second* the adaptation of the international development logic model to the research framework developed in this seminar; and Part B then follows with a more comprehensive and integrated analysis and discussion of the selected testimonies. The discussion in Part B of Chapter Six is situated around the four narrative organizing principles mentioned above which were developed as an outcome of the inductive research approach. The particular four iterations for the organizing principles were formulated on the basis that they seemed best to describe and encapsulate the dynamic between elaboration and a witness being heard, both in situations where narrative is elaborated and where it is not, as reflected in the transcribed and selected testimonies of the SA TRC. The four organizing principles and the four iterations include the “*First organizing principle*: Narrative is not elaborated, and seems not to assist the witness in the process of being heard;” also the “*Second organizing principle*: Narrative is not elaborated, but yet still seems to assist the witness in the process of being heard;” then the “*Third organizing principle*: Narrative is elaborated, but seems not to assist the witness in the process of being heard;” and then also the “*Fourth organizing principle*: Narrative is



elaborated, and seems to assist the witness in the process of being heard.” Under each of these organizing principles are specific foundational testimonies selected as broadly illustrative (if not representative) of that organizing principle, and in addition to the discussion of the foundational testimony, selected additional sub-topics are also discussed in the context of the respective organizing principles.

The final Chapter Seven “Conclusions” of this dissertation is organized under three sub-headings; first an “**Overview, innovations and contributions**” of the dissertation are provided; second “**Reflections and Conclusions**” follow which are based on fourteen sub-themes which emerged during the course of the analysis and discussion of the SA TRC testimonies in this dissertation. These reflections include (for instance) themes such as *narrative public spaces disconnects* where the discussion reflects upon the apparent disconnections that exist between the narrative public spaces initially established by the TRC, and what actually transpires later in the testimonies; *elaboration, but often guided and impacted by the prior witness statement* where the discussion reflects upon how elaboration actually is present in many instances but also often guided by the witness prior statement which may actually serve to guide (and limit) the testimony and elaboration, and move the testimony in the direction of the prior witness statement rather than developing the narratives of the witness; *the struggle over positions: positioning and repositioning*, where the discussion reflects on the many and important instances of witness positioning in these narratives, also by the TRC and the TRC’s own positioning; *narrative cues or narrative openings not picked up on, and not developed*, where the discussion reflects on the many instances of narrative cues not

developed in different contexts, and the potentially negative impacts of these missed opportunities for elaborating narrative, to mention just four of the fourteen topics discussed there.

Then last follow “**Recommendations**” which set out selected recommendations which flow directly from the prior “Reflections” discussion and are encapsulated under three focus areas: the first is organized around the theme of “**Aligning TRC policy objectives and policy implementation challenges with witnesses ‘being heard;’**” The second focus area is organized around the theme of “**A more deliberate orientation towards narrative for TRC officials;**” and the third focus area is organized around the theme of “**Potential areas for future research.**” This also concludes the final chapter of the dissertation.

## CHAPTER TWO

### SUBJECT AND SIGNIFICANCE OF STUDY

In her acclaimed book “Country of my Skull,” South African author, poet and journalist Antjie Krog (2002, p. 225-36) relates her experience during the amnesty hearing of three men who are seeking amnesty before the SA TRC, for their role in the Heidelberg Tavern attack where several people were wounded and four were killed. She observes the three men whilst the victims are telling their stories, and at one stage writes: “I peer at the applicants for a sign of remorse, a sign of contact, a sign that they *hear*, that they understand pain, that they wish things were different... They seem impassive at best and proudly arrogant at worst. I scold myself – how do I know?” (Italics in original, p. 234).

The above reflection raises an important question whether the perpetrators are actually hearing, but perhaps more importantly, how do we know that someone who is telling their story before the SA TRC is herself being heard, whether she be a victim, a survivor, or even a perpetrator?

When those impacted by conflict have an opportunity to tell their stories, it is often said that they have “voice” (Shea, 2000, p.47; Graybill, 2002, p. 86; Ross, 2003, p. 13), and increasingly these stories are told in Truth and Reconciliation Commissions (TRC’s) or some similar quasi-judicial forum. However, having voice, or more broadly

the *opportunity to be heard*, does not necessarily mean that witnesses are *being heard*. There is in fact a tension in the SA TRC proceedings between the more formalistic procedural fairness and practical demands inherent in a quasi-judicial forum, and a witness being able to tell her story. For instance, the TRC Commissioners and officials leading the testimony always had a prior statement made by the witness as part of the preparation and the proceedings, and these prior statements understandably were used as the basis for leading the testimony. However, on occasion (as is shown in the discussion elsewhere in this dissertation), the prior statement was also the basis for interrupting the testimony of the witness when she deviated from the prior statement and hence the developing narratives of the witness would also be interrupted. This power to interrupt is also related to the TRC officials' power over the process (Lukes, 1974) which is inherent in the TRC institutional processes (again as a quasi-judicial forum), and therefore the interruptions and other questions of the TRC officials which impacted the narratives were not just based on the existence of the prior statement as such, which is all discussed in context below.

Upon closer examination it is apparent that there is a knowledge and integration gap in the SA TRC literature from the perspective of what it may mean for witnesses to actually be heard in those proceedings, and in particular within the investigative frame suggested in this dissertation, and our understanding in that respect is limited.

### **2.1. Focus of Dissertation**

This dissertation proceeds from the premise that it matters for us to know more about the nature of witnesses being heard in a TRC, more than just having the

opportunity to be heard. The focus is therefore to investigate what it may mean for witnesses to be heard in a TRC forum, by utilizing the SA TRC as an instrumental case study, discussed in the Methods and Methodology Chapter below. Through improving our understanding in that respect, we may also gain broader insights into what it may mean for parties “being heard” in other conflict and post conflict environments.

The knowledge and integration gap in the SA TRC literature is especially so if viewed from within a critical narrative analytic framework of the testimonies. It is also apparent from the literature that existing insights from other disciplines and literatures from an *opportunity to be heard* perspective have not in the past been utilized within a broader framework, to supplement a critical narrative analysis at its center.

No TRC can deliver on all the expectations (see the discussion in this respect in Hayner, 2011). Therefore, it is important to fully enable the witness to be heard in that forum, even within all the institutional and other constraints, as this may be the only opportunity for her to publicly tell her story and to be heard. The final report of the SA TRC notes the dissatisfaction of many victims because they felt that their case was not investigated; or that no new information emerged (in spite of them naming perpetrators); or because the truth was not uncovered (SA TRC Report Vol. 1 (2), p. 35). Also, the trade-off of “truth for justice” (ibid, p. 37) was not at all as successful as generally accepted, at least on an individual level. The authors, relying on Wilson (1996) state that TRC’s are essentially symbolic and can generally “only make a weak claim to carry out justice” (p. 37). Also, we see from the testimonies of the SA TRC many instances of witnesses being frustrated by not being able to fully tell their story.

It is also broadly accepted that “black South Africans were generally not surprised by the evidence of abuse by state forces: they were victims and witnesses to these abuses themselves” (Hayner, 2011, p. 21). In this respect Claire Moon (2009, p. 72) reminds us that “the truth commission has become the main site... for the symbolic recognition of what is already known but was officially denied.” But specifically on an individual level, Hayner goes on to say that due to limited time and resources, “few victims who provide testimony to a truth commission are able to learn new information about their own case” (2011, p. 21). Enabling an opportunity to speak and be heard that also allows for more narrative space to at least start the process of narrative repair, and restoring moral agency (referencing only two perspectives from the critical narrative analytic frame), would broaden the opportunity to be heard. In spite of a mandate to be “victim focused” (art. 11 of the SA TRC Act), the testimonies often show mixed opportunity for the witnesses to tell and elaborate upon their stories. Even if the many other expectations cannot always be met by the TRC, the witness can (at least) publicly tell her story and (at least) have the best available opportunity of being heard.

## **2.2. The SA TRC in the context of witnesses “being heard”**

### **2.2.1. Overview**

Following on the SA TRC introductory observations which are reflected in Chapter One above, I now propose to discuss the SA TRC specifically in the context of witnesses “being heard.” First, I will focus on the work of the HRV Committee; second, I will focus on the relevant provisions of the SA TRC Act; third, I will focus on the SA

TRC standing in for the “Other;” and fourth, I will focus on a selective overview of the SA TRC literature in the context of witnesses being heard.

### **2.2.2. Human Rights Violation (HRV) Committee and witnesses being heard**

The work of the HRV Committee is the most relevant for purposes of this dissertation, and it “was entrusted to hear victim’s stories in order to establish whether gross violations of human rights had occurred” (Graybill, 2002, p. 6-7), through investigations and public hearings. However, the goals of the HRV Committee as set out in the SA TRC Act were not only to gain a fuller picture of the human rights abuses of the past and for victims to tell their stories, but also importantly to restore their human and civil dignity (Graybill, 2002, p. 6), exactly through telling their stories. This important but also potentially problematic assumption and link between telling stories and restoring dignity is discussed under sub. par. 4.4.1 below in the Literature Review Chapter, and the question is also how that intention to link story telling with restoring dignity actually played out in the context of witnesses “being heard,” and how we can discover more about what that may mean, within the context of the research approach adopted for this dissertation.

Great efforts were made by the SA TRC at inclusiveness, participation and transparency, and a dual focus was placed on human rights abuses and amnesty hearings across the country, but in terms of the work of the HRV Committee only 22, 000<sup>5</sup> or so

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<sup>5</sup> A discrepancy exists in respect to the numbers reported for the total witness statements taken prior to the SA TRC proceedings. Graybill (2002, p. 8) states 22,000, Krog (2002, p. vii) states approximately 20,000 and the SA TRC Report states “at least 21,000” (TRC Report, Vol. 1 (2) p. 163).

HRV (“victim”) statements were recorded (Graybill, 2002, p. 6), already a very small percentage of the total black population who were subject to apartheid, and only approximately 1700<sup>6</sup> testified (Picker, 2005). These approximately 22,000 statements covered 37,000 violations (Graybill, 2002, p. 8). Even so, the momentous effort and work of the HRV Committee culminated in one hundred and forty hearings in sixty-one towns across South Africa (ibid; SA TRC Report). The work of the HRV Committee and how they actually proceeded will also become clearer in the context of the analysis and discussion set out in Chapter Six below.

### **2.2.3. SA TRC Act and witnesses being heard**

The broad goals and purpose of the SA TRC Act are set out in the preamble and it is interesting to note that nowhere in the preamble is the policy of apartheid mentioned by name, but instead the purpose is framed in the context of investigating the “past conflicts” related to establishing “as complete a picture as possible of the nature, causes and extent of gross human rights violations from March 1, 1960” even though the policy of apartheid was instituted after 1948, which reflects another political and practical compromise. The goals of the TRC also included establishing the “fate and whereabouts of the victims,” grant amnesty to those who would “make full disclosure of all the relevant acts” which were committed with a political objective; and also to focus on measures related to reparation and to restoring the human and civil dignity of victims, the

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<sup>6</sup> The number of witnesses who actually testified in the HRV hearings before the SA TRC is also inconsistent across the various publications. Picker (2005) states that approximately 1700 testified, but others state approximately 2000 (Hayner, 2011, p. 28; Krog, 1999, p. vii.). The number of testimonies that I transferred to a Word based folder and document system as discussed in the Method and Methodology Chapter above, is 1874 testimonies.



latter aspect which is addressed in the context of the TRC testimonies in the discussion in this dissertation.

More specifically, and important for purposes of this dissertation research and discussion, the approach to witnesses' opportunity to be heard (if not being heard) in the SA TRC is captured in the underlying theoretical assumptions set out in the SA TRC Act in several respects. This can be seen as an expanded example of the procedural fairness approach discussed in the Literature Review Chapter below, and is framed very much through a quasi-judicial lens. Important provisions in respect to the quasi-judicial nature which also illustrate the underlying assumptions, are that both those testifying in human rights abuse proceedings and in amnesty hearings should have the opportunity to be heard, for instance as set out in art. 30 entitled "Procedure to be followed at investigations and hearings of Commission, committees and subcommittees." This article includes the interesting provisions under art. 30(2), that any person who may be implicated in any proceedings before the TRC in a manner that may be possibly be detrimental to them, has to be informed and then can make submissions or give evidence, in other words another incorporation of the quasi-judicial approach in respect to the opportunity to be heard; and the same applies to any person who appears to be a victim. The preceding illustrates the more formalistic approach, where the underlying assumption is that compliance with a number of procedural steps not only constitutes the opportunity to be heard but also means that a witness *is actually heard just by having that opportunity and where the procedures have been complied with.*

However, there is also an additional focus in the SA TRC Act, which is that the proceedings should be “victim centered” (art. 11). This “victim centered” approach is organized around several principles including compassion; respect; equality; and information sharing (ibid), and is seemingly geared towards softening the quasi-judicial impact of the SA TRC. This focus also reveals another underlying assumption of the SA TRC Act, namely that a quasi-judicial approach can accommodate such a victim-centered focus, which could potentially create a tension in the actual SA TRC proceedings.

The SA TRC Act also makes provision for “informal” (art. 12) alternate dispute resolution mechanisms, including mediation, arbitration and customary law mechanisms (ibid). However, I would argue that it would not have been necessary to specify customary law if the mediation and arbitration references were not understood in a non-customary law (meaning Western) way, again confirming that this important statute establishing the SA TRC is a Western based example of the procedural fairness approach, which forms part of the broad framework which informs the research in this dissertation. The question is how this quasi-judicial framework impacted the actual proceedings and telling of stories before the SA TRC and what the impact on witnesses being heard may be, which is a focus of this dissertation within a critical narrative analytic approach. There are many important examples where the quasi-judicial nature of the SA TRC is apparent and impactful on the narratives, and these are also discussed in the context of Chapter Six: Analysis and Discussion below.

#### **2.2.4. SA TRC standing in for the “Other,” and witnesses being heard**

The important role of the SA TRC in providing witnesses with the opportunity to be heard to give their testimony and tell their stories in public is apparent. Sanders (2007) in his book "Ambiguities of Witnessing: Law and Literature in the Time of a Truth Commission" goes further and makes an important point in respect to the role of the SA TRC. Sanders argues that the Commissioners and those leading the testimony in the SA TRC can be seen to be standing in for the “Other,” who may not have been at the proceedings when the witness told her story. The argument is set out as follows, and Sanders’s view offers an interesting perspective for the research in this dissertation:

“Taking the place of the other - in Levinasian terms, taking on the responsibility for the responsibility of the other for the other - ... was basic to the operations of the Truth Commission. One aspect of this is to assume, as it did, the unacknowledged responsibility of the perpetrator for the deeds of the past. The commission functioned as a national clearinghouse between victims and perpetrators, even if it did not often arrange actual meetings between them. Set to work in this system, responsibility therefore depended on the possibility of substitution” (p. 19-20).

The approach that Sanders adopts is particularly relevant for the role of the SA TRC to enable the elaboration of narrative and at least to start the process of launching an aesthetic ethics (Cobb, 2013), in order for the witnesses as victims and survivors who were formally excluded to begin to regain their moral agency. In the absence of the perpetrator, the TRC could possibly do more to fulfill that “perpetrator role” as it were for the victim to be repositioned in her narratives and to no longer be excluded from her own story. The “Self” requires the “Other” in this process of social construction (Cobb, 2013, p. 152-3), and the relational role of agency in the context of being heard is central to that process. Against that background Sanders’s perspective of the SA TRC as a stand-

in becomes all the more important and is therefore incorporated into the critical narrative approach which is used as the basis for the research in this dissertation, and will be discussed more in context below.

In the context of witnesses being heard, the TRC also potentially had yet another role. To what extent was the SA TRC itself a participant and witness to the TRC proceedings, contesting for the narrative public spaces with other witnesses to advance the cause of the TRC, whilst at the same time having the important role of determining those narrative public spaces, and in that process also utilizing its own opportunity to be heard and struggling to be heard, within the context of the research frame for this dissertation?

Moreover, the SA TRC was established and the testimonies were delivered during an important and sensitive period of political transition in South Africa. During that period there was no doubt a lingering and heightened underlying conflict potential present in that society, which at the time posed a particular challenge and risk to the “fledgling democracy” (Crocker, 2000). By incorporating the perspective of Sanders into the research frame on the potential role of the SA TRC as an institution and the “possibility of substitution” from a critical narrative perspective, we may learn more of how a TRC could intermediate some of the underlying conflict potential during these difficult transitional stages.

### **2.2.5. Selective overview of literature on the SA TRC, in the context of witnesses being heard**

By way of introduction, I should note that in addition to this overview I focus more specifically in the Literature Review Chapter below on the SA TRC literature within what I term more broadly the “Voice” literature, in the context of developing an initial broad frame to inform the analysis (or at least the initial analysis) of the SA TRC testimonies in support of the critical narrative approach. The discussion below is focused more on literature pertaining to the witnesses, testimonies and proceedings at the SA TRC.

The present body of SA TRC literature, including broader initiatives on both the domestic and international fronts to facilitate discussion and research, is extensive,<sup>7</sup> but to my reading does not address the specific topic addressed in this dissertation, nor explore the same approach. Even so, perspectives are presented in this body of literature which may be helpful to the dissertation and selected aspects are discussed below.

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<sup>7</sup> In South Africa initiatives include the South African TRC itself: <http://www.justice.gov.za/trc/>; the Institute for Justice and Reconciliation (<http://www.ijr.org.za/about-us/>); the Center for the Study of Violence and Reconciliation ([https://www.csvr.org.za/component/customproperties/tag/Publications%20by%20subject-Truth-Commissions?bind\\_to\\_category=content:10001,content:138&start=60](https://www.csvr.org.za/component/customproperties/tag/Publications%20by%20subject-Truth-Commissions?bind_to_category=content:10001,content:138&start=60)); the University of Witwatersrand’s Historical Papers Research Archive ([http://www.historicalpapers.wits.ac.za/index.php?11/P/Truth-and-Reconciliation-Commission-\(TRC\)-Project](http://www.historicalpapers.wits.ac.za/index.php?11/P/Truth-and-Reconciliation-Commission-(TRC)-Project)), to name a few, and there are also international initiatives or research databases, including the International Justice Center (<https://ijrcenter.org/cases-before-national-courts/truth-and-reconciliation-commissions/>); the International Red Cross which dedicated a full “International Review” to the subject where the SA TRC features prominently (<https://www.icrc.org/en/international-review/truth-and-reconciliation-commissions>); the United States Institute of Peace (<https://www.usip.org/issue-areas/reconciliation>); and the International Center for Transitional Justice (<https://www.ictj.org/our-work/regions-and-countries/south-africa>), again just to name a few. All these websites were accessed over a period with the last date accessed on February 2, 2019).

One research project focused on twenty victims perspectives' before and after they testified at the SA TRC, including in respect to their opinions as to "the value of truth-telling and its interrelationship to justice" (Hamber *et al*, 2000, p. 19). Findings include that in spite of, or perhaps because of high expectations before testifying which were mostly related to expectations that the truth will be revealed (p. 22-3), many had ambivalent responses after testifying. The prevailing ambivalence (and in a few cases even disappointment) is largely related to *uncertainly as to the process and outcomes* – in short, that very little had changed (p. 22-30) whilst they were expecting the process to be *personally beneficial* (p. 33). Could these outcomes be related to procedural fairness or procedural justice considerations where they expected more than just the opportunity to be heard, and therefore in that sense were not heard? These dynamics are discussed in the literature review chapter below.

Another study also specifically sought to canvas victims' experiences who testified before the SA TRC (Picker, 2005), by way of focus groups across South Africa. The key theme that emerged was the lack of monetary reparations and many victims even felt thus exploited by the process of testifying (p. 6). Again, procedural fairness or procedural justice considerations may have played a role here, which illustrates the tension between just having the opportunity to be heard and being heard. The other theme was that a sense of justice was denied because of the truth not being uncovered, and the TRC being on the side of the perpetrators (p. 6-7). Public hearings also held a certain danger for some (p. 10-11).

A rare example of research related to a TRC- type amnesty scenario was conducted by Gibson (2002), using structured interviews with 3727 South Africans of all races regarding scenarios of providing amnesty to fictional apartheid “perpetrators,” testing perceptions of justice of the process. The main findings include that compensation matters, but other factors such as *victims telling their stories* and apologies also matter (p. 553-5). The dissertation research focuses on the dimension of victims telling their stories and the importance of that can be seen from this research, but the question is what did actually happen there when seen from within the research frame, in respect to being heard?

There are also many examples in the SA TRC literature where individual narratives, texts and interactions from the TRC testimonies are discussed, but largely to examine specific topics such as what survivors say about justice (Van der Merwe, 2008, p. 23-44); or about amnesty and forgiveness (Boraine, 2000, p. 146-7); or about the problematic use of the concept of “ubuntu” in the TRC narratives and interactions (Sanders, 2007, p. 23-33), where ubuntu is understood “as a notion of reciprocity: a human being is a human being through other human beings” (p. 24). Verdoolaege (2008) likewise examines many SA TRC testimonies and narratives but her focus is to ascertain patterns of discourse, and she develops a good case that a master narrative which constitutes a “reconciliation discourse” (p. 57) was developed before the TRC, which is an important insight for this dissertation project, and is discussed in context below. Jolly (2010) utilizes a narrative approach to investigate culture and violence embedded in the SA TRC narratives, and sets out to:

“critique narratives as forms of listening that can ‘hear’ or capture certain subjects within the contemporary social, political and cultural moment, while remaining ... ‘deaf’ ... to others. Such ‘deafness’ renders those others literally inconceivable... The narrative forms we use to describe the past and to relate to the here and now can be seen as forms of listening that hear or capture certain aspects of the narrative of transition, but can remain deaf to, or ignore, others. This is what I term ‘deaf listening’; and it obtains in different modes of what I shall define as entrenched, or cultured, violence” (p. 5).

She offers a critique of the SA TRC narratives, as she sees dimensions of “entrenched or cultured” (ibid) violence embedded in these narratives, due to selective “deaf listening” (ibid) caused by entrenched systemic realities in respect to violence. She argues that we do not even hear this embedded cultured violence in the narratives. Even though her focus and approach were different from the focus of this dissertation, it shows that the use of a critical narrative perspective in the context of the SA TRC narratives to examine a specific topic can be helpful.

One approach to better understand “being heard” in the SA TRC narratives could be to simply repeat and retell the stories. For instance, Krog (2002) weaves many excerpts from testimonies delivered before the SA TRC into her writing. These excerpts are so powerful that often no additional comment is provided, or perhaps required, but just as often she contextualizes these excerpts with reflections on the contemporaneous proceedings and settings, and on people and personalities, and on South Africa’s and her own personal history, and on truth and reconciliation. I would argue that what happens here is also a real focus on attempting to “hear” these witnesses by repeating their stories, in order for others in turn to hear them. It may also be a form of recognition and witnessing (see discussion in the literature review chapter below), or empathy (ibid).



However, in spite of these and other instances in the literature where the SA TRC narratives have been quoted, discussed and analyzed in a specific context or generally, to my reading there is no reported research covering the focus area of this dissertation project, especially not within the approach and the research frame as discussed in the next chapter. It is important to fill this gap. Already it is often difficult enough for any participant to, or witness in, a conflict or post-conflict situation to just receive an *opportunity to be heard*, and then during that opportunity to hopefully be *listened to* (as the challenges with even listening are touched upon elsewhere in this dissertation), not even to speak of the witness as a result of that process to actually *being heard* (or not), and what that may mean. Any additional insights which may assist a witness with a more developed opportunity to be heard and also possibly provide all participants (such as TRC officials) with a better understanding of the narrative processes during those interactions in conflict and post-conflict interactions and processes, must be welcomed. That is why the investigation is based on analyzing the narratives and interactions of the many transcribed testimonies of the SA TRC as the source material, and to incorporate insights from different literary and practice traditions, and to investigate this key puzzle to learn more about what can perhaps be seen as a journey from having the opportunity to be heard in the SA TRC forum, to possibly and actually being heard (or not).

## CHAPTER THREE

### RESEARCH APPROACH AND QUESTIONS

#### **3.1. Introduction**

Following on the discussion above, in order to deepen our understanding of witnesses being heard in the SA TRC forum and to address the knowledge gap in the SA TRC literature, the overall research approach in this dissertation is to utilize concepts and perspectives from the critical narrative literature where “being heard” has received attention, supplemented by selected concepts and perspectives from the literatures which illuminate the opportunity to be heard in order to investigate the narratives and texts of the SA TRC testimonies as a limited case study, within a critical narrative analytic perspective.

#### **3.2. A broad initial framework**

The purpose of developing the broad initial framework of themes (or concepts) by bringing together ideas of procedural fairness, “voice,” and procedural justice with critical narrative theory as the foundation, is to include different perspectives on the opportunity to be heard, in order to broaden the approach to investigate what it may mean for these witnesses to be heard. The underlying idea is that before a witness (or any speaker) can be heard, there presumably has to be some *opportunity* to be heard, even though it be through silence. Therefore, by drawing on a more expansive set of literary

and practice traditions which also focus on the opportunity to be heard, a broad frame to guide the analysis (or at least the initial analysis), of the SA TRC testimonies within a critical narrative approach can be developed.

These themes are derived from literature reviews which are discussed more fully in the Literature Review Chapter below. Due to the extent of the literatures not all the concepts in the broad framework derived from the various “opportunity to be heard” literatures are fully and equally utilized in this dissertation. However, the critical narrative analytic approach which provides the theoretical frame and also the foundational method and methodology will determine how the themes are incorporated, by means of an inductive research approach focusing on the selected testimonies and narratives. The broad framework including the aspects which were less utilized or even unutilized in the context of this dissertation, also presents interesting opportunities for future research and all the preceding is discussed in detail in the chapters following below.

### **3.3. Why incorporate perspectives from different literatures?**

The literature on *narrative and critical narrative theory* which is the basis for the analysis provide insights where “being heard” could be predicated on the struggle over positioning and legitimacy (and other factors), within a process of meaning making in narrative. However, this approach could be enriched because TRC’s are quasi-judicial bodies where procedural fairness and procedural justice considerations could be key factors.

The *procedural fairness* literature presents a valuable perspective on the quasi-judicial aspects of the opportunity to be heard, but this does not necessarily mean that the witness is actually “being heard.” The underlying premise of procedural fairness, or “due process” more broadly, is that an opportunity to be heard which is predicated on sufficient procedural steps would equal a witness actually “being heard,” within a more formalistic approach. Typical elements of that approach could include the right to timely and adequate notice of any proceedings; the requirement of having to make a prior statement under oath before being able to testify, and then where the statement can later greatly impact the narratives; subpoena power; witnesses being obliged to take an oath or make an affirmation; testifying under stricter rules than just being able to develop one’s narratives, and more (Freeman, 2006), as discussed in the next Chapter. The reality is also that the SA TRC was a quasi-judicial forum and in that sense the underlying impact of the procedural fairness tradition was significant. Even so, no or limited use is being made in that context of especially narrative and critical narrative theory, and also “voice” considerations such as empathy and recognition, and also not always of procedural justice.

The *procedural justice* literature presents a valuable perspective on how a person *experiences* procedure, or what one could term the experiential procedural dimension of an opportunity to be heard, rather than just focusing on distributive justice or outcomes. However, this also does not necessarily mean that a witness is “being heard” if she experiences procedural justice, as will be discussed below. Also, no or limited use is

being made in that context of narrative and critical narrative theory, or considerations stemming from the “voice” literature.

The *voice* literature (from the perspective of this dissertation) presents a valuable perspective *inter alia* on silence, recognition, empathy, and witnessing. However, in that context often limited use is being made of other dimensions of narrative and critical narrative theory, and particularly procedural fairness and procedural justice considerations. Therefore, based on the above considerations, a more integrated research framework was developed for this dissertation, as discussed in more detail below.

### **3.4. Elaboration of narrative as the organizing principle**

Following an inductive approach which is part of the research methodology adopted for this dissertation; and following an initial reading of a number of testimonies, the concept of “elaborating narrative” from the critical narrative literature emerged as a fitting and dynamic overall organizing principle for the research. This process is discussed in detail in the Methods and Methodology Chapter below, and in addition the subsequent and ongoing research pointed to the fact that elaboration of narratives in the SA TRC testimonies appear to develop and manifest in four different directions. This was an important insight and is discussed in “Part A” of Chapter Six, as part of an illustration of how the research framework connects to the testimonies, and also as part of an update of the overall research framework. It was necessary to update the research framework with insights stemming from the inductive research process up to that point, before embarking on an integrated analysis and discussion of the selected testimonies in Part B of Chapter Six, “Analysis and Discussion.”

### **3.5. What this study does not aim to accomplish**

This investigation does not presume to declare in absolute terms when witnesses are “being heard” (or not) in these testimonies and interactions. It is acknowledged that being heard is a multi-dimensional and complex concept, and that many more aspects from different disciplines and perspectives could be added to this discussion.

The whole approach and purpose is to investigate what it may mean to “be heard” in this important TRC forum, and what lessons can be learnt based on the testimonies, texts, narratives and interactions in the SA TRC, in other words based on what actually happened there from a critical narrative perspective within the context of elaborating narrative and the literature on the broader opportunity to be heard, and furthermore within an inductive research approach.

It is also not the focus of this dissertation to distract from the important objectives of seeking truth, or reconciliation, or even retribution depending on the perspective one may have of the SA TRC, but to investigate if there can also be an equal focus on the witness actually being heard, and what that may mean. There is a tension in these proceedings in that the focus on new information and “truth” however defined is important, but also that this approach still may not necessarily focus on restoring the moral agency, legitimacy and natality (Cobb, 2013, p. 126) of the witness, nor may it allow for narrative repair and for the development of counternarratives (Nelson, 2001), all of which may contribute to the witness actually being heard. These concepts (for instance) are drawn from critical narrative theory and are discussed in detail in the Literature Review Chapter next, along with other potentially important concepts based in

yet other literary traditions. The ideal would be for more integration of a critical narrative approach in developing the witness testimonies and narratives, with the other important and usually more well-known TRC objectives such as for instance seeking truth and reconciliation in the SA TRC proceedings.

In addition, whilst I acknowledge the importance of related themes such as the pervasive and systemic impact of apartheid; also the (systemic) human rights abuses and the systemic aspects of gender, race and class which were present in the South African society, as important as these themes are they fall outside of the scope of the dissertation research and are consequently not a focus of this dissertation, at least to the extent that they did not relate to the narrative dynamics in the testimonies.<sup>8</sup>

In conclusion, given the specific focus of the research, this dissertation also does not set out to conduct a broad comparative TRC study or to engage in any depth with the topic of what has become known as transitional justice.

### **3.6. Potential challenges and limitations of study**

I was born and grew up in apartheid South Africa and worked there as an attorney and in other legal capacities all of my professional life until I joined the World Bank in Washington DC as a mid-career professional in the late 1990's. Therefore, I lived through most of the apartheid era as a white male, later I followed the South African end of apartheid transitional and Constitutional negotiations very closely whilst still living in South Africa, and had the privilege of voting in the first fully democratic election on

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<sup>8</sup> There are many excellent sources related to the more systemic aspects, also as they relate to the life stories of survivors, for instance Rogobete (2015) "Reconstructing trauma and meaning: Life narratives of survivors of political violence during apartheid in South Africa."

April 27, 1994. I also closely followed the process which led up to the establishment of the SA TRC, and listened to the TRC proceedings and summaries daily as they subsequently unfolded. My interest in all this was as a South African of course, and as a human being simply absorbing the stories of suffering and loss of other fellow human beings, but also as a lawyer. The due process (or opportunity to be heard) interactions during the SA TRC proceedings as a quasi-judicial forum interested me greatly – both in respect to the HRV hearings and the Amnesty hearings. That interest partially motivated and informed the dissertation and the research. However, the preceding reality also has the consequence that I did not come to this research as a *tabula rasa*. Even though I have the advantage of a comprehensive understanding of the background, colloquial terms, cultural, geographical and historical references which appear very frequently in the SA TRC testimonies, I am also aware of the potential concerns this may pose for the research. I tried to moderate any potential concerns by maintaining the overall focus on elaboration of narrative and on individual witnesses being heard, within the research frame as described in this dissertation.

Second, one of the contributions of this dissertation also exposes one of the potential limitations of the project. Situating and viewing the different literatures in the Literature Review Chapter from the perspective of the opportunity to be heard, and attempting to integrate key concepts from these literatures into an analytic frame to obtain a different perspective on being heard, means that not all of these concepts could be fully developed in this dissertation, and in that sense constitutes a potential weakness. However, I nevertheless discuss the overall themes in the Literature Review Chapter in



some detail to provide context for this dissertation (even though all the concepts were not incorporated), as I believe this to be one of the contributions of this dissertation, and as this is an area for possible future research as discussed in the Conclusions Chapter.

Third, important aspects from the overall frame in the Literature Review Chapter, such as the role of gender; also the impact of the audiences; and the impact of silence on the SA TRC testimonies, are only developed to the extent that these aspects can be discerned from the transcripts based on what transpired at the SA TRC, within the research frame. For instance, gender was a particular issue during the early part of the SA TRC proceedings due to the underrepresentation of women as witnesses, except as a mother or wife, as discussed in the Literature Review Chapter. The dynamics cannot always be discerned from the transcribed testimonies. Again, I tried to moderate any potential concerns by maintaining the overall focus on elaboration of narrative and individual witnesses being heard, within the research frame as described in this dissertation, and by reading the great majority of the testimonies over time and at least two hundred testimonies read in great depth as the research progressed and the themes of the dissertation were becoming more clear. This process is discussed in the Methods and Methodology Chapter below.

Fourth, it is acknowledged that the transcribed and published SA TRC testimonies have certain shortcomings as the source material selected for this dissertation. The use of these testimonies as the source material is also discussed in detail in the Methods and Methodology Chapter below.

### **3.7. Research questions**

The main research question and title of this dissertation relates to what the nature of witnesses “being heard” at the SA TRC may be, as reflected in the witness testimonies. The rationale and motivation for this research question is explained above and also elsewhere in this dissertation and it is apparent that in order to investigate this main research question, certain other “parts” are inextricably linked. These “parts” are reflected in the research frame and are drawn from various literatures with a critical narrative analytic approach at the foundation. For the critical narrative approach I draw from “Speaking of Violence” (Cobb, 2103) which I believe to be a seminal contribution in the context of viewing narrative as central to conflict analysis and resolution, and which is a theoretical approach that to my knowledge has not been used as part of a similar research project, and certainly not directly in conjunction with other literary and practice traditions on the opportunity to be heard as I do in this dissertation. Nor has the approach to form a broad research frame based on these different literatures and practice areas been adopted in the past to my knowledge, and again certainly not in the context of the SA TRC testimonies. So the research approach adopted in this dissertation not only allows for investigation of the main research *question* to investigate the nature of witnesses being heard, but also presents an opportunity to learn more about how the research *approach* (based on the literatures and the broad frame) can work as part of a method and methodology.

The additional research questions which inform and support the main question is therefore formulated to reflect different aspects of the research approach in order to see if

I can learn more about that, as part of the investigation into the nature of witnesses being heard. Also, as “elaboration of narrative” became a key concept for the research approach as also discussed in detail in other places in this dissertation, the prominence of the elaboration theme is also reflected as an additional supporting research question.

It is to be noted that inasmuch as I draw from these literatures and practice areas as reflected in the supporting research questions below, and in particular in respect to the critical narrative approach, I in a way “operationalize” parts of a high level theoretical framework from a methods and methodology perspective, and thereby may not do justice to the whole theoretical framework/s, but I believe that the research approach adopted for this dissertation and as also reflected in the research questions, will be a suitable basis for investigating the main focus area of this dissertation project.

The following questions therefore inform the main research question (and title) of this dissertation, namely what the nature of witnesses being heard at the SA TRC may be:

1. How can the themes, concepts, elements and aspects drawn from the critical narrative theoretical frame be utilized as both a research method and as the basis for a methodology, within a qualitative and inductive research approach, to learn more about how witnesses are being heard in the SA TRC proceedings?
2. How can the themes, concepts, elements and aspects drawn from the voice, procedural fairness and procedural justice frames be utilized (at least in a selective fashion) to supplement a critical narrative analytic frame as a method and methodology, within a qualitative and inductive approach, to learn more about how witnesses are being heard in the SA TRC proceedings?

3. How can elaboration of narrative serve as an organizing and key principle to investigate witnesses being heard in the SA TRC testimonies and proceedings, within the broader research frame as suggested in this dissertation, and what can we learn more about the meaning of elaboration of narrative itself during that process?

## CHAPTER FOUR

### LITERATURE REVIEW

#### 4.1. Introduction

The literature review in this Chapter introduces the theoretical basis for the investigation into witnesses in the SA TRC being heard, and also forms the foundation for the research method and methodology as explained further in this Chapter and the Methods and Methodology Chapter below.

In order to accomplish the above, the format of the literature review is organized in a specific way. The discussion is not organized around authors or publications separately and in sequence, in the sense of discussing one author or publication and then moving onto the next, even though the work of Cobb (2004; 2013 in particular) is central to this approach. Rather, the chapter is organized around the possible themes (or concepts) which were identified from the literatures, and which form the theoretical framework and also the basis for the research method and methodology. The overall organization and sequence of the discussion is to focus **first** on critical narrative analysis, which is foundational to the dissertation; **second**, to discuss the procedural fairness literature due to the quasi-judicial nature of the SA TRC; **third**, to focus on the important supporting “Voice” literature, and **fourth** to provide an overview of the relevant procedural justice literature.

It should also be noted that due to the extent of the potentially relevant themes, especially when including the procedural fairness, voice and procedural justice literatures, not all will be relevant ultimately in the analysis and discussion. However, because an inductive or at least partially inductive process is used as explained in the Methods and Methodology Chapter below, and as it is not certain which of these themes or concepts may have greater relevance in a certain discussion especially when the analysis becomes more integrated, I believe that for the theoretical framework it is important to include the themes in the initial framework.

In the above sense, this Literature Review Chapter, and the next two chapters (“Methods and Methodology;” and “Analysis and Discussion”), form a close continuum.

#### **4.2. Critical Narrative Theory and Narrative Outline**

Narratives, or “the storytelling process” (Senehi, 2009, p. 207-9) in principle lends itself to many benefits which will enable voice and being heard, including “empowerment, inclusion, flexibility...openness (and) a safe environment,” (ibid). However, Shuman (2005) reminds us that “The representation of experience in stories is often inadequate, failing the promise to represent and understand experience, but this failed promise, or in positive terms, the almost fulfilled promise, nonetheless provides a compelling process for making meaning of everyday life experience” (p.viii). This investigation is to focus on the not-so-everyday experience of giving testimony in a TRC, at the time of giving that testimony. Furthermore, focusing closer on the politics of speaking and being heard in post-conflict settings, the discussion becomes more complicated. This is particularly so as narratives can be “both productive of conflict and a

resource for its resolution” (Cobb, 2013, p. 141), hence the focus on a critical narrative approach, which has been summarized as follows:

“Narrative analysis of conflict... is intended to provide a framework for the critical diagnosis of conflict processes, illuminating the struggle over meaning, as a struggle over legitimacy in narrative. This framework relies on ‘positions’ and ‘positioning’ processes to track how legitimacy and deligitimacy are constructed and contested... but (is) also extremely relevant for design of interventions... how parties navigate the moral value system they launch via positions in narratives, and how the field of stakeholders, as storytellers, are arrayed in the context of competing narratives and counter-narratives” (Cobb 2003, p. 116).

Different themes or concepts (“themes”), some which are alluded to in the above quote, will be utilized within this broad critical narrative analytic frame when conducting the analysis, which will be further complemented by the themes derived from the procedural fairness, “voice” and procedural justice literatures above, in order to better understand witnesses “being heard” in the context of the SA TRC proceedings testimonies and narratives.

4.2.1. *Narrative public spaces*: The first concept, and a point of departure for the narrative methodology framework, is that narrative processes create public spaces or metaphorically take place in public spaces, and “public spaces are sacred spaces...in which the public imagines together and makes meaning together (but also) in a manner that allows them to know themselves anew, morally” (Cobb, 2013, p. 124, referencing Lara, 2007).

This is an important part of the question for what it may mean for witnesses to be heard at the SA TRC, and is most often influenced by the Commissioners and those leading the

testimony as will be shown in the discussion below. There are also other aspects which impacted the narrative public spaces at the SA TRC which may not necessarily flow from the testimonies, and Shea (2000) notes how the hearings “always featured a lighted candle to memorialize South Africa’s victims of political violence. Opened with prayers and accompanied by hymn singing... (in an attempt) to restore honor and dignity to the victims and survivors, to give them a platform from which to tell their highly emotive stories” (p. 4). In this dissertation investigation and discussion the potential significance of actions like these are not discounted, but the focus is on the narrative public spaces that can be discerned from the testimonies, largely impacted by the statements and narratives in the hearings.

4.2.2. Legitimacy and natality: However, even the creation of narrative public spaces does not mean that stories will automatically be elaborated just by being “out there.” Therefore, second, *legitimacy* is a key concept and not only legitimacy in the sense of (for instance) legal standing, but what Arendt (1998) calls natality, that the very fact of birth is the foundation for and entitlement to freedom, for the individual to be able to act in the world, to have agency (Cobb, 2013, p.126). Freedom in turn materializes in the capacity of “people to speak and be heard” (ibid, p. 127, relying on Rancière, 1999), and to have your speaking “elaborated, even if it is contested” (ibid).

4.2.3. Positioning and meaning making: The third concept is the role and extent of *positioning*, which is central to the discussion on legitimacy and restoration (or construction) of moral competency, in the context of the critical narrative approach. This



“struggle over positions” (Cobb 2003, p. 103) is situated within “the context of existing dominant narratives, which are, in turn, ‘regulated’ by institutions and large scale hegemonic processes” (ibid). One obvious systemic aspect was the dominant narratives still prevalent from the apartheid era regarding the oppressed state of the witnesses before the SA TRC, but the further question is to what extent the SA TRC itself was itself evolving into such an institution, for instance through possibly developing a master narrative of reconciliation (Verdoolaege, 2008) and more, which may have framed and suppressed testimonies.

Contributing to the positioning frame is what Rancière terms the “police order” (Cobb 2013, p. 127), where human passions are managed and speech is only allowed to be reproduced from within existing identities and authorized positions (ibid, p. 128). However, what is needed is not only to confirm that positions are socially constructed, or how they are constructed in discourse, but to focus on “how delegitimate positions are transformed, in and through the evolution of narrative” (p. 162-3). In the context of being heard and meaning-making referenced above, seen another way, here the “struggle over meaning...is a struggle over position” (ibid, p. 106). Thus, the struggles over positioning and meaning-making in the narratives, and their elaboration and evolution (complimented by the other aspects discussed in this dissertation) are important markers for possibly understanding when a party is “being heard” in terms of this framework.

4.2.4. *Disruptions in narrative:* The fourth concept is the extent to which disruption is present or possible in the narrative. Within the state of identification, and the police order

of Rancière, it will be very difficult to be heard or to produce new narratives which will enable a new morality and a new aesthetic, as speech there is just part of the existing (power) relations. Dissonance, disruption and unsettling of those power dynamics and relations are needed for new narratives and a new order to emerge (ibid, p. 127 - 9). Very important for purposes of the SA TRC proceedings is Prof. Cobb's disagreement with the "ideal speech situation" (ibid, p. 127) of Habermas where rationality will triumph and where it is also presumed that the law "will become the domain that both reflects and supports the reasoned will of the people (ibid, p. 149.) Instead, and I agree with her view, the law will rather function imperially, it "kills off those narratives that challenge it" (p. 150). This has very important implications for the SA TRC as a quasi-judicial body in a transitional justice setting, and is exactly what happened on occasion, as will be discussed in context.

4.2.5. Development of an aesthetic ethics: The fifth concept relates to the presence of (or possibility for) development of an aesthetic ethics. Here the focus is on "being heard" from the perspective of a "dynamic and relational space (where) the construction of Self by Other is as important to voice, to speaking and being heard, as the construction of Self alone – hence Rancière's emphasis on 'being heard'" (ibid, p. 233-4); The key question is how an excluded and delegitimized speaker can be (or is) repositioned for legitimacy, natality and moral agency to emerge. It is argued that this can be done through producing a 'better formed story' which was also referenced above, and in addition:

"(a better formed story) is produced by launching an aesthetics in which a person, formally excluded either because he or she was negatively positioned or because he or

she was not even permitted to be a character in the story, positions Self and Other in a manner that increases the narrative complexity, and, more importantly, ensures its elaboration by those very Others who had (narratively speaking) affected the prior state of exclusion. Narratives that contribute to exclusion are ugly – they contribute to totalitarianism; their complexity is reduced, breeding more simplicity” (p. 234-5).

The potential importance of the SA TRC role in this context of the Self that requires the Other in the process of social construction, and the relational role of Agency in the context of being heard, has been alluded to above where Sanders (2007) argues that the TRC had the role of a “national clearinghouse” (p. 19-20), in effect standing in for the perpetrator. It should be noted that moral agency in this context ties in with both the “Self” and with the “Other.” First, this notion is concerned with “the capacity of persons to narrate themselves as having the capacity to be moral actors” (Cobb, 2013, p. 29; Nelson, 2001); but also, moral agency is linked to the way that “Others *elaborate the capacity* of actors to be moral actors” (Cobb, 2013, p. 29, italics in the original).

4.2.6. Evolution of meaning: The sixth concept in the light of all the preceding is the extent to which the narratives indicate an evolution of meaning. How can the narrative process move from the present view that *speaking* is essentially sufficient to constitute participation, to where the participant can actually be heard? (Cobb 2013, p. 144). A critical narrative approach should expand this present practice to enable an evolution of meaning so that both “speaking and being heard is possible” (ibid, p. 155). From this perspective, narratives that do not (also) legitimize the voice of the Other, and do not (also) convey equality, is just noise (ibid, relying on Rancière, 2007). What will not work in terms of this approach to evolve meaning is “a storyline of victimization (such as) ‘I

have suffered and you/they are to blame” (p. 155). Again, the role of the TRC as a type of national clearinghouse (Sanders, 2007, p. 19-20) in effect standing in for the perpetrator is important here, and the question is to what extent that happened, if at all.

4.2.7. *Couternarrative*: An additional perspective to enhance the methodology within the analytic frame is the presence of a couternarrative, within the notion that “marginalized persons have damaged identities” (Cobb 2013, p. 157, relying on Nelson, 2001). Nelson postulates that people’s identities are always damaged under oppression as they are deprived of opportunity, and furthermore, there is a second destructive impact through the internalization of “the hateful or dismissive views that other people have of her” (Nelson 2001, p. 21), and this constitutes “a threat to... freedom of agency” (p.105). However, if stories can be constructed which can enhance the image of Self, or the perception by the Other of Self, then such stories that are more credible of Self can possibly start to repair the damage (ibid). Such a story constitutes a counternarrative, which is a “story that resists an oppressive identity and attempts to replace it with one that commands respect” (Nelson, 2001, p. 6). Oppressive identities “are located in master narratives: the stories found lying about our culture, consisting of stock plots and ready recognizable character types, repositories of common norms... exercise[ing] a certain authority over our moral imagination” (ibid). Nelson postulates four characteristics of effective counternarratives: first, a good counterstory constructs “people as fully developed moral agents” (p. 186); second, it is told by “quite a number of people”; third, the counterstory that presents the identity of the speaker can take many forms; and fourth, it “loosens the constraints on a person’s moral agency” (ibid). The above discussion begs

the question in the present post-conflict context of how “evolution of meaning” takes place in the narratives and proceedings in a TRC, and how do the proceedings contribute to restoring the moral agency, legitimacy and natality of a witness? Also, do these testimonies constitute effective counternarratives, and do the proceedings allow for the development of counternarratives, even over the longer term after the testimony?

4.2.8. *The “hallmarks” utilized in narrative mediation:* From the perspective of the witness telling her story, the importance of third parties in the SA TRC context is evident in the persons of the presiding Commissioners and those leading the testimony, and the impact on the witness of their own narratives, questions and comments:

“language or meaning constructs reality...conflict resolution is (where) all parties, together, evolve meaning on the basis of new descriptions and new narratives about what happened to whom and why. These new narratives do not sprout fully formed from the parties; they emerge through the nature of the interaction, *which includes the comments, summaries, and questions that the third party makes*” (own italics, Cobb 2013, p. 78).

Narrative mediation accepts that the third party is not “neutral” in the sense that the term is often understood in conflict resolution. In narrative mediation (Winslade & Monk, 2008), the mediator in fact becomes a “co-creator of stories” (Avruch 2012, p. 100, relying on Cobb, 2004), which points to the nature of the interaction and the role of the third party. Even though mediation is a conflict or dispute resolution process in itself, the “hallmarks” (Winslade & Monk, 2008, p. 3-39) of narrative mediation present interesting perspectives which are potentially relevant for the research framework. The question therefore is whether the presiding TRC Commissioner and the person/s leading the testimonies during the proceedings could be utilizing any of these hallmarks to

elaborate the narrative, or in another fashion enable the witness being heard, as this is also a process. Potentially relevant dimensions include (i) that “stories matter” (i.e. “assume that people live their lives through stories,” p. 3-6); (ii) their discursive context, and how they are internalized; (iii) also building externalizing conversations (“the person is not the problem, the problem is the problem,” p. 12), (iv) whilst engaging in “double listening” (“there is always two stories,” p. 7) and (v) listening for discursive positioning, all the time (vi) identifying “openings for an alternative story” (p. 26).

4.2.9. *Appreciative inquiry* is another process which could be helpful in the context of a critical narrative framework, and focuses on destabilizing flat narratives and making “it difficult to maintain a narrative enquiry that disqualifies the Other” (Cobb 2004, p. 16).

This is done by asking questions:

“(which) complicate plots by accenting the positive dimensions of a negative experience; (also which) compare and contrast temporal frames/instances from the past, present and future, which provide exemplars to follow through difficult times; (and which) enable reflection on moral themes around which to anchor life/practice” (ibid).

The value of these insights in potentially assisting the TRC officials to elaborate the narratives of witnesses is apparent, and the question is the extent to which any of this occurred, and if we can we learn more from the testimonies in this regard.

4.2.10. *Role of audience*: The role of an audience can impact the politics of speaking and “being heard” in transitional and post-conflict environments and is also incorporated into the methodology framework, and also relates to the narrative public spaces discussed above. The discussions above in respect to empathy, recognition and witnessing are also relevant here. The final report of the SA TRC references the “healing potential of

storytelling, of revealing the truth before a respectful audience and to an official body” (SA TRC Report, 1998, Vol. 1(1), p. 351).

However, there is also the “confessional performance” (Payne 2008, p. 15) as a type of acting, particularly in respect to perpetrators. Here the audience and the press seem to be fascinated, perhaps due to the power the perpetrators exercised, or them “being novel, mystifying, or deviant” (ibid), but it is an open question if this approach will restore moral agency as discussed above. Nor does this approach contribute to developing effective counternarratives, and another consequence is that “the same kind of intensity is not afforded to victim survivors unless they have high-profile images themselves” (ibid), which again impact their stories. But audiences can also “fill in the gaps” (p. 247) in the case of perpetrator’s amnesia. “Their torturer’s inabilities to remember offer them power- the power of memory. They can confront perpetrators’ hole-ridden stories with the missing details” (p. 247). This can perhaps contribute to the counterstory, and can add to restoring moral agency, legitimacy and natality to the victims and families. In some cases in the SA TRC the audiences were incorporated into the hearing, and Verdoolaege, (2008) views these interactions in a discursive context and concludes that it appears as if the Commissioners, in an effort to keep control “constrained the participatory power of the audience” (ibid, p. 108) which is to be expected, but that “often, self-esteem, self-pity, pride or anger were incentives to address the audience explicitly” (ibid). Again, as mentioned above, in the context of this dissertation the role of the audience on witnesses “being heard” will only be included in the analysis to the extent anything can be discerned from the testimonies themselves.

4.2.11. *False consciousness:* I discuss the possibility of a false consciousness in the SA TRC proceedings under certain conditions, in the context of the procedural justice literature below. However, there is also a (possible) false consciousness perspective from the critical narrative literature. This perspective is related to the notion that “conflict resolution has long held that speaking as sharing one’s perspective, telling one’s story, or stating one’s interests, is critical to the conflict resolution process” (Cobb, 2013, p. 145). However, what if the marginal cannot describe or know their own interests, not having had the experience of speaking, nor being heard? (Ibid, p. 147). Furthermore, what if during the narrative process the marginalized witness believes that she is participating, but the powerful does not redistribute or share any power (also over the narrative process), which may be “an empty and frustrating process for the powerless. It allows the power holders to claim that all sides were considered, but makes it possible for only some of those sides to benefit. It maintains the status quo” (ibid, p. 216, relying on Arnstein, 1969), thereby raising the specter of a possible false consciousness.

In principle, I actually do believe that there is potentially a strong role for an interest based approach in conflict resolution (Fischer, Ury & Patton, 2011) and in the REC proceedings, because in terms of that approach “positions” and “interests” are separated, where positions relate to what people often at first say they want from the other party, as opposed to interests which relate to the underlying “needs, desires, concerns and fears,” (ibid, p. 42) which inform and motivate the stated position. Uncovering interests can potentially allow for more creative and productive problem



solving approaches to address the real underlying and motivating issues, instead of disagreeing over (and digging into) positions only.

However, in terms of the developing research framework I share the view that witnesses in TRC proceedings may not have had the experience of speaking in such a forum, nor discern or be able to verbalize their interests or even their positions within the interest based approach, and thus their opportunity should allow for the extraction and articulation of their interests fully supported, enabled and elaborated by the TRC. I see this approach relate to TRC's in at least two ways: The first is that in my reading of the testimonies as also discussed in context below, the first and main order of business of the TRC was to ask of the witness "what happened." This was important to both parties no doubt, but I also believe that in these TRC proceedings the witness's underlying interest in testifying may have been in addition to *elaborate* their own experiences more, which can perhaps thus be seen as an underlying additional interest in respect to testifying, and the process of uncovering these additional experiences (as an underlying interest) necessarily implies elaboration; The second possible application of the interest based approach in the context of TRC proceedings is that at the end of the testimonies the TRC most often (but not always) asked of the witness what the TRC could do for them. I show in the discussion how these requests were often not developed, or were even ignored in different respects due to the lack of elaboration, and in this context the underlying "needs, desires, concerns and fears," (ibid) which motivated those important requests, one can again say as underlying interests, were not uncovered.

### **4.3. Procedural Fairness Outline**

The first approach which will supplement the foundational critical narrative outline above focuses on the more formalistic, procedural steps that may constitute an opportunity to be heard, or at least an opportunity to speak. This approach could be termed procedural fairness (or due process more broadly), and stems from legal and quasi-legal traditions. The essence of this approach is for an opportunity to be heard in the context of decision making, often in an adversarial setting in the form of a judicial or quasi-judicial forum, and not only to tell one's stories in a transitional justice or more informal setting.

However, the underlying theoretical assumptions in the SA TRC Act in several respects can be seen as an expanded example of the procedural fairness approach, and very much within a quasi-judicial frame, as discussed above. The situation in the SA TRC is even more nuanced and complicated, as not only is it an opportunity for "voice" in the sense of telling one's conflict story, but it was also an opportunity to be heard in respect to possibly receiving some reparation benefits, or receiving amnesty, depending on the situation.

The question is what procedural fairness themes to utilize for the integrated framework. Freeman (2006, p. 109-154) in his excellent book "Truth Commissions and Procedural Fairness" develops a conceptualization of procedural fairness for TRC's based on the traditional, more legal based origins mentioned above (including the English rules of natural justice and the US Constitution's Fourteenth Amendment), and develops

detailed procedural steps for TRC's. However, even this comprehensive approach cannot indicate if a witness will be heard in TRC proceedings, and it is perhaps not without reason that after praising the book a legal scholar commented that "it could apply to virtually any quasi-judicial or public legal body and does not seem related to systematic reflection on the aims and purposes of truth commissions" (Teitel, 2008, p. 244).

Freeman focuses first on the well-established general procedural fairness principles which he then applies to TRC's, and these include the "Guiding Principles of Fairness" (independence, impartiality, accountability, competence, nondiscrimination, transparency, proportionality, dignity, accessibility, good faith); also "Competing Procedural Objectives," given that the TRC is a quasi-judicial forum on the one hand, and a forum to hear conflict narratives on the other (efficiency, flexibility, victim-centeredness, accuracy, comprehensiveness), and "Practical Constraints" (time pressure, limited human and financial resources, excessive caseload, security concerns) (p. 132 *et seq.*), and second he focuses on the actual detailed procedural steps generally found at legal proceedings such as statement taking, subpoena power, the content of the public hearings (i.e. the right to legal representation), and so on (p.159 *et seq.*). Some additional elements specific to TRC's are included, notably victim emotional and psychological support, "consistent with the resources and mandate of a truth commission" (p. 267).

The question is, on the assumption that all of these principles and steps are followed; will the victim be heard? Do we understand the social construction of linkages and meaning between a victim testifying in a TRC hearing, finally having "voice" (and

perhaps that is all s/he may have from all this), and being heard? This is an area for further investigation within a broader framework and based on the S.A. TRC narratives.

It should be noted that Freeman is only following the standard more legalistic procedural fairness approach, and then also attempting to integrate and balance additional considerations in the context of a TRC. For instance, he references the tension between the “victim-centeredness” (ibid, p. 151) which one could expect from a TRC (and which is in fact mandated by the SA TRC Act), which may negatively impact the procedural fairness objectives of being *impartial*, and *transparent*. He solves this riddle by stating in conclusion that “the key, ultimately, is for a truth commission to remain steadfast in its adherence to the guiding principles of procedural fairness while still allocating special attention to victims” (ibid, p. 151).

A good example is the tension between *efficiency* as a “procedural objective” (ibid, p. 148 – 155) on the one hand and *victim-centeredness* on the other. Efficiency implies that there may be limited time available for developing the narratives, and this already happened during the prior statement taking protocol when the time taken to record a testimony reduced from three hours to thirty minutes, to save time and to focus on facts, rather than on experiences and narratives (Granden & Klubock, 2006). The change from the original version of the interview protocol which included a semi-structured interview and open ended questions to encourage victims to tell their own stories to a new format is described by Chapman & Ball (2008) as follows:

“The resulting form captured substantially less information than its predecessor. The new form was predominantly composed of close-ended questions that did not allow the deponents to elaborate their responses beyond the specified options, and thus disregarded completely the deponents’ subjective experiences. Staff at the TRC data-processing

section frequently compared the revised statement to a dog license application. Eventually, a limited space for a narrative was reincorporated” (p. 151).

*Victim-centeredness* also appear to be in conflict with *comprehensiveness* and *accuracy*, as the time and patience needed to be “victim centered” may leave less room to be fully comprehensive or accurate in the testimony, and so on. There are many examples in the testimonies where the person leading the witness would say “just briefly tell us” or the like.

Very importantly, the foundational theme for procedural fairness that will be used in the framework for analysis is the quasi-judicial nature of the opportunity to be heard (or at least to speak), and then additional aspects from the procedural fairness frame which could manifest in different ways, such as the impact of prior witness statements.

#### **4.4. “Voice” Outline**

The second important approach which will supplement the foundational critical narrative outline above stems from the vast “voice” literature which has a deep and long history across many disciplines, but more recently also developed (and is developing) within the contexts of TRC’s. Here the opportunity is described as “voice” (De Vries et al, 2012; Potter, 2006; Lind et al, 1990), or perhaps “voice opportunity” (Avery & Quinones, 2002). A TRC body of literature exists which focuses on victim voice or victim narrative more broadly, also termed “testimonial narrative” (Sanders, 2007, p. 4, 7). “Voice” in its essence means to have an opportunity to be heard (or at least to speak, or perhaps not), just as in the case of the procedural fairness and procedural justice approaches above. However, this broad literature contributes different themes, or at least

some repeating themes differently in respect to the opportunity to be heard, and are therefore relevant to the present discussion, and are consequently included in the initial research framework. It should be noted that even though the concepts are separated out below for purposes of discussion for the frame, they are very much interrelated. The purpose of this dissertation is not to embark on a deep psychological or intra-psychic analysis of trauma or healing through narrative at the SA TRC, but to investigate the proceedings and particularly the selected narratives, to see how these themes interrelate with the opportunity to be heard and “being heard” at the TRC:

4.4.1. *Voice, trauma and healing*: Fiona Ross (2003) introduces a word of caution on testimonial interventions, because “where violence ruptures the range of voice and the articulation of experience, it raises anew the problem of how to acknowledge suffering. The problem has to do with listening” (ibid, p. 28), and I would like to add, the problem furthermore perhaps has to do with actually “being heard.” I should also mention that in respect to “listening,” I alluded to additional potential difficulties in this regard in “Chapter One: Introduction” above. Ross further points out that:

“Few studies have yet focused on the social ramifications of testimony or on the political uses to which it is increasingly put through mechanisms such as truth commissions. Those that have... usually approach the problem from a psycho-social point of view (which) consider testimony to be a powerful mechanism through which recounting experiences of harm enables the psychological remedy” (p.78).

A number of problematic assumptions are tied up in this TRC approach, which is based on the premise that the “equation of the speaking self with the healed self (is) anticipated to be effected through the linking of ‘voice’ and ‘dignity’” (ibid, p. 78). The SA TRC Act in fact specifies that the TRC is to “restore the human and civil dignity of

victims by granting them an opportunity to relate their own accounts of the violations of which they are the victims” [art. 3(c)]. One of the complications is that especially women often told only those parts of their stories which related to their loss as a wife or a mother, and not about herself as a victim of apartheid (Krog & Mpolweni, 2009). How did that play out in the testimonies, in respect to the women actually being heard?

In addition to the underlying assumption that almost automatically links voice, dignity and healing, there was also an assumption based on the relationship between “experience” and “story.” Storytelling was considered central to the process of healing, but also of fact-finding; and furthermore was tied in with African traditions of storytelling. It was assumed that “the narration of experience was assumed to be a simple act, a release of ‘stories’ of pain that already existed intact within those who had experienced violations. All that was apparently required was a forum through which these could be released and channeled” (Ross, 2003, p. 79).

However, she goes on to point out that the production of these stories was a complex process to which little attention has been given, including in respect to different styles of questioning; of probing (or staying silent); different approaches by Commissioners, and more. Partially relying on Buur (1999) she incisively states that “Statements were produced through a lengthy process of decision making, narration, distillation and crystallization of experiences and transferred into ‘data’ using a positivist methodology (p.79). On one estimate, up to “50-60 per cent testifiers suffered difficulty after testifying” (ibid, p. 80, relying on Hayner, 2001, p. 144, who discusses the findings of the Trauma Centre for Survivors of Violence in Cape Town).

All this still does not specifically and fully address the aspect of witnesses being heard and the meaning that they make of this, at the time of giving testimony as based on the stories in these (albeit positivistic) transcripts, which is a focus of the dissertation.

Another prominent book in this respect is Phelps's (2004) "Shattered Voices: Language, Violence and the Work of Truth Commissions," who incorporates the premises of narrative theory, drawing a distinction between narrative content (i.e. what victims recollect), and narrative form (i.e. how TRC's reflect this in reports). She sees a "radically new kind of justice" (ibid, p. 9) which is an ongoing dynamic process rather than "once off" justice, and storytelling is a vital part of this. She sees justice as being served "when victims remain at the center of the process, when something important is returned to them, in this (Argentinean) case the ability to use language for themselves and to shape the chaos of their experiences of violence into their own coherent stories" (ibid, p. 90). However, the reality is that the stories told at TRC's are often fragmented and limited due to time and other constraints, and so what she sees as part of this "dynamic process" includes the later transcripts and report/s, through which the survivor is presented with a "whole picture" and then "can identify, understand, and integrate the meaning of their political commitment and suffering" (ibid, p. 57). The question for present purposes, though, is what the meaning making and "being heard" may be at the time of telling the story? Do the SA TRC transcripts reflect that witnesses are able (and allowed) to "shape the chaos of their experiences of violence into their own coherent stories" (ibid, p. 90), *at that time*?



Phelps discusses the work done with survivors in Chile, and importantly emphasizes that “survivors be allowed and encouraged to tell their stories in their own words and in their own ways” (ibid, p. 57). Can we see from the narratives, also within the broader framework based on the literatures, to what extent the stories in the SA TRC show that this happened and if this contributed to the witnesses “being heard” from their perspective at that time?

4.4.2. *Silence:* Silence can be seen as part of “voice” and as part of “being heard,” and as such is a theme for the framework. The TRC literature shows that silence played an important part, both on the systemic level, and on the micro level in these testimonies. On a systemic level, many voices which had been silenced through death and other means are represented in these narratives; and on a micro level, it is often clear from the testimony that the witness can at times no longer speak, and these “silence” contexts need to be examined in the context of “being heard,” to the extent they can be discerned from the transcripts. For instance, a reaction of “please take your time” from the person leading the evidence, the same person who was impatient earlier in the testimony due to time constraints, shows that it may have been the silence, and not the previous story (no matter how powerful and poignant) that assists the witness to “be heard.”

A significant framing for silence in the literature is in terms of the aftermath of violence and massacre, where silence can impact individuals and also extend to large groups of people over long periods, such as following the violence that took place in Bali during 1965-66 (Dwyer 2009, p. 113-46). From this ethnographic study important lessons can be learnt, including that scholars (even if unwittingly), can be complicit in

propagating silence by building on the state's framing of history and on those of colonial writers and scholars, including Geertz's (1973) framing of violence as somehow "external or incidental to the 'real' Bali" (ibid, p. 117). But silence is personified through the individual story of Ibu Ari, which illustrates how important the individual story, including with silent spaces, is to inform and contest the societal story of prevailing silence. This study also illuminates the politics and agency of silence, including "that silence itself may offer certain forms of agency that are not simply the absence of speech, that it may be striated with a more complex politics than merely a cowed acquiescence to power" (p. 137). Silence here is not a straightforward absence of voice, but specific choices are made by Ibu Ari in respect to how she wants to be heard, or allows herself to be heard, or not, sometimes to her social detriment. Participants should not relive "the psychic pain of memory" (ibid, p. 138), but also importantly "Speaking memories of violence does not simply place one in relation to a distant past but also engages with a complex politics of the present and its articulation and concealment in social practice" (ibid, p. 138-9). It will be a focus to investigate whether any silences that can be discerned in the TRC testimonies are in the context only of emotion, or also for instance power dynamics.

The above also relates also to Wajnryb's (2001) retelling of a Holocaust survivor's story, who suffered greatly and whose family was killed in the camps and who "after sifting through a few other verbal options... is reduced to silence, as the only appropriate response to such a catastrophe" (ibid, p. 82). For me, the overall lesson is that "being heard" should also allow for sufficient spaces so that silence can develop, as with

speaking, and silences are equally important for analysis. The time limitations and dynamics of the SA TRC process already became evident during the preparation stage, when the statement taking protocol was changed significantly from the three hours it took to record a testimony to thirty minutes, to save time and to focus on facts, rather than on experiences and narratives (Granden & Klubock, 2006).

Another important contribution to the discussion on silence and voice, and on being heard which also ties in with the gender discussion below, is from Fiona Ross (2003). She confirms that "...some horror is not and cannot be articulated: silence marks particular kinds of knowing, and, further, silence may be gendered. In other words, silence is a legitimate discourse on pain and there is an ethical responsibility to recognize it as such" (p. 49, relying on Das, 1996, p. 71); and, "in reading history we must learn how to read silences, for the victim rarely gets an opportunity to record his or her point of view (p. 49, quoting Das, 1987, p. 13). Ross also notes the limitations of testimony and the underlying assumptions regarding "voice" in the SA TRC, because "remembering and recounting harm is neither a simple nor a neutral act. The Commission's rubric of harm focused on the individual and *on the sayable*" (own italics, p. 162).

In South Africa, the type of systemic silence referred to above (in addition to the silences that might have ensued in the testimonies), can be seen in those who chose not to testify at the SA TRC. Many women chose not to testify, partially because they did not want to view themselves as a victim and partially because they did not want to make their suffering public. The unfortunate outcome of their silence is that they could not be classified as "victims" in terms of the SA TRC legislation and therefore did not qualify

for reparation, even though they are often in the most vulnerable positions in society (ibid, p. 163). Violence can reach so deep into individual lives that pain and suffering cannot be expressed, so there are limits on “verbalizing experience” (ibid, p. 165).

Ross also shows the importance of individualizing, by telling the contrasting stories of two women: Mirriam who chose not to testify in spite of having suffered through four detentions, solitary confinement, surveillance, harassment, and assaults on her children (ibid, p. 139). She chose to affirm herself not through testifying, but through community projects, and thus implicitly she was “being heard” through affirmation in the community and not by speaking at the TRC; and Yvonne who chose to testify and after intense questioning and interruption by the person leading her testimony revealed that she was subjected to sexual abuse by the police, something which she did not reveal before in her statements to the TRC. In her extensive testimony she elaborated in great detail about her twenty five years of experiences under apartheid as an activist; yet, the main framing in the media was as a victim of sexual abuse (ibid, p. 82-8).

Silence also took on another dimension in the context of the SA TRC. Graybill (2002, p. 103-8) reports that women were intimidated (also by former comrades) not to testify before the SA TRC about extensive sexual abuse suffered during the South African liberation struggle; and in addition, women in high political office did not testify as they did not want to suffer the humiliation. These examples show the complexity present in the politics of speaking and being heard in post-conflict environments, especially when gender and silence considerations are added. These are the politics of

voice and silence in action, in a post-conflict setting, in a quasi-judicial forum: the exact focus of the dissertation.

4.4.3. Gender: Graybill (2002) makes an important observation in a chapter entitled “Women’s Testimony Before the TRC” (p. 98 - 112) that “given the government’s strong support for women’s rights, it came as a surprise to many observers that women’s voices were not being heard by South Africa’s TRC, and that the nation as a result was getting a skewed look at the nature of human rights violations that had been committed” (ibid, p. 98). The preceding was so, especially as women suffered “the triple oppression of race, class and gender” (p. 99) under apartheid, and were systemically brutalized *inter alia* through economic oppression and sexual exploitation (p. 99-100).

Women were most often “indirect victims” (ibid) before the TRC, as they testified about the men in their lives having suffered and died, whilst they were themselves subjected to the worst kind of suffering. Further, as Fiona Ross (2003) points out, during the “first five weeks of hearings involving 204 witnesses, 6 out of every 10 deponents were women, but over 75 percent of their testimonies, and 88 percent of men’s, were about abuses to men. Only 17 percent of women’s testimonies and 5 percent of men’s were about abuses to women” (ibid, p. 102-3). Later in the TRC proceedings there was an attempt to refocus to include women more. For present purposes, the focus overall on gender considerations in the narratives, both in the context of “voice” and on actually “being heard,” is included as part of the broad research frame.

Notably, violence against women has produced a formidable literature on voice and being heard. One example is Brison (2001) who writes in the wake of her horrific

experience in France where she was raped, severely assaulted and left to die. She situates voice and being heard within a “performative aspect of speech, in testimonies of trauma: How saying something does something to it” (p. x) and in this process partially relies on a frame of empathy, in that “the trauma survivor must find empathetic listeners in order to carry on” (ibid – see also the discussion in respect to empathy below). She does not believe in silence, and believes that telling the stories of trauma does *not* turn the narrator into a victim but the opposite; it is a liberation narrative, and needed to imagine a desired future (ibid, p. 98-9). Importantly, she frames being heard in this context:

“It may be that the retroactive attempt to master the trauma through involuntary repetition is carried out, intrapsychically, until a listener emerges who is stable and reliable enough to bear witness to it. Perhaps there is a psychological imperative, analogous to the legal imperative, to keep telling one’s story until it is heard. After the story has been heard and acknowledged, one can let it go, or unfreeze it. One can unclench” (p.109-10).

The “keep telling one’s story until it is heard” is a confirmation that having an opportunity to be heard; or having voice, or speaking, does not necessarily mean that one will be heard, and the question is what we can learn about that concept within the critical narrative approach in these SA TRC testimonies. However, it should be noted that there may be critique against a solely intrapsychic approach that does not also focus on analyzing the narratives (Cobb, 2013), which will be discussed below.

4.4.4. Empathy: The above framing of empathy by Brison is similar to Ross (2003, p. 3) who quotes Felman & Laub (1992, p. 68) that “the absence of an addressable other, another who can hear the anguish of one’s memories and thus affirm and recognize their realness, annihilates the story.” In fact, “failure to recognize an affirmation of pain (‘I am in pain’) is to participate in, and perpetuate the violence” (p. 49, relying on Das, 1996, p.

88). Amy Shuman (2005) in her book “Other People’s Stories, Entitlement Claims and the Critique of Empathy” describes empathy rather as “the act of understanding others across time, space or any difference in experience” (p. 4), and “in listening to or even retelling other people’s stories, narrators become witnesses to others’ experiences, and storytelling provides some hope for understanding across differences” (p. 5). However, she also warns against a type of empathy that has a destabilizing effect on the meaning for the survivor, from the personal to the allegorical:

“Empathy relies on, but also destabilizes, the association among persons and their experiences... (it) destabilizes entitlement by creating the possibility that people can legitimately retell each other’s stories (and) destabilizes meaning from the personal to the allegorical... When a personal story is used allegorically, as representative, typical or stereotypical of a situation, entitlement claims are one way to challenge the allegory... (however), the use of entitlement claims to challenging sentimentalizing allegories sometimes undermine empathy and the possibility of understanding across differences in experience” (p. 4).

The above observation is in my initial reading a potentially key element in the SA TRC proceedings, where victim testimonies were often used allegorically by the Commissioners and those leading the testimonies. However, the TRC officials at other times also express empathy seemingly in an attempt to understand the SA TRC witnesses “across time, space or any difference in experience” (ibid) and not allegorically. It is because of this more expansive utilization of empathy in the SA TRC testimonies that the empathy discussion here is somewhat more detailed, as I anticipate returning to these theoretical perspectives more frequently in the context of the analysis and discussion of the SA TRC testimonies.

Shuman goes on to make the important point that storytelling therefore “needs a critique of empathy to remain a process of negotiating, rather than defending, meaning” (p. 5). The following introduces another word of caution in respect to empathy, or compassion more widely, especially in respect to the intrapsychic approach:

“Compassion (and empathy) are not internal events, intrapsychic phenomena, but rather are social plays in which the Hearer can elaborate the narrative of the person who is suffering, thus participating in the development of its texture, adding to its complexity. This is a Wittgensteinian language practice that creates the narrative foundation for speaking and being heard. Building on her own notion that pain is private, Arendt worries, in *The Human Condition* (1998) about making pain public. She notes that pain-in-public produces an alchemical process by which compassion is converted into pity... Thus, in the public sphere, a narrative of suffering comes to stand for, to represent the experience of the *hearer*, rather than the speaker, and compassion is converted into pity. Moral agency is not repaired, because the hearer experiences the sufferer as a carrier for his or her own pain (*the listener's emotion*) (italics in original, Cobb 2013, p. 173).

Thus, empathy from this perspective has a particular impact on what it may mean for witnesses to be heard in delivering their testimony at the SA TRC. If empathy is only seen from the perspective of an intrapsychic phenomenon where it is largely based on what the listener's emotion and feeling determine, it may even be dangerous in the context of conflict resolution processes such as mediation (Cobb, 2013, p. 253), and I would argue also in delivering testimony at the SA TRC given the all-important interactive roles of the Commissioners and the officials leading the testimony. Empathy should rather be part of an ethics of actual discursive and narrative praxis (instead of just feelings or emotion in the listener, even though important), in order to enable narrative complexity and evolution in the narratives, to change the direction in order to “create the context for speaking and being heard, having one's narrative affirmative elaborated by Others” (p. 253-4). This is an important link to elaboration of narrative, also to witnesses



being heard and therefore also of particular importance to the topic and the broad research framework for this dissertation, drawn from this literature review.

4.4.5. *Recognition and Witnessing*: Related to empathy, and integral to the overall discussion on “being heard,” are the concepts and critiques in respect to *recognition* and *witnessing*. It has been noted that in the conflict analysis and resolution field “there is a widespread belief that the absence of recognition is a symptom of conflict, as well as being productive of conflict. And the converse is also the case: Conflict resolution involves fostering recognition of the Other in both parties (Cobb 2013, p. 32, referencing Taylor, 1985). *Recognition* in that context is seen as “witnessing the humanity of the Other” (ibid) and *witnessing* as “the process of *mutual recognition*” (own italics, ibid). The critique is that this approach of mutual recognition could constitute some kind of exchange, where recognition is commodified and then traded for witnessing of the Other “for seeing their similarities with Self” (ibid, relying on Oliver, 2001). Oliver is cautioning here against the proposition that recognition so practiced (as an exchange), will somehow suffice; but victims of slavery, oppression or torture (in her example) are not “merely seeking visibility and recognition, but they are also seeking witnesses to horrors beyond recognition” (Oliver, 2004, p. 79). Otherwise, the present hierarchy will just be replicated (ibid). This raises at least three potential applications and questions in respect to the situation in the SA TRC:

First, the SA TRC was in the strongest position to recognize and witness the humanity of the victim who was testifying before the TRC, and the question is what happened there in that respect?

Second, and going further than the TRC only acting in its own right, as Sanders (2007) has pointed out and as discussed in different locations elsewhere in this dissertation, he argues that the Commissioners and those leading the testimony in the SA TRC could be seen to be standing in for the “Other,” being the perpetrator who may not have been at the proceedings when the witness told her story. From this perspective, the SA TRC thus not only acted in its own right and in its own role as the TRC in respect to recognizing and witnessing, but in the interaction would also be taking on the responsibility for the Other.

And the third question to be asked in the context of the proceedings before the SA TRC, especially if one for a moment accepts my initial sense that the TRC in fact was a participant like any other, and perhaps the only “person” whose story was most fully told, and who was most fully “heard,” the question is if this type of “mutual recognition” exchange occurred there between the TRC as a participant and some of the witnesses?

However, Oliver’s proposed solution of utilizing Butler’s concept of “vigilance” to guard against such a possible exchange practice is in turn critiqued because of its probable inability to resist the resilience and persistence of existing interaction patterns (Cobb, 2013, p. 32). Again, did certain interaction patterns become resilient and persistent at the SA TRC, which could *inter alia* have led to a master narrative of reconciliation (Verdoolaege, 2008) to name just one example, which could have been important to the TRC as a participant, partially due to the reconciliation theology of the Chairperson, Archbishop Tutu?

Another critique against the above view of recognition is that *reflective listening* which is often part of the recognition approach will encourage conflict stories to be repeated, which “deepens the traction of those stories. In its stead, the practice of witnessing, founded on an aesthetic ethics, provides a framework to do something other than build their subjectivity on the exclusion of the Other” (Cobb 2013, p. 190). For an aesthetic ethics to emerge, passive witnessing is not enough and here a different and less instrumental view of witnessing is presented, where witnessing is based on *elaborating the stories of conflict/suffering*, so that a new aesthetic can be opened up, leading to emancipation of both the witness and the speaker. This elaboration is needed because such stories of conflict/suffering have a high resistance to transformation, due to the certainty they acquire through constant retelling and practice (ibid, p. 182). In the case of the SA TRC, the question of elaboration of the witness’s conflict and suffering narratives before the TRC turned out to be a central focus of the dissertation research, in respect to (probably) assisting the witness in being heard.

#### **4.5. Procedural Justice Outline**

The third of the literatures which will supplement the foundational critical narrative outline above, focus on what I would term the more experiential dimension of the opportunity to be heard, and stems largely from Psychology, Social Psychology and Organizational literature, and could be termed the procedural justice approach.

A distinction is drawn in the literature between procedural justice and distributive justice. There is a rich literature here stemming from the work of Thibaut & Walker (1975), Lind & Tyler (1988) and others, which in fact frames the main theme from the

procedural justice literature relevant for the initial broad research frame. This theme is how people *experience procedural fairness*, and has potentially important implications for witnesses giving testimony at the SA TRC, and how they are heard. On some level, it can be said that if a witness experiences procedural justice, it may be an indication that procedural fairness is present and working (but not always).

Thibaut & Walker (1975, p. 67) focused in their work on the importance of the subjective dimension of the level of satisfaction experienced by parties, independent of the outcome, what Lind & Tyler (1988) would later refer to as “subjective justice” (p. 26-27). Lind & Tyler (1988) in this context refer to the “striking discovery” (ibid) of Thibaut and Walker that satisfaction and perceived fairness are affected by factors other than whether the individual in question has won or lost the dispute. They summarize the impact of this finding thus: “One of the great contributions of Thibaut and Walker is that they saw so clearly and so early that knowledge of the psychology of procedural justice might have critical importance in a world where resource constraints dictate that routes to satisfaction depend on something other than favorable outcomes” (ibid, p. 26). Decisions and processes are more likely to be accepted if subjected to a fair procedure (Lind & Tyler, 1988; Thibaut & Walker, 1975, p. 2).

This work is relevant for TRC proceedings, especially given that the SA TRC is a quasi-judicial forum and that procedural fairness is central to that process, and how witnesses may experience the procedural fairness in those proceedings could be relevant to how that are being heard. This aspect has not to my reading been canvassed or

integrated into the TRC context as foreseen within the research frame of this dissertation, especially if further viewed from within the context of elaboration of narrative.

In addition, there exists a host of literature which indicates that procedural justice considerations *are indeed often more important even than outcomes* or “*distributive justice*” aspects in various settings, including in the interpersonal (Barret-Howard & Tyler, 1986); organizational and employment related settings (Lind & Tyler, 1988, p. 173-200); politics (Lind and Tyler, 1988, p. 147-172) to name but a few (for a review see Lind & Tyler, 1988; Tyler, 2006, p. 74; MacCoun, 2005, p. 172).

Lind & Tyler (1988) point to research which illustrates that people can still be dissatisfied, even though favorable outcomes were achieved. One such example is research conducted by Tyler (1987) in Chicago, where traffic court Judges often dismiss cases out of hand, taking the view that having a person show up for court (i.e. being inconvenienced and losing a day’s pay), is punishment enough. This is a very good outcome for defendants – no fine; no record, no jail time. Yet examples are provided of defendants who were nevertheless dissatisfied, having brought proof that they were innocent and wanting to present that to court. The solution was not arrived at with sufficient, acceptable, and fair (to them) process. For present purposes, I would postulate that the defendants felt that they were not “heard,” in spite of the favorable outcome, which (again) seems to indicate that a better understanding of procedural justice considerations in TRC proceedings could assist us to understand how witnesses are being heard.

However, the above reality can also be abused. Consider the potentially negative side of the authorities over-emphasizing (or wrongly emphasizing) procedural fairness, procedural justice and “voice” in respect to the TRC proceedings. There is a danger when public satisfaction is entirely linked to procedural fairness rather than to direct and tangible outcomes, which has a direct potential impact on TRC’s. Tyler (2006) notes that authorities “may be tempted to appear fair rather than to solve problems or provide help” (p. 110-1), and goes on to note that if people “are satisfied with objectively poor outcomes because they believe they were generated by a fair process, this may reflect a *false consciousness* that is not desirable” (ibid).

In the same vein, a potential “false consciousness” argument in respect to procedural justice was also developed by Fox (1999). He states that in spite of any benefits, shifting the focus to procedural justice rather than outcomes “enhances false consciousness in several ways” (p. 14), including overall that procedures become “not just *necessary* for justice, but *sufficient*,” (own italics, ibid) thereby ignoring outcomes (or substantive) justice, and thereby possibly creating a false consciousness in respect to achieving justice.

A victim (as defined in the TRC Act) testimony was at the same time a human rights abuse narrative and a reparation application. How does the trade-off between the possible procedural fairness outcome of testifying on the one hand, and any potential substantive justice outcome on the other hand (i.e. asking substantive requests of the TRC as often happened in these testimonies) play out, at least in these narratives? In addition, the SA TRC Report (1998) references instances of witness dissatisfaction with the TRC,

including the fact that victims felt their case was not investigated; also that no new information emerged (in spite of them naming perpetrators), and because the truth was not uncovered, which all seem to point to unfulfilled substantive outcomes and to the potential relevance of the procedural justice dimension in the TRC proceedings.

The next step is to transition from the theoretical framework derived from the preceding literature reviews into the Methods and Methodology Chapter, which will be discussed next.

## CHAPTER FIVE

### METHODS AND METHODOLOGY

#### 5.1. Introduction

The central focus of this dissertation is an analysis of the human rights violations testimonies of the SA TRC, within a critical narrative analytic approach. More specifically, critical narrative analysis (complemented by other aspects), serves as both the primary research method on the one hand, and is the basis for the research methodology within an inductive frame on the other, as elaborated upon below.

The sequence of the discussion in this Chapter will be as follows: first, critical narrative analysis will be discussed in order to transition the focus from the preceding literature review theoretical frame, to the method and methodology frame in this Chapter; second, the discussion will focus on the *other research methods* adopted in support of the critical narrative analysis; third, the focus will be on *expanding upon the research methodology*, in particular to describe the adoption of elaboration of narrative as the key organizing principle; and also the evolution of the initial broad research frame of themes and concepts into a more dynamic and integrated approach (and perspective), as the reading and research progressed. Fourth, this more dynamic and integrated approach in turn forms the starting point and basis for the next Chapter (Six), “Analysis and Discussion.”



## **5.2. Critical narrative analysis as both a method and methodology**

A critical narrative analytic approach (supplemented by other concepts as discussed below), is adopted as the overall methodology for the dissertation research, but also constitutes the main research method, in the form of critical narrative analysis. In summary, and based on the literature review in Chapter Four above, by critical narrative analysis is meant that narrative analysis is conducted whilst drawing on themes and concepts from critical narrative theory (Cobb, 2013), where critical theory is applied to narrative (p. 144). This means that concepts such as the narrative public spaces created in these TRC proceedings for witnesses to tell their stories; the focus on the legitimacy and natality of the witness (and the Other) in these narratives; the positioning of the witness and the Other; the evolution of meaning in these narratives (Cobb 2013); restoring moral agency and the potential for establishing counternarratives (Nelson, 2001), particularly within the context of elaborating narrative will be included in the analysis to better understand how witnesses are being heard. In the preceding sense, the discussion in the Literature Review Chapter above should be seen as the foundation and an integral part of this methods and methodology discussion.

Critical narrative analysis can be distinguished from *critical discourse analysis*, where the main focus is on “the role of discursive activity in constituting and sustaining unequal power relations” (Phillips & Hardy, 2002, p. 25). Even though critical narrative analysis also incorporates a nuanced perspective on power relations in narrative (see Cobb 2013, p. 115-6; 151), the approach also incorporates a number of different (and additional) insights and perspectives highlighted in the literature review above and which

are discussed in context in the testimonies. Critical narrative analysis can also be distinguished from *critical linguistic analysis* where the focus is similarly on individual texts, but critical linguistic analysis has “a strong interest in the dynamics of power that surround the text... Individual pieces of text are examined to understand how the structures of domination in the local or proximate context are implicated in the text” (Phillips & Hardy, 2002). The preceding is to say that in critical linguistic analysis the focus is on the micro dynamics of power in text, and in an example provided by Phillips & Hardy (2002) different rhetorical strategies are for instance used to divert attention away from substantial inequalities in respect to women’s opportunities in business (ibid, p. 27).

Another perspective which should be contextualized is where Souto-Manning (2014) argues that critical narrative analysis unites critical discourse analysis and narrative analysis, in the sense that:

“CDA offers a very important contribution to narrative analysis – CDA deals with institutional and societal differences in power with regard to language, differences which have largely been overlooked in the analysis of everyday narratives. Additionally, everyday narratives as a genre offer institutional discourses an effective way to assert themselves as power discourses. Thus, CNA allows us to learn how people create their selves in constant social interactions ...at both personal and institutional levels, and how institutional discourses influence and are influenced by personal everyday narratives” (p. 162).

What I miss from her discussion is an incorporation of the complexity and nuances inherent in the critical narrative theoretical approach which is discussed in the Literature Review Chapter above. However, the point made by Souto-Manning does remind us that the elaboration of narrative should also be viewed from within the perspective of the institutional and power discourses present in the SA TRC to the extent

that they can be discerned, in order to investigate the possible impact on the witnesses' opportunity to be heard, and also on the narratives, and on being heard.

In order to supplement the critical narrative analytic frame as the primary research method and methodology, the list of potentially relevant themes from what I termed the "voice" literature, and also from the procedural fairness literature due to the quasi-judicial nature of the SA TRC, and (to a more limited extent) from the procedural justice literature, were retained within the broad frame at least during the initial inductive readings, in order to see what insights may emerge.

#### **5.2.1. Methods and methodology: integrated analysis of testimonies**

Important proceedings and interactions at the SA TRC, such as the welcomes extended by the Commissioners in the different hearings, and especially their opening statements; also the questions asked by the Commissioners and those officials leading the testimony, and other interactions and comments, do not strictly speaking constitute narratives or stories as usually understood. Yet, the above aspects form an integral part of the approach, analysis and discussion in this dissertation, as they could for instance impact the narrative public spaces, or the positioning of the witnesses, to mention only two examples. I would therefore argue that the inclusion and incorporation of these aspects as a focus area for the analysis is covered under the critical narrative analytic frame, exactly for their potential impact on narrative elaboration and the witnesses being heard, and are accordingly included.

### **5.3. Other Research Methods**

#### **5.3.1. Case study approach**

The case study approach can cover “a range of research methods and techniques, a range of coverage (from single case study through carefully matched pairs up to multiple cases), varied levels of analysis (individuals, groups, organizations, organizational fields or social policies), and differing lengths and levels of involvement in organizational functioning” (Hartley, 2004, p. 332). In other words, the subject or focus area selected for the case study “...can be whatever bounded system is of interest. An institution, a program, a responsibility, a collection or a population can be the case” (Stake, 2000, p. 23).

In this dissertation, the case study approach is utilized to focus on a single case in order to explore a particular set of circumstances or a phenomenon in context, as is common in respect to case studies (Byrne, 2009). The focus is namely on the SA TRC as a case study to analyze the testimonies, selected aspects of the proceedings, narratives and stories in context, at the time they were delivered at the SA TRC and subsequently transcribed. Moreover, the *specific* case study approach can be seen as an illustrative or instrumental case study:

“An instrumental case study is used to accomplish something other than understanding a particular situation. It provides insight into an issue or helps to refine a theory. The case is of secondary interest; it plays a supportive role, facilitating our understanding of something else. The case is often looked at in depth, its contexts scrutinized, its ordinary activities detailed, and because it helps the researcher pursue the external interest. The case may or may not be seen as typical of other cases.” Baxter and Jack (2008), based on Stake (1995).

Here, the focus is on gaining insight of witnesses “being heard” at the time of giving testimony in the context of their opportunity to be heard, and specifically from a narrative analytic perspective, and *not* on the merits of the SA TRC as such; nor on truth and reconciliation as a primary focus, but only to the extent that these concepts illuminate being heard in the narratives; nor on the larger very important discourses and power dynamics which gave rise to the establishment of the SA TRC as a political compromise.

The instrumental case study approach adopted for this dissertation has to be contrasted with the so called “intrinsic case study,” and Stake (1995, p. 16) described the difference as follows: “...for intrinsic case study, case is dominant; the case is of the highest importance. For instrumental case study, issue is dominant; we start and end with issues dominant.” Again, the issue here is witnesses being heard at the SA TRC, not the SA TRC itself as the “case.”

Even though an instrumental case study approach is utilized, and even though excerpts (and testimonies) are selected and organized based on an interpretive frame and on the concepts from the literature and as they develop, great care is taken not to descend into a mechanistic or static process of analysis. The focus is very much to investigate the selected testimonies, texts, stories and narratives within a dynamic frame, in order to better understand the nature of witnesses actually “being heard” in those TRC proceedings. By “dynamic” I mean that the primary emphasis remains to be on the stories, to try and understand the witness’s experience and the narratives expressing that experience, and how that is enabled (or not) in the TRC forum. The purpose is therefore not to use the research framework as a template to be just mechanically “applied.” In this

sense, it can perhaps be said that the case study approach adopted for this dissertation within the instrumental frame is a *limited* case study, as the focus is on a main issue rather than on the whole SA TRC as the case.

Also, as I am utilizing other research methods and methodologies in addition to the case study approach, it should be noted that a case study “allows the researcher to use a variety of sources, a variety of types of data and a variety of research methods as part of the investigation” (Denscombe, 2003, p. 31).

In closing, case study research has been critiqued for its ostensible low value in serving as a basis for scientific generalization (Yin, 2003, p. 10). However, as Yin also points out, “a case study does not represent a ‘sample,’ and in doing a case study, your goal will be ... *analytical* generalization and not *statistical* generalization (own italics, ibid, p.10). It may well be that some generalizations can be drawn based on the insights gained during this dissertation research, and as such will certainly be analytically rather than statistically based generalizations.

### **5.3.2. Inductive research approach**

The inductive approach “is a systematic procedure for analyzing qualitative data in which the analysis is likely to be guided by ... evaluation objectives” (Thomas, 2006, p. 238). The research in this dissertation is focused on investigating, analyzing and evaluating the testimonies of the SA TRC, within a critical narrative analytic frame and with the elaboration of narrative as the main organizing principle, with the objective of learning more about the nature of witnesses being heard in that forum.

An inductive research approach can be seen as moving from the specific to the general; and in situations where the research is focused on experiences or observation, such research is usually approached from within an inductive frame (Trochim, 2006). The observations, and in the context of present case the analysis of the testimonies, are utilized to describe the topic that is being studied (Lodico et al, 2010, p. 10) in what can be seen as a “bottom up approach” (ibid; also Cresswell and Plano Clark, 2007, p. 23). In this sense, inductive research “essentially reverses the process found in deductive research,” (Lancaster, 2005, p. 25), where a researcher sets out to “test whether data are consistent with prior assumptions, theories, or hypotheses identified or constructed by the investigator (Thomas, 2006, p. 238). Inductive research, particularly at the start of the process, is more exploratory and open ended, than deductive research (Trochim, 2006).

During the course of an inductive bottom up research approach, it is common and consistent to incorporate insights gained during research into the methodology as the process goes forward (Bernard, 2011, p. 7). It should be noted that this is exactly what happened in the context of the research for this dissertation, when “elaboration of narrative” emerged as a key organizing principle which was incorporated into the research frame; and also later when the initial broad framework derived from the literatures evolved into a more dynamic outline as important insights emerged from the reading, which were in turn useful as part of the methodology for the further research.

It is also important in an inductive analytic approach to be able to demonstrate and defend the insights gained from the research, what Thomas (2006) refers to as being “transparent” and “justified” (p. 238) in respect to the findings, when compared to the

original research objectives. In the context of this dissertation research, the main research question (which is also the title of the dissertation), as well as the supporting research questions listed in Chapter Three above, can broadly be seen as the research “objectives.” The purpose is to investigate the puzzles posed in those questions and the intention is indeed to link these questions with the insights gained from the testimonies and extracts, in a defensible and justifiable manner. However, given the nature of this critical narrative analytic investigation, I would use the more nuanced “insights” rather than “findings;” and also contextualize “justifiable” in the sense that the discussion will be focused to the extent possible, to *analyze, explain and discuss* any insights gained as to what may impact or constitute witnesses being heard; and also how elaboration can play a role in that process (or not), and bearing in mind throughout, that possible correlation does not necessarily imply causation.

#### ***5.3.2.1. Utilizing an inductive approach in the context of the literature review framework***

It may seem counterintuitive to simultaneously utilize an inductive approach and also to utilize the framework drawn from the literatures to inform and guide the analysis, at least initially. However, the themes, concepts, or elements drawn from the literatures are based on what I have termed the different approaches to the opportunity to be heard. Deep traditions of scholarship, research, writing and practice are embedded in these literatures. The purpose is to have the benefit of those insights, even though all these themes, concepts, or elements cannot be fully utilized, exactly because of what the inductive process may reveal, and also for practical purposes due to the scope.



In any event, inductive research is not primarily focused on reaching a final conclusion as outcomes are often inconclusive (Lester and Lester Jr., 2006, p. 101), and it is more customary to place a limit on any claims made (p.102). Inductive research is also most often conducted in the context of a qualitative rather than a quantitative approach, as I discuss next.

### **5.3.3. Qualitative research approach**

Overall, this dissertation not only follows an inductive research approach as discussed above, but is also situated within a qualitative rather than a quantitative research paradigm, as is more generally the case with inductive approaches (Thomas, 2006, p. 237-8). The qualitative approach is more based on a belief in “multiple constructed realities that generate different meanings for different individuals and whose interpretations depend on the researcher’s lens” (Onwuegbuzy & Leech, 2005, p.271), and is not value free, but it is understood that “the research is influenced to a great extent by the values of the researcher” (ibid, p. 271). Seen from a different perspective, a qualitative research approach can be simply stated as “designed to help researchers understand people, and what they say and do” (Meyers, 2009, p. 5) and “to see and understand the context within which decisions and actions take place” (ibid; Trochim, 2006). The preceding points to, and indeed describes the focus of this research, which is to investigate what happened in respect to witnesses being heard, in the context of the proceedings at the SA TRC.

The typical characteristics of a qualitative research paradigm include the following:

“...a focus on interpretation rather than quantification; an emphasis on subjectivity rather than objectivity; flexibility in the process of conducting research; an orientation towards process rather than outcome; a concern with context – regarding behavior and situation as inextricably linked in forming experience; and finally, an explicit recognition of the impact of the research process on the research situation” (Cassell & Symon, 1994, p. 7).

Each of the aspects referenced is relevant to the research approach adopted for this dissertation, namely interpretation; subjectivity; an orientation to process; a concern with context in that the situation is “inextricably linked in forming experience,” which points to the impact and importance of the testimonies being delivered at the SA TRC and what happened there); and also a recognition of the impact of the research process on the research situation.

Investigating and attempting to understand the meaning that people make of interactions, events and situations that impact them is an important area of focus for a qualitative research approach (Phillips & Hardy, 2002, p. 3). For instance, in narrative analysis it would be where people tell stories, in order to explain or to make sense of events (ibid, p.7) which is an element of the testimonies before the SA TRC. In turn, qualitative researchers are interested to make sense of (or interpret) those meanings that people bring to a setting (Denzin & Lincoln, 1994, p. 2), which is similarly part of the research focus for this dissertation. More specifically, the focus in this research is on the testimonies or source material, as I discuss next.

#### **5.3.4. Source material**

The SA TRC proceedings were transcribed and testimonies published online by the SA TRC which presents a valuable opportunity for investigation of the dissertation topic. These transcripts, and more specifically the one thousand eight hundred and

seventy-four (1874) transcribed testimonies of the HRV testimonies or “victims” as defined in the SA TRC Act, constitute the primary source material utilized for the dissertation. The transcripts include the comments, statements and on occasion even narratives of the Commissioners and the persons leading the testimony of the witnesses; they also include the interactions between these SA TRC officials and other persons present at the proceedings, and then in particular they include the testimonies of the witnesses themselves. In order to holistically and in depth investigate the research questions as discussed above, within the context of a qualitative and inductive research approach, all of these dimensions contained in the transcripts could be relevant, with the actual testimonies of the witnesses of course being the most important dimension for purposes of the research.

The phrase “source material” is used for this dissertation instead of the more customary “data,” as I want to recognize that these testimonies represent more than data. They represent the important, personal, and sometimes very traumatic testimonies of people often deeply affected by the structural violence and actions of officials within the apartheid state of South Africa. In addition to the actual experiences recounted, as Fiona Ross (2003) points out, the production of these stories themselves was a complex and often traumatic experience, part of “...a lengthy process of decision making, narration, distillation and crystallization of experiences and transferred into ‘data’ using a positivist methodology” (quotation marks in original, p.79). I do not want to contribute to a positivist “data” mindset of the testimonies in this dissertation.

However, the practicalities of collecting what turned out to be approximately 22,000 statements overall was no doubt a daunting endeavor for the TRC investigators, and the effort to collect the maximum amount of information within a limited time window posed a challenge. Granden & Klubock (2006) explain the process of statement taking, and how the process took a turn at the insistence of the SA TRC lawyers when, in their opinion, they did not receive the facts needed from the statements for the later TRC testimony. So the process “and conception of truth shifted from open-ended testimony to factual truth, (which) generated a sea change in the procedure...(personal) experience scratched off the script... testimony reduced to its simplest form: a brief summarized version of the incident” (ibid, p. 20.) The time to take a witness statement went from three hours down to thirty minutes (ibid). They go on to quote a data processor: “When we started, it was narrative. We let people tell their story. By the end of 1997, it was a short questionnaire to direct the interview instead of letting people talk about themselves. The questionnaire distorted the whole story altogether, it destroyed the meaning” (ibid). This is a harsh judgment, but it does illustrate the challenges posed by virtue of the fact that these proceedings are playing out in a quasi-judicial frame and forum, and also illustrates why I have incorporated the literature from the procedural fairness tradition into the research approach.

#### ***5.3.4.1. Potential challenges inherent in using the SA TRC testimonies***

Utilizing these testimonies as the primary source material for the dissertation research poses certain challenges which must be addressed. In addition to the discussion in Granden & Klubock (2006, p. 18-24) above where they point to the changes in the

statement taking protocol, and where the focus was increasingly on factual information and less on witness experience and narrative, other challenges in respect to the recording, translation and transcription of the actual testimonies also present themselves.

Krog & Mpolweni (2009) analyze three SA TRC testimonies in the context of investigating the “archived truth left behind by the process of the TRC” (p. 359). This study was motivated by a larger project of rethinking archives in South Africa which is encapsulated in an influential book entitled “Refiguring the Archive” [Hamilton, Harris, Pickover, Reid, Saleh, Taylor (eds), 2002]. The authors’ approach is based on the recognition that archived material in South Africa whether “gathered by colonial authorities, apartheid authorities, or the TRC... was gathered within a particular context and with a particular purpose” (p. 358). The preceding is to say that archives should not only be “mined for facts” (ibid), but there should also be an equal focus on the processes that produced and altered those records, and caused them to be archived.

Krog & Mpolweni focus in their study on three human rights violation testimonies which were originally delivered in the Xhosa language at the SA TRC. The first case concerned the testimony of Mrs. Mhlawuli in respect to the death of her husband, Sicelo Mhlawuli, who attended an activist meeting and was discovered burnt and mutilated a week later. The second and third testimonies are related to the death of Mrs. Delato who was burnt to death by her own comrades.

Krog & Mpolweni focus in the first testimony (by Mrs. Mhlawuli) more specifically on the differences in the versions based on the original testimony delivered in Xhosa, and then the “gaps and slippages” (p. 359) which occurred between the original

testimony and the subsequent translation, and then the official archived and published version of the same testimony. The authors provide an extract from Mrs. Mhlawuli's testimony in Xhosa as it was delivered, omitting any interpretation. Next they provide the same extract from the official archived version in English, and then they provide a new translated English version which more accurately reflects the original testimony delivered in Xhosa. The excerpt centers on Mrs. Mhlawuli recalling reading her deceased husband's postmortem report, which was quite detailed. Both the official archived version and the corrected English versions of the report detailed his injuries, but in significantly different ways. It is not just the specific details which are different, but also the tone. For instance, the official transcript refers to her mentioning upper body wounds without the number, whilst she actually recounted the specific numbers for both upper and lower body stab wounds: 25 and 43 respectively. Also, her archived transcript has her recounting that her husband had acid poured on his face, and in her original version she states in his eyes, just to mention specific deviations in translation. However, the main aspect as the authors point out, namely the pain that she felt when reading this autopsy report as recounted in the Xhosa version is not apparent from the translation in the archived version. They remark as follows: "...it is clear from her tone and the pace at which she relates her narrative that the widow suffered intense emotional pain while reading the documents and suffers it again, now as she recalls them" (p. 362). One of the indications is that in the original she uses Xhosa phrases which would be more correctly translated as "I got very hurt/harangued/ deeply hurt" (ibid) when she was reading the

report, whilst what appears in the archived version is that she was “worried” instead of “hurt” (ibid).

In the second testimony related to the death of Mrs. Delato, the authors show how technical problems related to a faulty microphone and sound problems led to several interruptions and misunderstandings during the process of testimony delivery and interpretation, which in different ways negatively impacted the official archived version.

However, inasmuch as the SA TRC testimony translations and transcriptions may include inaccuracies, the fact that multiple translations and interpretations were made available throughout the process of the SA TRC proceedings actually also positively contributed to providing a “public space and recognized opportunity for a range of individuals to tell their own stories,” as noted by Du Toit (2000, p. 130). In response to the possible inaccuracies in these transcripts, I would respond as follows.

First, the illustrative and instrumental nature of the particular case study approach utilized for this dissertation was discussed above to show that the SA TRC testimonies are used to learn more about the nature of witnesses being heard in the SA TRC. The purpose of this investigation is not to establish or critique the veracity of these transcripts. In a sense then, even where parts of a testimony may not be fully accurate or complete due to translation or transcription errors, they are still valid for illustrative purposes. I believe that given the volume of SA TRC testimonies which form part of this investigation and the context within which they were read, analyzed and reflected upon, that any perceived shortcomings have been remedied, and that the present analysis is not precluded in any way.

Second, I agree with the general proposition of Annelies Verdoolaege who utilized these testimonies as the basis for her Ph.D. research which was later published in her book “Reconciliation Discourse” (2008), where she argues in a thoughtful and comprehensive explanation *inter alia* that the transcriptions should be viewed in terms of their social relevance. By being available in English and as such that they are circulating (and I may add used by researchers) widely across the world, and as it was the intention of the SA TRC process to have maximum transparency and accessibility; and as they are a “fairly accurate representation of the interpreters’ speech,” that these transcripts could even be seen as “primary data” (ibid, p. 48-9).

Third, I would also add just two aspects from the literature review discussion above on the potentially positive impact, within the critical narrative analytic framework, that the transparent (and free) access to these testimonies could have.

The first is that the SA TRC is potentially facilitating the forming of counternarratives (Nelson, 2001). One of the four characteristics Nelson postulates for the forming of effective counternarratives is that they are told by “quite a number of people” (p. 186), which the wide circulation and discussion of these testimonies can help facilitate.

Second, from the “voice” literature review above, we are reminded that “in listening to or even retelling other people’s stories, narrators become witnesses to others’ experiences, and storytelling provides some hope for understanding across differences” (Shuman 2005, p. 4-5). Again, the wide circulation of these testimonies can potentially



help in “retelling” these stories, as is hopefully also the case with the discussion in this dissertation.

In closing it must be reiterated that even within the limitations, it is indeed the testimonies and interactions as recorded in the SA TRC transcripts that form the basis for the research. For instance, it could be that a witness *feels* being heard just by appearing at the TRC even with no testimony having been given (yet). However, no reader can pretend to discern this, and therefore the approach in the dissertation is to reflect on what we can learn from the transcripts of the testimonies and interactions as actually recorded, regarding the important question of what it may mean for witnesses to be heard, and what the role of elaboration may be in that process.

#### **5.4. Expanding Upon the Research Methodology and Process**

##### **5.4.1. Transfer of testimonies and initial review**

All the testimonies were transferred from the SA TRC website and organized into folders and as Word documents in a Word based system, to allow for easy searching. The same date and venue sequence as on the SA TRC website were retained for easy cross-reference in the folders and on the documents, should I or any subsequent reader need to cross reference any testimony.

I initially did not know exactly how many testimonies I would end up reviewing, nor how many I would be selecting for analysis and discussion, but I had at my disposal all of the one thousand eight hundred and seventy-four (1874) transcribed testimonies of “Victims” and the four hundred and forty nine (449) transcribed testimonies of

“Perpetrators” as defined in the SA TRC legislation to select from in the folders. As the initial inductive reading for purposes of the dissertation research progressed, three matters became clearer, which also influenced the methodology and further process.

The first was that “elaboration of narrative” emerged as a very important part of the future research methodology, which is discussed next.

Second, I decided for practical purposes due to the overall volume, to limit the source material testimonies to those focused on the human rights abuses (i.e. “victims”). The perpetrator testimonies (i.e. the amnesty applications) still offer a rich source for possible future research within the same approach as adopted in this dissertation, but is not a focus of this investigation.

Third, as the inductive and analytical reading of the victim testimonies progressed, and as I also focused in more on the areas which could impact the elaboration of narrative, the initial broad research frame evolved, and became more dynamic and integrated with the insights gained from the reading.

#### **5.4.2. Elaboration of narrative as the organizing principle for analysis within an inductive approach**

The broad frame of themes, concepts and elements drawn from the literatures was initially quite extensive as mentioned. However, as the inductive reading and review process of the SA TRC testimonies progressed, the concept of “elaborating narrative” which forms part of the critical narrative frame appeared to be an important and cross-cutting concept to better understand how witnesses are being heard in these testimonies. The indication was that how narratives are elaborated, and taken up by others in order to

“materialize” (Cobb, 2013, p. 159) would expand our understanding of how witnesses actually participate (p. 144) in these proceedings. For instance, the examining and cross-examining of the witnesses by the Commissioners and those leading the testimony in these TRC proceedings (within a procedural fairness frame as is customary in quasi-judicial proceedings), may ostensibly also appear to “elaborate” the narrative of the witness. However, do such proceedings serve to elaborate narrative as envisaged in this dissertation discussion to perhaps better enable the witness to be heard, or is it really the law often acting imperially which may actually serve to kill (or stifle) those narratives which are not pertinent (ibid, p. 150) to these TRC proceedings within a quasi-judicial context?

In the context of this dissertation, “elaboration” in the narrative sense is broadly and inclusively approached, and Webster’s II New College Dictionary defines elaboration *inter alia* as “done with attention to numerous details ... intricate and rich in detail,” which is an expansive concept. Even so, in this dissertation elaboration will not only be investigated from the perspective of extracting (more and more) facts, but the “rich in detail” may also (for instance) in the context of the voice literature pertain to elaboration in respect to witnessing, empathy, and so on, to better understand how witnesses are being heard. In fact, as Cobb (2013) has written, the relationship between speaking and being heard is “having one’s narrative *affirmatively* elaborated by others” (own italics, p. 253-4), to increase narrative complexity and to foster narrative evolution.

On the preceding basis elaborating narrative is therefore utilized in this dissertation as a main focus of, and organizing principle for, the investigation. This

approach will also enable us to better understand the very concept of elaborating narrative itself, and its possible role in the evolution of meaning in these narratives, in the sense that the “critical issue in conflict resolution is the evolution of meaning, such that speaking and being heard is possible” (Cobb, 2013, p. 155).

The above perspective is also consistent with the discussion of the foundational notions of legitimacy and natality in the critical narrative theory literature review, where elaboration is referenced. Legitimacy is a key concept and refers not only to legitimacy in the sense of (for instance) legal standing, but what Arendt (1998) calls natality, that the very fact of birth is the foundation for and entitlement to freedom for the individual to be able to act in the world, to have agency (Cobb 2013, p. 126). Freedom in turn materializes in the capacity of “people to speak and be heard” (p. 127, relying on Rancière, 1999), and to have their speaking “elaborated, even if it is contested” (ibid). From this perspective therefore, elaborating narrative acknowledges and enhances the foundational freedom and agency to act as a human being, to speak, and also to enable the witness to be heard.

This approach also allows for the other elements and dimensions discussed in the literature reviews to be incorporated into the discussion, but rather from the perspective of elaborating narrative where appropriate. When seen another way, one could ask to what extent the *opportunity to be heard* leads to the *opportunity to elaborate*, and to which extent elaboration of narrative *enables a more favorable environment for the witness to actually be heard* (or not) within the research frame, at least as it appears from the testimonies.

### **5.4.3. Ongoing review of testimonies following inclusion of elaboration as the key organizing principle**

These initial rounds of interpretive and inductive reading were necessarily broad and often were conducted in an overview fashion due to the volume. I selected testimonies for reading not in exact sequence, but attempted to read a sample from the proceedings at different venues spread across the country, and over the time period of the HRV hearings, and then returned to previous venues and time periods for another round of follow-up testimonies. I was also trying to have a balanced representation in respect to gender, but it also became clear that women often testified in their role as a “struggle-widow” (Krog & Mpolweni, 2009, p. 360) which is a poignant and apt description although not specified if this was the women’s own term for themselves, and “seldom gave public testimony about their own experiences,” (ibid) even though they suffered similar human rights abuses and discrimination under apartheid. So ultimately even though a fair gender balance was achieved, I was led more by the content and dynamics in the testimonies, which actually pointed to a number of these “struggle-widows” as they were also struggling to have parts of their own story told.

The purpose was to gain a sufficient understanding in order to identify potential testimonies and segments which showed promise for subsequent analysis and discussion, and during this process I was noting comments and observations on the testimonies. At this stage whilst I was reading within the broad frame from the literature review, I was also starting to identify certain aspects and trends which were not part of the literature review, guided by the concept of elaboration of narrative, although not exclusively.

To facilitate the above process for the initial broad framework, I simply summarized the main themes as reflected in the literature review in a table format printed on a large single sheet, to see the broad frame in a holistic manner. I could then utilize this summary as an overall background guide to assist the reading and commenting process. I utilized shorthand as I was gaining a fair understanding of the themes and concepts from the literature review as the reading progressed. I could also refer back to the literature review where necessary for clarification, especially for the critical narrative outline which is at the core. This summary was kept at hand to assist cross referencing and clarification during especially the initial process of reading.

During the ongoing reading I annotated the testimony texts and added comments and questions, as part of the general inductive approach (Thomas, 2006, p. 238). As I was reviewing new testimonies, I was also returning on occasion to some previous testimonies for review to discern if there were emerging themes and connections within the context of how the narratives are elaborated (or not), and what the relationship to the broader frame and “being heard” may be.

Even though I distinguished critical narrative analysis from critical discourse analysis on a theoretical level above, I found it useful to incorporate a perspective from the critical discourse analytic methodology into this dissertation and process. Phillips & Hardy (2002) describe the challenges inherent in selecting material for discourse analysis, and how that folds into the analysis as follows: “...discourses are not neatly packaged in a particular text or even in a particular cluster of texts. Researchers can only trace clues to them regardless of how much data they collect... The endpoint comes not because the

researcher stops finding anything new, but because the researcher judges that the data are sufficient to make and justify an interesting argument” (p. 74, relying on Wood & Kroger, 2000). What I describe next is the process of reaching the point of having “sufficient” material (or what I refer to below as a “critical mass” of testimonies), to be able to “make and justify an interesting argument” (ibid).

#### **5.4.4. Keywords and concepts**

Initially as I added comments to the testimonies, I utilized a keyword approach, where a “keyword” would represent one or more of the concepts from the literature reviews, or importantly new insights and ideas potentially important for the later analysis and discussion. For instance, where a Commissioner’s opening remarks had a particular tone (for instance such as empathetic; or very TRC focused; perhaps brief or expansive; reconciliation or religious focused; even paternalistic, and so on depending on the specific phrasing and context) or approach, I would note any initial insights on the document under the heading of “narrative public spaces.” Or, where the witness was narratively positioned by the questioning, or she was attempting to position or reposition herself in her narrative, I would comment on the document under the heading of “positioning.” I did not know if this process would eventually lead to where the keywords could possibly be further “bundled” into themes for subsequent analysis and discussion (Thomas, 2006, p. 239 - 40), but I left the possibility open.

I also initially considered possibly converting this process into a numerical coding system as the literature suggests, based on the direction of the research, but quickly abandoned the numerical coding option. The keywords and concepts were in fact

evolving into a “coding” system, or what I would rather refer to as a system for organizing the research material. Based on my legal background and having read many testimonies professionally, I also found it much more integrated to read the testimonies and mark insights (including where appropriate incorporate the concepts) within a more dynamic frame. This was especially so as the concepts and narratives were increasingly being deconstructed and were becoming interlinked in the testimonies within the critical analytic paradigm and supplemented by other insights, which made a potentially static numerical coding system on that basis totally inappropriate. It would not be possible to capture the overall dynamic without forcing the narratives and interactions into boxes. This was particularly the case after elaboration was selected as the organizing principle.

I can illustrate the above by using an example: One of the concepts, say “witness prior statements,” where a witness was interrupted during a delicate part of her narrative as she had “contradicted” what was recorded in her prior statement, could also point to another important concept, namely “interruption or disruption” (of narrative), which led to an important missed narrative “cue,” which in turn led to a situation where the witness was being narratively positioned, and where she was struggling to be heard, and in that process there was no elaboration leaving the narratives flat, in circumstances which suggest that the witness may not even have had a proper *opportunity to be heard*, in spite of being in front of the SA TRC, not to speak of actually being heard. Due to the way that these comments, insights, cross-references and new insights were increasingly interlinked, it also did not make sense to separate out extracts from the main testimonies yet. Even so, it became clearer that some testimonies showed more promise for



comprehensive analysis, whilst others contained good illustrations of specific aspects, and others again showed less promise of either for a variety of reasons, for instance because of repetition.

I thus found as mentioned above that the original keywords as supplemented by the insights from the research in fact evolved into a system for organizing the research material. I therefore simply added additional pertinent keywords for instance “narrative openings,” or “narrative cues” or “resistance,” and additional comments or insights to the developing body of testimonies and excerpts which I was also separating out from the total body of HRV testimonies, and which were starting to form the basis for further (and future) analysis and discussion.

I often had to return to previous readings when new insights emerged, which approach is consistent with an overall general inductive approach. Thomas (2006) for instance discusses a specific example where transcripts were being analyzed (albeit within a very different framework), and writes that “if new codes emerged the coding frame was changed and the transcripts were reread according to the new structure” (p. 239). I was not using a strict coding system, but found his comment to be apposite to the way my reading process and the themes were developing.

#### **5.4.5. Organizing the research material**

I initially (and briefly) experimented with a Microsoft Access database where keywords and sometimes extracts from testimonies (“entries”) were organized to be linked back to the particular testimonies for later reference. This way all similar entries from several testimonies around a particular theme could be grouped together for

purposes of discussion. The testimonies were initially individually and consecutively numbered (T1, T2 and so on) to facilitate easy referencing and cross-referencing for internal analysis purposes, or so I anticipated. However, early on as the reading progressed and the insights were becoming increasingly interlinked as mentioned above, it became clear that it was far too early in the process to have even very interesting extracts separated out. It was more productive to continue making comments on the testimony itself under various themes related to the keywords and other insights, but to retain the overall context in the testimony itself by not separating out any extracts (yet).

In addition, as also mentioned above the testimonies were initially transferred from the SA TRC website and organized into folders and as Word documents in a Word based system, and therefore the selected testimonies and potential extracts could just as effectively be organized in Sub-Folders and Word documents, which significantly simplified the organization and search rather than using the Access database.

As the process developed the logical next step was to start sorting the testimonies into different groups which I did, and this sorting process also evolved. By “sorting” I do not mean removing testimonies from the database as organized when the testimonies were initially transferred from the SA TRC website. I kept this system intact so as not to lose the cohesion of the original organization which reflected the SA TRC website. First, after reading a testimony either in electronic or in hard copy form (as I also printed certain testimonies), and after noting initial comments and questions, I would simply copy an electronic version to a Word folder entitled “1.Current Research.” Alternatively,

if I did not want to revisit the particular testimony after the initial perusal I would simply mark it “read” and not transfer it at all.

Second, I would then return to these testimonies in the “Current Research” folder as the collection expanded and as the research process developed. If it transpired that a testimony may have potentially strong sections, such as a particularly informative Commissioner opening statement which probably would be used but not the rest of the testimony, I would just highlight the sections of interest to revisit those sections later, and then I would transfer those testimonies from the “1.Current Research” folder to another folder entitled “2.Potential Extracts.”

Third, whenever I had utilized a testimony for analysis and discussion I would move that testimony to a folder marked “3.Completed.” Fourth, it would also transpire over time that some of these testimonies (even with comments) turned out to be less relevant or interesting for the discussion (or even because of the frequency of certain themes), and those I would transfer to a folder marked “4.Not Used.” Sorting them in this way was also useful to manage the volume of the files (testimonies) in the active “1.Current Research” and “2.Potential Extracts” folders. Testimonies could be re-sorted from one folder to the next, but increasingly the emphasis shifted to the “Current Research” and “Potential Extracts” folders.

I also started early on to identify the testimonies by witness name, venue and date of testimony rather than by any numerical or other system, and I was becoming more familiar with the specific testimonies as the depth of the analysis increased, especially in the two last mentioned groups preliminarily selected for further analysis and discussion.

The discussion in this dissertation itself likewise references the specific testimony as on the website, including the name of the witness, and where and when the testimony was delivered.

#### **5.4.6. Critical mass of testimonies**

Based on the four groupings of testimonies referenced above and as part of the ongoing research process, I increasingly concentrated on the approximately two hundred and fifty testimonies in the “1.Current Research,” and “2.Potential Extracts” testimony folders combined, based on their apparent relevance for the research. However, I also decreasingly and more sporadically continued to review the testimonies which were initially transferred into the database and which were still unread, and this process in fact continued until the end of the dissertation process in order to gain possible insights from the as yet unread narratives. I believe that based on the overall process, and on the review and selection of testimonies, that the overall collection of testimonies in the “Current Research” and “Potential Extracts” folders formed a critical mass of testimonies to constitute the basis for the analysis and discussion in this dissertation, even though not all were ultimately explicitly referenced.

Over time, and in turn, the above process steered the research to focus on a smaller number of testimonies in the aforementioned two folders, which were utilized in one form or another for illustration or for more in depth analysis and discussion in the dissertation. In total the vast majority of the HRV testimonies as transferred from the SA TRC website were reviewed, even if in overview fashion on occasion, and ultimately forty eight (48) testimonies are referenced by name, date and place of delivery in this

dissertation, and as such were to different extents utilized for analysis and discussion.

These testimonies are listed in Table 1 which is reflected in Appendix 1 to this

dissertation, and the testimonies are listed in the order first referenced.

#### **5.4.7. Emergence of a more dynamic and integrated research approach, and transitioning to the “Analysis and Discussion” Chapter**

The above description of a changing research environment is also echoed in an illuminating insight from Phillips & Hardy (2002) in respect to analyzing data in the context of critical discourse analysis. I believe that their insight also applies to the present research frame, and after discussing that standardized methods and approaches are not appropriate, they remark as follows:

“‘Recipes’ for successful data analysis are therefore difficult to provide. The breadth of discourse analysis techniques... and the diversity of the phenomena under investigation mean that the form that analysis takes will vary from study to study. As a result, researchers need to develop an approach that makes sense in light of their particular study, and establish a set of arguments to justify the particular approach they adopt” (ibid, p. 74).

As can be expected additional themes, insights, comments and the ongoing analysis led to a more dynamic and integrated (and still evolving) approach, which formed the basis for transitioning to the Analysis and Discussion Chapter, which follows next.

## **CHAPTER SIX**

### **ANALYSIS AND DISCUSSION**

I propose to divide this chapter into two Parts, A and B. The purpose of Part A is to illustrate how the evolving research process connects to the SA TRC testimonies through utilizing examples from the testimonies. Part A concludes with an update of the research approach, in preparation for the discussion following in Part B; and Part B then follows with a more comprehensive and integrated analysis and discussion of the selected testimonies and excerpts.

#### **Part A: Illustration and Dynamic Approach**

##### **6.1. Illustration**

Consider for illustrative purposes the following examples from the SA TRC proceedings of different themes referenced in the initial broad research frame, and also examples which emerged from the inductive reading process not in the original framework. The purpose is to illustrate connections to the testimonies and also to extract additional insights and perspectives which may be included in the analysis and discussion approach which will follow next in Part B.

I propose to use Mrs. Laura Tau's testimony which was delivered on October 10, 1996 as the basis for this discussion and will then supplement the discussion with other examples and extracts. Mrs. Tau very tragically lost her son, Mzi Izaac Tau who was shot

to death by a policeman. After Mrs. Tau is sworn in, as was the practice in the nature of the SA TRC as a quasi-judicial forum, the Commissioner (Ms. Gcabashe) makes the following introduction which also serves as the TRC opening statement to her testimony, followed by the first interaction with Prof. Magwaza who is leading the testimony:

“Mama, it would appear that you are still coming with the same stories. Blacks (sic) mothers have a common experience of losing their sons. All of them it is about the sons, sons, sons, sons of mothers, and this is a really painful thing, as you know that in our communities when you have got a son that is your investment. We invest in our children. Now, when you tell this story, Mama, somebody is going to help you. And take your time. If you feel like crying, do cry. If you feel like crying, do cry. We'll pause and wait for you. If you want to drink water, do drink water. We'll pause and wait for you, because you are telling a very painful story. And Professor Magwaza is going to lead you.”

PROF MAGWAZA: Good morning, Mama Tau. --- Good morning, Ma'am.

Thank you very much for having come over here today, and we would like to express our sincere thanks for having been prepared to share the experience with us. We know it's a painful experience, but we are here to support you, just to let you know that we are with you. I will start by referring to your statement. According to your statement you live at House No 2954, Pumulong, Kroonstad, and you were born in 1946. That is correct?

--- That is correct, Ma'am.

You are here in connection with the death of your son, Isaac Tau, who was shot dead by a white policeman.

--- That's true, Ma'am.”

There appears to be a real attempt by the Commissioner and Prof. Magwaza to create a favorable public narrative space for Mrs. Tau to share her experience and to tell her story, and to convey that this is a safe space. However, the question is to what extent this translated to Mrs. Tau actually telling her story and relating her experience, and her narrative being elaborated, as discussed below. In practice it turned out quite differently. Prof. Magwaza then continues to lead Mrs. Tau's testimony with key extracts reflected:

“When you are ready, Mama Tau, can you please just tell us about your son. We'd like to know more about him, and we want to keep good memories of him, all of us. Just tell us briefly about how old he was at the time, what was he doing? Was he a member of the political organisation, or not? --- Mzi was 17 years old and he was shot on the 15th of May by a certain policeman who had hidden under a plastic in a certain van, which had an emblem of Protea Furnishers written on it. I was not present, I did not see all this because I was at work at that time, but a short while after I had come back from work I called Mzi and I wanted to send him to the shop. After about two or five minutes a certain boy called Oba Mugimane came and told me that Mzi had been shot by a passing vehicle... I had just sent him to the shop at the time he got shot...

Just to ask a few questions, Mama, regarding the events. What was happening at that time? --- On that particular day there was absolutely nothing happening... There were no riots or unrest whatsoever. And when I sent my son to the shop I knew that there was nothing going on, there was no unrest within the area.

Had there been any ... (incomplete) (Pause) We know, Mama, this is a very painful day for you today. We will give you time to - just to come down, and when you are ready you can answer some of the questions. I will ask one question, and then you will answer me if you are ready. What I wanted to know was at the time when your son was shot, in your area, Pumulong, had there been unrest other than on this specific day? --- There was absolutely nothing.

Was your son politically involved in some of the organisations? --- Not that I was aware of. I have never seen him attending any political meetings.

In your mind, Mama Tau, why could have your son been shot on that day? In your own thinking and your own understanding. --- Do you want to know the reason why he was shot?

--- Yes. I have absolutely no idea.”

It can be seen that the focus of the questions remains on what happened, which reflects the fact-finding, quasi-judicial nature of the TRC. Mrs. Tau was not there during the incident, but recalls the events as they were relayed to her at the time by a boy from the neighborhood. Her prior statement is the starting point of the discussion and seemingly frames the interaction, as it is so focused on confirming and gaining facts. Then she is asked to tell the TRC “briefly” about her son. However, this invitation is not



left open ended for Mrs. Tau to tell the TRC about her son, and before she answers the question is immediately followed up with more specific questions: “We'd like to know more about him, and we want to keep good memories of him, all of us. Just tell us briefly about how old he was at the time, what was he doing? Was he a member of the political organisation, or not?” The discussion continues along those lines in an attempt to gain information, and remains focused on the events even though it is clearly difficult for new information to emerge, and it is also clear that Mrs. Tau is struggling: “(Pause) We know, Mama, this is a very painful day for you today. We will give you time to - just to come down, and when you are ready you can answer some of the questions. I will ask one question, and then you will answer me if you are ready.” Prof. Magwaza then returns to the statement:

“I will come back to your statement then. You are saying that after your son was shot there was an inquest, and in that inquest you became aware for the first time who shot your son. Can you tell us more about that? --- A certain detective, Detective Lihlu Nyana, together with Detective Nhlobe, they came at my workplace and they said that the Attorney-General was calling me at court. We went to fetch Mr Tau from his workplace to take him to the court. The prosecutor gave us a certain paper where there were certain dates written that we should attend court for five days. We attended court for that five days, up till on the fifth day, when the Magistrate addressed the court, and he said that he has not come to give sentence to the person who has killed the other. He said that he was reserving his judgment, and that was final. There was a certain man who was looking for - or a State pathologist. It was a white State pathologist. The State pathologist explained in court that the person who shot my son had shot my son with a bullet that was used to kill wild animals. That is all I have to say.”

Again, the focus is on facts and the inquest, which is not a criminal trial but a court process to investigate the facts to see if anyone could be criminally charged. The Commissioner (Ms. Gcabashe) and Prof. Magwaza then continue to ask a number of factual questions related to the people and the events, and the whereabouts of potential

witnesses, which interactions I do not reproduce here. During these interactions there is no opportunity for Mrs. Tau to elaborate her narratives, except to the extent that more facts are extracted. Prof. Magwaza next asks about Mrs. Tau's family:

"... a very difficult thing to you, like the previous witness you also lost your son very tragically. How has it changed your life, your life and that of your family? Can you tell us briefly? --- I will say I am quite fine, I can cope, but my son's father was very much affected. He's not even working at this moment.

He stopped working after the death of your son? --- Yes, he had swollen feet, so he had to stop working.

Is he getting any medical treatment? --- Yes, he is attending some treatment from Dr. Louis Claassen.

Who is paying for that treatment? --- I am paying for him.

We would like to know more about Mzi Isaac's family. You are the mother. Are you working? --- Yes, I am employed.

Where are you working? --- I work at Docker's House Creche.

How many kids do you have? --- I had two boys and one girl.

Now you have one boy, one girl. --- That is correct.

And how old are they? --- Mohawu is 27 years old, Pretty is 20.

Are they working? --- Mohawu started working in 1995.

The other one? --- Pretty is in standard nine at Emotswela High School.

Your husband is not working? --- (No reply interpreted)"

So, even though the process moves on to questions about Mrs. Tau's family, she is again implored to tell the TRC "briefly," and as she starts her narrative she gets exactly two sentences in, namely "I will say I am quite fine, I can cope, but my son's father was very much affected. He's not even working at this moment." Then the specific questions

start up again, exacting very specific answers about members of her family. There is again no opportunity for Mrs. Tau to elaborate her narratives, except to the extent that more facts are extracted. In respect to elaboration (or lack thereof), it is to be noted that one of the themes that will be discussed in detail in Part B below is apparent here, which is the missing of narrative cues by the TRC. Mrs. Tau is clearly starting to position herself as strong and coping, but there is no follow-up on this at all. However, very interestingly Prof. Magwaza then after the series of questions about her family returns to Mrs. Tau's initial comment about her being strong and coping, and appears to support her positioning, and somewhat elaborates, by saying to her:

“Okay, thank you very much, Mama. We have noted your request and we have noted your pain. I also heard you say you are quite fine, you are coping. That's very important to us, because after this tragic death it's very difficult for most of the parents to cope, and probably there's some things we can learn from you as to how to cope when faced with such a difficult situation. Again I think that indicates to us that you are very, very strong. Thank you very much.”

So even though Prof. Magwaza appears to support Mrs. Tau's positioning of herself as strong and coping and somewhat elaborates, Mrs. Tau herself gets no further opportunity herself to elaborate. At this stage of the proceedings it appears as if Mrs. Tau will at least be left with the way she has narratively positioned herself, in spite of very little opportunity to do so, and even though she has not had any opportunity in reality to elaborate even her own story during the whole of her testimony. This is further in spite of the initial promise and apparent favorable public narrative spaces at the start of her proceedings that she will be able to tell her story with the support of the TRC. However,

the Commissioner then closes the proceedings, and in her (very public) narrative she repositions Mrs. Tau differently, and concludes the proceedings thus:

“Thank you, Mama. As I've already said that the way most of these cases were treated were done in a mysterious way. For the Magistrate to say that he cannot make any decision about the case when one of the perpetrators had already agreed that he shot a boy in a pink shirt, when the evidence was there, it would appear that the law at that time was for the perpetrators and not for the victims. And I believe that is what is exciting about the Truth Commission, that all those cases which favour the perpetrators, there is an attempt that the victims should get a fair trial on what happened before. We thank you. As some of the members - my colleagues have already said, that we shall try by all means to follow up these cases so that we can see that justice is done. You are indeed a very strong person. You have already said that you are quite well. We appreciate that, but myself I will suggest that you also try and get a help from some of the psychologists, because you are traumatised. The only thing is that you are very strong. Some people are very strong, but you are traumatised. Even now a person can see that you are traumatised by the death of your child, and we don't blame you for that. So I would advise you too to see some of the people who are put here to take you to the right people who can help you in this trauma. Thank you very much.” (Tau, Welkom, October 10, 1996).

The power of the Commissioner over the proceedings (Lukes, 1974) enables her to end Mrs. Tau's opportunity to be heard right there. Mrs. Tau remains thus (re)positioned in the narrative as a traumatized victim instead of an empowered, strong and coping person as she was attempting to position herself and I would argue in an attempt to regain moral agency, and without her even having any opportunity to respond. The TRC however, itself comes off “positioned” very favorably in spite of Mrs. Tau not really having told her own story, and maybe even somewhat self-satisfied: “And I believe that is what is exciting about the Truth Commission, that all those cases which favour the perpetrators, there is an attempt that the victims should get a fair trial on what happened before.” Is this what happened? How did this repositioning (or struggle over positions)

impact her being heard in respect to her story about her son, and also in respect to herself? One is left with a sense that her narratives are left incomplete and undeveloped.

The other aspect of Mrs. Tau's repositioning by the TRC is the question of how such repositioning impacts her process of developing her moral agency. An important underlying theme which will be investigated in these narratives and proceedings is the extent to which the moral agency (Nelson, 2001) of witnesses who were affected by violence are developed in the narratives, or at least where the process is consciously enabled (or not); and also where counternarratives (ibid) are being developed, or likewise being enabled. People reproduce "through their speech the "Self" that is known to themselves and to Others within a discourse" (Cobb, 2013, p. 128). "Victims" come to the TRC having been oppressed under apartheid, and in addition had particular injustices inflicted upon them, hence their appearance before the TRC. In the prevailing discourse they are known as having been oppressed, probably as poor given the socioeconomics in South Africa; likely also had limited educational opportunities for the same reason, and the system which produced this discourse is at best in transition. Their moral agency was negatively affected by this prevailing (past) discourse, and now the developing discourse is branding them in addition as *victims*, including by the legislative process which categorizes them as "victims" in order to qualify for compensation:

"In these hearings we will not immediately be making a finding on whether a person is or is not a victim as defined by the Act that has set us. It will be a great deal later after the evidence that has been presented has been verified and after perhaps those who have been named as alleged perpetrators have been given an opportunity of making a response if they wish to do so" (Bishop Desmond Tutu opening narrative, George, June 18, 1996).

This is another layer of narrative which will become part of the future discourse, and one wonders how this additional “victim” label will impact the development of their future moral agency. The impact on the narratives and development of moral agency can be inadvertent, even for instance in a good faith effort to be informal and to set a tone, but this can nonetheless have a chilling effect on the speaking contexts and development of moral agency and counternarratives. An example is where a (white) Commissioner who is highly respected, and who has done much to fight apartheid, and whose integrity is above reproach, at the start of the proceedings introduces everyone and refers to a fellow Commissioner (Dr. Wendy Orr, a white woman who herself has made a very significant contribution to fighting the apartheid state), as “our boss so we have to listen to her very carefully as we move on. She will keep us in order I hope” (Worcester, June 24, 1996). This statement has to be seen in the context of these witnesses having had to call white people “boss” (“baas” in Afrikaans) all of their lives. Is this framing conducive to restoring the natality (Arend, 1998) and moral agency of victim witnesses, and does it add to their capacity for making moral decisions or choices (Cobb, 2013, p. 157)? Instead, this inadvertent framing may even flatten and simplify the narrative and do little to reveal and unveil “the complexity of the people, as persons, and human beings” (ibid, p. 220). TRC proceedings should not seem to be focused on collecting evidence only to the point of being disconnected from the people who will be providing the evidence, and telling their stories.

Looking closer at the contribution from the procedural fairness dimension within the analytic frame as discussed in the Literature Review Chapter above where several

procedural aspects were described to form the basis for achieving procedural fairness in a TRC, I would for illustrative purposes like to focus on only one of these elements namely “prior statement taking” (Freeman, 2006), which is emerging as an important factor impacting witnesses being heard, based on my reading of the testimonies. In addition, as will be seen from the following illustrations, the interaction of prior statement taking with the concepts from the research framework, such as the creation of narrative public spaces, and elaboration (or not) of the narratives, are quite noticeable. Recall the examples from Mrs. Tau’s testimony above, where her prior statement all but dominates her subsequent testimony. To reflect another example, imagine a witness in the SA TRC proceedings finally having an opportunity to tell his story of life as a black person living under apartheid, and the interaction starts as follows:

“MCEBISI MANJATI: (sworn states)

REV XUNDU: Chairperson I will lead him with questions. Mcebisi you are from Alicedale?

MR MANJATI: Yes.

REV XUNDU: Please tell us briefly about what happened to you as you gave us your statement” (Manjati, Grahamstown, April 7, 1997).

Even this very short extract illuminates different dimensions of the intersection between a witness having an opportunity to tell his story, and what it may mean to be heard within the research approach in this dissertation. The witness is asked to speak “briefly” and his opportunity is further limited, and framed, by the prior statement that he was obliged to give. Is this introduction conducive to creating the necessary narrative public spaces (Cobb, 2013) for the witness to tell his story, and to be heard? Also, with his opportunity to be heard framed in terms of the prior statement, the further question is

if there will be room (and inclination) for elaboration of his narrative when he tells his story? From the perspective of the TRC as a quasi-judicial forum the prior statement taking is an important element of the procedural fairness approach which applies in that forum (Freeman, 2006). The act of limiting or interrupting the witness to get back to the prior statement may be necessary to allow the proceedings to flow in a procedural manner. However, from a narrative point of view, and from a point of view of restoring moral agency (Nelson, 2001), and of developing counternarratives (ibid) this approach may be problematic. From a wider context, the question is to what extent the overall more formalistic procedural fairness elements which apply in that forum may impact the stories and witnesses being heard. This is ironic, as the very opportunity to be heard would not exist if it were not for that forum in the first place. Perhaps it may have been more helpful to consider the prior statement as the starting point for developing narratives (and even extracting additional information), rather than the defining point for delivering the testimony.

Or consider the example where the person who leads the testimony requests the witness (Mrs. Luthuli) to “Just tell us briefly, and stick to your story to what happened. Just give us a brief history as what happened to you.” (Luthuli, Durban, August 29, 1996). To the credit of the Commissioner and the person leading her testimony they provide Mrs. Luthuli some space to tell her story for about two pages of typed testimony, and then the person leading the testimony intervenes: “I want to try to guide you to come back to your statement, so you mustn’t be startled when I try to restrain you.” This interaction shows the tension, that there is an understanding of the impact of intervening



and returning to the statement, but there are very real constraints on the time available and other factors. In fact, later in her testimony where she is again allowed some space, in the midst of telling her powerful story the person leading the testimony again interrupts: “Because we want to save time can you please summarize the whole thing” (ibid). However, it should be noted that interruptions and disruptions in narrative (Cobb, 2013) can also be important to a witness being heard in other ways, which is part of the analytic frame.

Staying with prior statement taking to somewhat develop a theme within this “Part A” illustrative discussion, another example could be the interaction (or clash) with *elaborating narrative* as an important part of being heard. Mrs. Memela tells her story, including how her son was killed and even buried by the soldiers without informing her as they did want to return the body to her, and how her house was burnt down, and the Commissioner makes the following statement towards the end of her testimony:

“My second comment is really related to your statement, and perhaps you can also comment on it, and that is to say that, you know, you have told us so many things today which doesn’t appear in your statement, and yet of course it will help us – this is going to go into our records what you have spoken today, but there are many other people who are also probably doing the same thing as you are doing, and we won’t have the benefit of the oral history that you’re giving us today, and I just want to know why people still feel that they don’t have to give the full statement when they’re speaking to our statement-takers” (Memela, Durban, August 29, 1996).

The preceding does show that she was allowed some more space to tell her story and to somewhat expand from what was in the prior statement, but also shows that there is not enough encouragement and even a reluctance to have her elaborate her narrative as she is telling her story in relation to the statement, and even a gentle reprimand from the

Commissioner. It appears that the testimony is seen as more for the benefit of the Commission than for the witness, and the Commissioner's comment seems to just accept that it is the witnesses who do not provide all the information when the statements are made, and that the *process of statement-taking* has little to do with that. Recall for instance how the statement taking process was curtailed from approximately three hours per statement to about thirty minutes, and from a shift in focus from developing narratives to focusing more specifically on facts (Granden & Klubock, 2006). So even at the time of taking the statements the narrative public spaces are starting to be framed. The proceedings are in fact replete with examples where the prior statement did not correctly reflect what the witness wanted to say. Just one example: "In your statement you said the police who shot your son you can actually identify them even if you don't know their names. --- I said I could not identify them because they were white policemen." (Lowape, Bloemfontein, July 3, 1996). And just later in the same testimony: "In your statement you said your son was getting R100 a month. What was that for? --- He wasn't getting anything. I wasn't getting anything" (ibid). This also shows how a quasi-judicial approach can impact the development and elaboration of personal narratives whilst telling a trauma story.

The requirement of prior statement taking impacts the narratives before the TRC in many different other ways, and a particularly noteworthy example is where Mrs. Mpande tells her story of her son who was killed under heartbreaking circumstances. However, her prior statement was apparently not very extensive and even though she is right there, instead of assisting her to elaborate her narrative and allowing her an

opportunity to more fully tell her story and fill in the gaps, the following ensues and there is a reversion to statement taking, even after her testimony:

“CHAIRPERSON: Mama Edith Mpande, you have shared with us and, indeed, have shared with the nation the pain of losing your son. To see you shed tears makes us realise, again, the price that mothers had to pay for the freedom, for the liberation of our land. Mothers paid, indeed, the highest price, because in most of the cases they did not even know what their sons were doing and they had to be confronted by dead bodies which they had to collect and bury like you did to Makwenkwe... I do wish, however, to point out that our office has noted that your statement is very scanty, that they would like to have more information, more background information than is provided in the statement. So, I wish that, perhaps, as you are led down from the stand, somebody from the staff of the Commission must sit down with you and, indeed, get the details which are essential for us to have if we are to have any meaningful investigation of your matter. For now, we salute you and we thank you for coming to testify” (Mpande, Grahamstown, April 7, 1997).

A similar example pertains to the fact that prior statement taking was a requirement before a witness could tell her story before the TRC, which could actually lead to a potential witness being refused an opportunity to be heard at all. An example is the sister of Mr. Rammutla, who was refused such an opportunity until she made a statement to the TRC investigators (which is uncertain to have happened) even though her story was important to him for supporting his story (Rammutla, Pietersburg, July 18, 1996).

There are also examples where witnesses revealed more during their TRC testimony than they did during their prior statement, and one of the most harrowing examples is Ms. Yvonne Khutwane who was very seriously sexually assaulted and humiliated by South African Defense Force soldiers. She did not reveal this when her prior statement was recorded but did during her TRC testimony. (Khutwane, Worcester, June 24, 1996). The SA TRC Final Report discusses her case, and mentions that “in her

written statement, Ms. Khutwane had made no mention of this sexual assault. In her debriefing session she said that this was the first time that she had spoken of it and she felt tremendously relieved.” (SA TRC Report Vol. 5(9) p. 353). Again, I acknowledge the tension between the practical imperatives of efficiently managing TRC proceedings and elaborating narrative, which is also part of the discussion in Part B below.

I will now turn to illustrate the procedural justice dimension of the research and analysis frame. The essence of procedural justice for purposes of the analysis is that satisfaction and perceived fairness of a process (such as before the TRC) can be affected by factors other than whether the individual in question has gained any substantive outcome. In fact, procedural justice considerations (i.e. the experience of the procedure) can actually be more important even than outcomes or “distributive justice” aspects in various settings (Thibaut & Walker, 1975; Lind & Tyler, 1988) and could impact a witness being heard. In the SA TRC context, consider the well quoted example of Mr. Sikwepere. The final report of the TRC references in several respects the expected healing potential of storytelling (SA TRC Report, Vol. 1(5) p. 20, 112, 114 to reference just a few), and some powerful individual stories are recorded in the report. The authors recount the story of Mr. Sikwepere who was tortured, and in addition lost his eyesight when shot by the police, and who said that by telling his story to the TRC he “feels like I got my sight back” (SA TRC Report, Vol. 5(9) p. 352). The exchange in the testimony which is not fully reflected in the final TRC report went as follows:

“MS GOBODO-MADIKIZELA: Now for the last time, how do you feel about coming here to tell us your story?

MR SIKWEPERE: I feel what - what has brought my sight back, my eyesight back is to come back here, and tell the story. But I feel what has been making me sick all the time is the fact that I couldn't tell my story. But now I - it feels like I got my sight back by coming here and tell you the story".

What Mr. Sikwepere says he experienced when telling his story can be seen not only as "voice" or procedural fairness, but due to the *experience of the opportunity to be heard* could also be seen as achieving *procedural justice*. Mr. Sikwepere's experience in telling his story is not just an emotional experience to be related and quoted, but there is a procedural justice context with an accompanying literature which may help us to better understand the "being heard" dimension of Mr. Sikwepere's experience. For instance, this literature also includes a discussion and research in respect to the relationship between procedural justice and distributive (or "substantive") justice. Further on in Mr. Sikwepere's testimony the distributive justice component features strongly, and this aspect is less (or not at all) discussed when his case is quoted, perhaps because of the powerful procedural justice dimension. At the conclusion of the testimony Mr. Sikwepere is asked what the Commission can do for him:

"UNKNOWN COMMISSIONER: Baba what is your wish that the Commission can do for you to help? What is your wish Baba?

MR SIKWEPERE: I wish that the Commission can take care of the future of my children. Which is something that I cannot do at the moment. They are still going to school but they don't even have enough clothes to go to school, they're struggling, their children is not working - their mother is not working and I am only depending on the pension. That's the only thing that I wish for.

UNKNOWN COMMISSIONER: Thank you.

CHAIRPERSON: Thank you very much" (Sikwepere, Cape Town, April 25, 1996).

And that is the end of the testimony. No elaboration, qualification or contextualizing follows on this substantive request. Therefore, the experience of procedural justice as intense as it was has not lessened the demand for substantive (outcomes) justice. Having powerfully and positively experienced procedural justice, and having publicly expressed this, it could be that the situation allowed for the focus on substantive justice to possibly be deemphasized at that time. However, when the totality of his narrative is considered, and the lack of acknowledgement or elaboration on the substantive justice component is taken into consideration where he specifically states that “the only thing” he wishes for is that “the Commission can take care of the future of my children,” the question is to what extent was he really “heard,” when in all probability any meaning he may have made of this opportunity, to the extent that he did, very much included his substantive request to the Commission?

Another perspective from the procedural justice literature which could be relevant to this example is the specter of a possible false consciousness. Mr. Sikwepere is invited to state his wish through this opportunity to be heard<sup>9</sup> and it is a real and important request, namely that the Commission takes care of the future of his children, as he no longer can. The probability that the Commission can fulfill this wish and provide substantive justice in its entirety is slim as there was a process for reparation, but there is no elaboration, qualification or even acknowledgement of this narrative, and the testimony sharply ends there. The question is therefore if this opportunity to be heard and

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<sup>9</sup> This seems to have been a frequent question at the end of the testimonies, and will also be discussed in Part B below.

a focus on procedural justice considerations could be creating a “false consciousness,” in that procedural justice considerations could substitute for, or dilute, substantive or outcomes justice? It must be said that there are good examples where Commissioners and those leading the evidence make a concerted effort to manage substantive expectations:

“MRS GCABASHE: We shall wait and see whether we can actually help your or assist you in your wishes, but you should know that the Commission doesn't have the authority or the powers. We will have to tell the President, come up with suggestions or recommendations as to how to help you, then at the end of the day he is the one who passes this to the Parliament, and it's the Parliament that makes the final decision as to what assistance we should give you if you are going to get any assistance (Molehe, Bloemfontein, July 2, 1996).”

Turning next to the “voice” dimension of the research and analysis frame which offers very interesting perspectives on empathy, witness silence, recognition and witnessing, which are all very relevant to the TRC narratives. These insights are incorporated into the analytic approach, but even just the TRC excerpts above raise several questions in respect to empathy, in the light of the concerns raised by Amy Shuman (2005). Recall from the literature review that she describes empathy as “the act of understanding others across time, space or any difference in experience” (p. 4), but also warns against potentially destabilizing the meaning of the story (to the narrator) from the personal to the allegorical by using the story as representative, or as stereotypical or even as typical of a situation, which will “undermine empathy” (ibid, p. 4).

Consider the example of Mrs. Tau above where the person leading Mrs. Tau’s testimony says “... like the previous witness you also lost your son tragically.” Or the case of Mrs. Memela where the Commissioner says to her that “...but there are many

other people who are also probably doing the same thing as you are doing...”, or where the Chairperson says to Mrs. Mpande that “Mothers paid, indeed, the highest price, because in most of the cases they did not even know what their sons were doing and they had to be confronted by dead bodies which they had to collect and bury like you did to Makwenkwe...”. In each of these cases, even from these cursory examples, the danger exists that these witnesses are seen as “representative, typical or stereotypical” (ibid) of a situation, as Amy Schuman describes. It could be that the TRC Commissioners were attempting to create a national truth and historical record through these more representative approaches to expressing empathy, which would potentially have created a tension with the individual experience of being heard or not being heard. However, there also appears at face value to be no impediment or reason as to why the Commissioners could not have addressed both these aspects more consciously in tandem. These concerns and others raised in the literature review warrant a more complete investigation to understand the impact on a witness being heard in these proceedings, as will be done in Part B below.

## **6.2. Updating the research approach for the discussion following in Part B below**

When viewing the examples above and also the SA TRC transcripts reviewed to date more generally (and critically) within the context of what it may mean for witnesses to “be heard” in these proceedings and testimonies, the dynamics suggest two insights which are to be incorporated into the further analysis and discussion approach.

The first insight is that elaboration of narrative appears to manifest in four distinct ways (or directions) in these testimonies; and the second is that the SA TRC is seemingly



pursuing narrative “results” in the context of its mandate (i.e. seeking facts, truth, reconciliation and also to hear the “story), which resembles an overall process dynamic reminiscent of the so-called “logic model,” with an input/ output/ outcome/ impact format and dynamic that one finds in the monitoring and evaluation of international development work. This approach is illustrated in Figure 1 below.

The above two insights are discussed next and also integrated with the broad analytic frame drawn from the literatures and the other insights gained from the testimonies, and forms a more dynamic and integrated approach to inform the analysis and discussion in Part B of this chapter below.

#### **6.2.1. Elaboration of narrative four “organizing principles”**

Elaboration of narrative in the SA TRC testimonies appears to develop or manifest in four different directions, and I very briefly introduce them here due to their overall importance to the main analysis and discussion, which follows in Part B below.

***First organizing principle: Narrative is not elaborated, and seems not to assist the witness in the process of being heard***

Potential examples here include interruption without any apparent positive impact on elaborating narrative; also where narrative “cues” from the witness are present but not picked up on for purposes of elaboration, and more.

***Second organizing principle: Narrative is not elaborated, but yet still seems to assist the witness in the process of being heard***

Potential examples here include interruption to prevent the witness from falling into victimhood or to flatten narratives; also establishment of favorable narrative public spaces; furthermore witness silence, depending on the context, and more.

***Third organizing principle: Narrative is elaborated, but seems not to assist the witness in the process of being heard***

Potential examples here include empathy, but in a less constructive sense as discussed above, where personal stories are used in these narratives as “representative, typical or stereotypical” (Shuman 2005, p. 5) of a situation thereby causing destabilization of association among people and their own very personal experiences; another example is where there is ample elaboration in respect to the main part of the testimony but not on the witness’s own narrative; another example could be where elaboration leads to flattening of narratives, and more.

***Fourth organizing principle: Narrative is elaborated, and seems to assist the witness in the process of being heard***

Examples include questions and follow-ups which lead to elaboration of narrative; Also empathy, but here in a more constructive sense as “the act of understanding others across time, space or any difference in experience,” (Shuman, 2005, p. 4-5); also elaborating narrative even outside of questions asked, for instance narratives initiated by the witness and then further enabled by the TRC, and more.

Thus, the above four perspectives on elaboration of narrative in these testimonies are central to the main analysis and discussion and will be expanded upon and applied in context, and in detail, in Part B below.

### **6.2.2. Dynamic approach and process**

The second insight is that the SA TRC was to a large extent seemingly focused on certain “results” based on its mandate which included finding facts, seeking truth and enabling reconciliation. The stories of the witnesses were also important of course, but as part of the TRC mandate and therefore were produced within the quasi-judicial frame and within the context of the foundational SA TRC Act. In the light of this “results” based approach of the SA TRC, the dynamics in the proceedings and what it may mean for witnesses to “be heard” strongly reminds one of the approach which is generally followed in the international development community when monitoring and evaluating development work. The basis for that is the so-called “logic model” which has a results based approach, and which is framed around an input/ output/ outcome/ impact format and dynamic.

From the perspective of this dissertation, adapting the logic model to broadly situate the perspectives, concepts and insights here developed within that logic model frame, and then further juxta positioning the proceedings of the TRC on top of this logic model approach provided important insights on the approach of the TRC. Adapting the logic model thus for illustrative purposes also allowed for narrative elaboration and “being heard” to be situated within the realities of TRC’s quasi-judicial paradigm as

desired “results” in addition to focusing largely on facts, seeking truth and enabling reconciliation.

But first a caveat: It is very important to note that for purposes of this logic model perspective as presented here, it is not at all suggested that the agency of the witness is being diminished in her ability to craft her own story, even if she has to resist the direction of the TRC as will be seen from some of the discussion of the testimonies in context below. The witness developing her narrative can follow at any stage of course depending on what happens there, but will probably not follow automatically unless it is nurtured, even if by means of silence. This would depend to a large measure on what the TRC “does” with the answers, or silences, or narratives further, which again shows the power (Lukes, 1974) that the TRC has over the process. Not transferring or sharing any of this power to and with the witness, may well lead to what could be a type of false consciousness, both from the procedural justice perspective (Tyler, 2006; Fox, 1999) and from the critical narrative perspective (Cobb, 2013).

It is also to be noted that “logic model” may suggest at first glance a positivistic and instrumental approach to the further analysis and discussion, which is not at all the intention or case as will be seen below and in Figure 1. Instead, the purpose is exactly the opposite, namely to first recognize that the overall testimony format which developed over the life of the SA TRC often took a more formalistic turn with an apparent “logic frame” dynamic. Then second, to acknowledge the “positivist” (Ross, 2003, p. 79) nature of the production of the witness statements turning them into “data” (ibid), as noted by Fiona Ross and which impacted the subsequent narratives, and then third to move

forward in order to better understand the dynamics in respect to the actual narratives, and what may constitute or enable a witness to be heard, whilst also utilizing insights which can be gained from including this approach. Most importantly, the purpose is absolutely not to push the themes derived from critical narrative theory and broader frame into the boxes of inputs/ outputs/ outcomes and impacts as part of the methods and methodology frame.

In addition to better understanding the narrative dynamics, this approach also helps one to gain an appreciation for the difficulty that witnesses experienced in developing and elaborating narratives in the SA TRC, especially beyond the initial questioning by the TRC and initial narratives of witnesses. The challenges for elaborating only seem to increase when it comes to the more “complex” themes in the critical narrative approach, which pertains to aspects such as developing counternarratives and regaining moral agency, and starting the process of launching an aesthetic ethics. Furthermore, it could well be that with the delivery of the testimony before the TRC the witness’s processes only started in respect to these important aspects, and therefore the importance of the TRC questioners enabling this possibly longer term processes through elaboration *at that time* is apparent.

Figure 1 below sets out an integrated and basic schematic representation of the more dynamic research frame overall, with emerging prominent themes situated within this “logic model” approach. Again and importantly, this should not be viewed as a structure, nor template, nor immutable system, but only as an attempt to momentarily and visually present an approach for raising awareness of possible underlying TRC dynamics

and for informing the discussion following in Part B, which is focused on the selected testimonies and extracts:

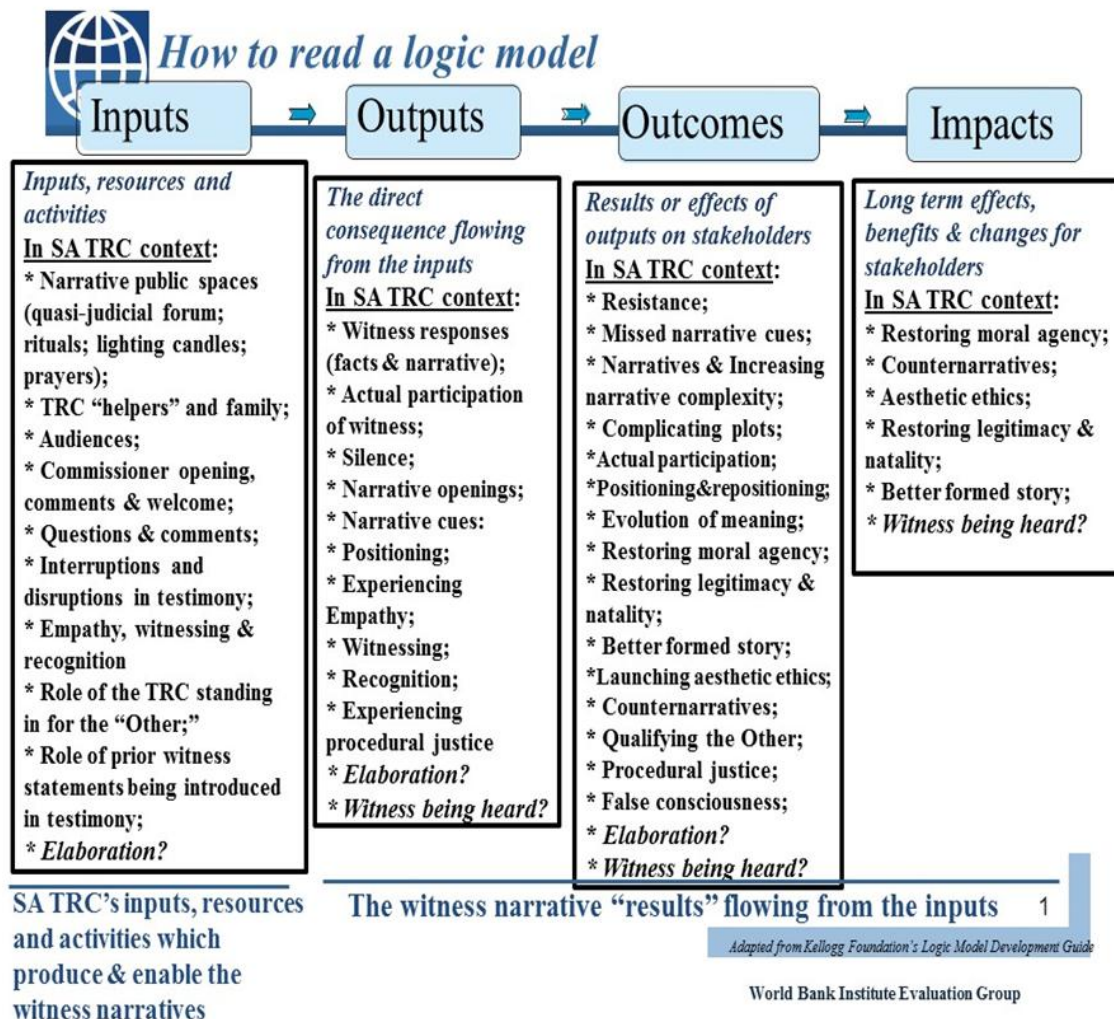


Figure 1: International Development Logic Model Adapted for TRC Proceedings (Source: World Bank, 2007, adapted)

As can be seen from fig. 1, at the “inputs” level (encompassing the inputs, resources and activities which produce and enable the witness narratives), one could

perhaps situate the questions asked of the witness, also the narrative public spaces created by the Commissioner opening statements, interruptions and disruptions in narrative, the role of the prior witness statements being introduced into the narratives, empathy expressed (in different ways, or not), and more. The question would be what level of elaboration takes place here, if at all. Based on the SA TRC testimony readings, it is likely that the primary focus will be on establishing facts and truth at these early stages, especially given the quasi-judicial nature of the SA TRC, as can be seen from Mrs. Tau's testimony above.

As can further be seen from fig. 1, the “outputs,” “outcomes” and “impacts” levels represent the “results” within different timeframes, with at the *outputs* level (which references the direct consequences flowing from whatever happens as a result of the inputs), one could perhaps situate the answers and other responses that the witness provides, including remaining silent. Here one could also situate the initial witness narratives, and also perhaps additional narrative openings that are created or narrative cues that are picked up on or missed, or the narrative positioning of the witness. The witness could also experience procedural justice, and more. Again, the question would be what level of elaboration takes place here at the direct outputs level (if at all), and if the witness is heard, and what that may look like.

As can further be seen from fig. 1, the next “outcomes” level (which references the results or effects stemming in turn from the “outputs” level just discussed above), one could possibly include resistance from the witness in her quest to be heard, or trying to narratively reposition herself. Then, drawing further from the critical narrative literature,

one could perhaps situate increasing narrative complexity and complicating narrative plots; or her actual participation, and evolution of meaning, and more. Other significant “outcomes” within the critical narrative frame could be to at least start the process of restoring the moral agency of the witness, and her legitimacy, natality, and also developing counternarratives, and perhaps even launching an aesthetic ethics. And again, the question would be what level of elaboration takes place here at the outcomes level (if at all), and if the witness is heard, and what that may look like. Also, it could be that the very absence of these outcomes may be equally significant in understanding more about the witness being heard, or not.

Next for illustrative purposes one can look at the “impacts” level reflected in fig. 1, where the focus is on what the long term effects, benefits and changes for the witness may be. This focus makes one aware of the actual difference these narrative interventions made (or could make) in the life of the witness, narratively speaking, through her actual participation (Cobb, 2013). This “impacts” perspective also makes one aware that themes such as developing counternarratives; restoring moral agency; launching an aesthetic ethics; restoring legitimacy, and being empowered through (and with) a better formed story, can enable an actual change for the witness and other stakeholders, especially over time. However, these possible impacts will probably require sufficient narrative public spaces and other narrative enabling interventions at the “inputs” level, and probably not as once off acts.

Impacts thus situated can be seen in two contexts. First, what “impacts” may occur at the time of the testimony in the TRC which is the focus of the analysis and



discussion in this dissertation; but second, also what impacts may occur after the life of the TRC. And it is here, in respect to the longer term impacts after the TRC (even though not a focus of this investigation), where follow-up interviews with witnesses have revealed several difficulties that they have experienced over time, after delivering their testimony at the SA TRC (Hamber *et al*, 2000; Gobodo-Madikizela, 2006; Hayner, 2011). For purposes of this investigation the question would be what the role of elaboration and being heard is *during the proceedings*, and if we can learn anything that may assist these witnesses narratively, including within the context of the “impacts” level. Figure 1 merely sets out an integrated and basic schematic representation.

The preceding potential broader application of the logic model approach also has implications for other conflict resolution processes, especially where such processes are institutionalized or at least formalized. By “institutionalized” or “formalized” I do not only mean formal institutions such as for instance the proceedings before the International Criminal Court, but perhaps also in respect to more traditional conflict resolution processes. These processes are often embedded in what have become known as “customary justice systems” (Ubink & Van Rooij, 2011, p. 20), which already implies a form of what I would term “informal formalization” through custom as it were. This “informal formalization” has over time led to a movement by governments, researchers and the international development community to record and actually formalize such customary law through “codifications, restatements and case law” (ibid). Many countries now even recognize these customary law systems in their national Constitutions (including for instance South Africa and Peru), which further necessitates formalizing

and institutionalizing these informal, customary and traditional processes. This is not at all a critique of such formalizing practices, but only to point out that even *before* these processes become more formally institutionalized, there is already a systemic element present through custom, where the logic model approach could be helpful to raise awareness and perhaps provide insights in respect to the conflict and narrative processes applicable.

The main question remains to what extent *all* the parties to these different conflict resolution processes really have an opportunity to elaborate their narratives, in the sense of *actually participating*? This question applies more broadly also outside of the TRC context, from the very institutionalized and formal processes to the less institutionalized and more informal but yet somehow systemic, which is to say when the participants now have “voice” or the opportunity to be heard during that particular conflict resolution process.

I now propose to turn to Part B for a more comprehensive analysis and discussion of the selected testimonies.

## **Part B: Application, Analysis and Discussion**

### **6.3. How Part B is organized**

In keeping with the fact that the opening statements of the Commissioners in the SA TRC hearings were so important for contributing to (or even creating) the overall narrative public spaces in those proceedings, this more in depth Part B analysis and

discussion<sup>10</sup> will likewise start with a reflection on the opening statements of a selected number of SA TRC testimonies.

The discussion will then proceed along the lines of the four organizing principles (or general directions) that appear to manifest in these testimonies in respect to the elaboration of narrative as identified above. In turn, under each of these four sub-headings the discussion will be integrated with the themes and principles as introduced in the preceding Chapters and also include any additional insights that may emerge in the context of that particular discussion.

#### **6.4. Commissioner opening statements and narrative public spaces**

The opening statements of the Commissioners in the SA TRC hearings were important to the overall narrative public spaces in the SA TRC proceedings. However, it is not always possible to draw direct correlations between the opening statements and what follows in the proceedings, so this Part B discussion will start with a general reflection on the opening statements of a number of SA TRC testimonies to discern what role they played or could have played in contributing to the narrative public spaces.

By way of introduction I would suggest that various factors could influence the establishment of the needed public spaces and speaking contexts which may flow from

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<sup>10</sup> A note on the formatting of the full testimonies and extracts of testimonies utilized in this Part B discussion: I have made only the changes necessary to integrate the testimony text and style into this dissertation document, i.e. in respect to color, typeface and font. Otherwise I have attempted to remain as close as possible to the transcription format as published by the TRC, which is not always internally consistent but shows the practical reality of transcribing and publishing these many testimonies. I have also retained the spelling as published, which is based on the British rather than the American approach.

the Commissioners' statements and narratives, including (1) the extent of the Commissioners' encouragement of witnesses' development of moral agency; (2) the extent to which they encourage the witness to speak, and reiterating the assurance that they will be heard; (3) the extent to which (and how) they narratively position the witness; (4) the extent to which (and how) they narratively position the SA TRC; (5) how they allow for elaboration (or not); (3) whether there is a clear and unequivocal recognition and encouragement of the witness's natality and identity, or whether their framing of the witness is largely in the context of victimhood; (4) whether there is any encouragement of reflexivity in the narratives of witnesses, or creating a space for such reflexivity in the testimonies to follow; (5) the relevant power dynamics reflected in the Commissioners' statements and narratives which may impact the testimonies to follow; (6) whether the Commissioner at least establishes the basis for victims to start developing counter narratives in their testimonies, as envisaged by Nelson (2001); (7) whether aspects of the Commissioner statement and narratives could actually contribute to repeating the trauma of victims.

There is a whole range of opening statements with different dynamics in respect to creating narrative spaces, from apparently favorable to somewhat surprising if not slightly bizarre, given the stature of the TRC forum. For example in respect to the latter, consider the following in an effort to set a witness at ease. The human rights violation under discussion was in respect to the witness previously being wounded by birdshot discharged by the police:

“DR. BORAINÉ: [indistinct] very pleased to see you here today and to welcome you on behalf of the Commission. You have waited since early this morning and we thank you

for your patience and we hope that you feel now having listened to some of the others that we don't bite - that we actually care about who you are and your story." (Molelekhi, Cape town, June 10, 1996)

"We don't bite" is a South African expression and something one might say to a child to show that there is no threat, maybe even sarcastically and is no doubt meant well here, but sets a paternalistic tone towards the witness in respect to recognizing her natality and moral agency, especially given the stature of the TRC forum. Moreover, the next sentence "...that we actually care about who you are and your story" seems to create an "us and you" dynamic in terms of the TRC, in the sense that "you may be surprised, but the powerful TRC actually cares about you," and in that context "we" also seems not to include the audience. In fairness the tone and context then changes, and what follows acts a type of balance, but the paragraph above and this next paragraph constitute the whole opening statement:

"And we also know that it's not easy for you to think back and to remember the pain and the horror of your own experience. But we hope that you will feel very free to share your story with us. Before I ask my colleague Denzil Potgieter to lead you as you tell your stories, would you please stand for the taking of the oath."

This part of the dissertation discussion focuses on the Commissioner opening statements, but it is also interesting to note that in spite of the initial statement that "we actually care about who you are and your story," in the testimony itself the only focus on the witness as a person is when the official leading the testimony asks the following at the beginning: "Just before we come to actual incident, perhaps you can just tell us briefly who you are and where you come from - where do you live?" (ibid). Nothing more follows about her as a person.

As intimated above, when reviewing these Commissioner opening statements a whole range of different dynamics emerge, but also certain similarities. In order to expand upon and organize this reflection on the Commissioner's opening statements, I propose next to draw from two opening statements as the basis for the reflection whilst supplementing the discussion with examples from other Commissioner opening statements. The first is by Archbishop Desmond Tutu who was the Chairperson of the SA TRC. This statement was delivered on the first day of the proceedings in the town of George on June 18, 1996, i.e. some two months after the SA TRC had started its work. The second opening statement is by Dr. Alex Boraine, delivered on the first day of the proceedings in the town of Worcester on June 24, 1996. As these opening statements touch upon a number of factors which impact the narrative public spaces, I next propose to arrange the discussion under several headings drawing from these opening statements, and in that process also incorporate examples from other opening statements over the life of the SA TRC.

#### **6.4.1. The extent of focus on the witness, her narrative positioning, victimhood, and rebuilding moral agency**

Arguably, the most important focus in these opening statements should be on the witness. The opening narrative by Bishop Tutu contains only 1.5 lines (out of 99 lines) directly addressing the victim witnesses by extending a welcome ("We welcome you all very warmly but especially we welcome those who will be testifying, their families, and friends."). The second opening statement has no reference directly addressing the victim

witnesses. On the other hand, there is an extensive focus on the TRC itself and the people who made the organizational arrangements, and the authorities, and formalistic aspects.

Overall, it feels like more time is spent to show how important *these proceedings* are, and the TRC as an institution is, rather than to emphasize how important the victim/witnesses are to enable the development of moral agency. These include Bishop Tutu in several paragraphs at some length thanking and introducing the municipalities and government institutions who provided support; the NGO's in attendance and who supported the work of the TRC; the statement takers and the community briefers; the interpreters; the people who prepared and set up the venue; the TRC itself through its four regional offices and all the officials from various places who are present, including other Commissioners not in attendance, and finally the panel in attendance.

In the second opening is much shorter but also conveys a similar approach, with no reference directly addressing the witnesses. Aspects actually addressed include thanking the local authorities for supplying the venue; restating the aims and reconciliation focus of the TRC; also introducing the Commissioners in attendance (the most prominent focus); a personal reflection by the presiding Commissioner on his hopes for the TRC further emphasizing the reconciliation theme; and interestingly, a concluding paragraph on the "briefers" again bearing in mind that there is no direct address to the witnesses, except for the indirect reference in the first line of the concluding paragraph. I copy only the personal reflection of the Commissioner and the final paragraph below:

"DR. BORAINÉ: Some time ago I tried to put down on paper what my own personal hopes were for the Commission and I believe it is shared by the Commission itself: Instead of revenge - there will be reconciliation. Instead of forgetfulness - there will be

knowledge and acknowledgement. Instead of rejection - there will be acceptance by a compassionate state. Instead of violations of human rights - there will be the restoration of a moral order and respect for the rule of law.

...

Now we will be receiving witnesses one at a time and they will be accompanied by what we call briefers. It's an inadequate word. It doesn't mean somebody who merely briefs another person - it is someone who cares for them - someone who is alongside them. Someone who has been with them in the build up to today and will be with them during the hearing and after it as well. So if you see somebody accompanying a witness you know that that person is somebody who is caring very specially for the witness for what can be quite a traumatic experience. Once again you are warmly welcome and I hand over now to Wendy Orr."

The aspects discussed in both statements (especially thanking people and being inclusive, and introducing the TRC) are also important of course, but the above shows the relative lack of balance between the generality and the specificity in respect to the witnesses who are about to testify about the human rights violations perpetrated against them, which contributes to lost opportunities for creating the most favorable public space and speaking contexts.

An interesting comparison of two other opening statements by the same Commissioner in different venues less than a month apart illustrates the difference in narrative spaces that even a small adjustment can make, and perhaps also how this may have a different impact on the moral agency of the witness who is about to testify. Compare the following two references addressed directly to the witness about being nervous from two other opening statements, and the contrast:

"COMMISSIONER: You are the very first witnesses and I'm quite sure that you are nervous. If you were not nervous you should be nervous. You have a story to tell it happened a very long time ago, it will bring back many memories and you will feel a great deal of pain. Because those memories are very sad ones and one which caused you great misery a long time ago and you will be looking again to what happened." (Start of the proceedings at Kimberley, June 10, 1996).



“COMMISSIONER: Mr Molehe, you are in one way making a bit of history today, because you are the first witness ever to appear before the Commission in the Free State. Some of your colleagues and friends have appeared in Durban, but you are the first in the Free State, and we welcome you most warmly. It's not easy to be first, and you're probably feeling a little bit nervous, but I hope that you can relax and realise that the Commission, appointed by the President, is here on behalf of the nation, and cares about you and your own pain. We identify with you. You have come to tell us about the death of your son, which is a very, very hard thing to do and a very heavy burden to carry. Before you do that I must ask you to take the oath, and I'd be grateful if you would please stand now.” (Start of the Proceedings at Bloemfontein, July 2, 1996).

In the first extract there is an assumption that “I’m quite sure you are nervous” and then going even further and in fact saying “if you were not nervous you should be nervous” raises the question if this affirms the moral agency of the witnesses to have their own feelings? Why not ask them how they feel and then reassure them when nervous? Compare this to the second extract where the framing is as “probably nervous,” within a context of empathy and support.

These opening statements of the Commissioners and the officials leading the testimonies also reveal an important underlying tension. This tension is not only present in these opening narratives themselves, but also in respect to the testimonies to come, namely to what extent the witness is on the one hand seen as, and indeed for purposes of the TRC Act affirmed, as a “victim;” and on the other hand seen as a person entitled to her natality as of right; and entitled to develop her own moral agency or at least start that process; and entitled to determine her own positioning through developing her own narratives, all of which may be in tension with her affirmation as a victim. Both the opening statements used as the basis for this discussion strongly reference the concept of “victim,” but in different contexts, which illustrate some of this dynamic. The first references “victim” as follows within the TRC Act context:

“CHAIRPERSON: In these hearings we will not immediately be making a finding on whether a person is or is not a victim as defined by the Act that has set us. It will be a great deal later after the evidence that has been presented has been verified and after perhaps those who have been named as alleged perpetrators have been given an opportunity of making a response if they wish to do so.”

The second extract references the concept of victim more generally and also adds “survivor,” which perhaps indicates some underlying intention to widen the concept from just the TRC Act “victim” context:

“DR. BORAINÉ: One of the major aims of the Commission is to return to victims and survivors their civil and human rights which were taken away from them. To restore to our country a moral order, to seek the truth and to make it known to the nation. To create a culture of human rights and respect for the rule of law and in doing all of this, in the hope that we will never ever repeat some of the mistakes - the tragic mistakes we have made in the past.”

From the perspective of “being heard” within the framework developed in this dissertation, how the concept of “victim” is approached is important. When a party falls into victimhood there is a danger that narratives may flatten; also that narrative complexity may be lost, and that this process could lead to a positioning of self as victim and the Other as victimizer (Cobb, 2013). This dynamic is complicated by the fact that the witness had to qualify as a “victim” under the TRC Act to receive reparation, and for that to happen evidence and facts were needed, and not so much the opportunity to develop her own narratives.

There are also several instances where the narratives do create positive public spaces and speaking contexts. One example is the strong reflective opening narrative of Dr. Alex Borainé in the second statement above, where he not only reflects on his own perspective regarding the TRC proceedings, but I would argue thereby also invites the

witnesses and others present to reflect, that it would be o.k. to do so. However, there is a surprising lack of this type of reflectivity in the Commissioner narratives overall.

#### **6.4.2. Positioning of the TRC as an institution, and emphasizing its importance**

Often the introductions, questions or narratives of the Commissioner and the person leading testimony go further than just creating narrative spaces for the witness to tell her story, or the positioning of the witness, and also positions the TRC. This emphasis on the TRC and its role and importance, which is also extensively reflected in both the above opening statements, begs a question or maybe even a key question. To what extent was the SA TRC itself as an institution and “person” a participant and witness to the TRC proceedings, and as such had an opportunity to be heard, and in fact had used that opportunity to elaborate the narrative of the SA TRC to a large extent to ensure that it was heard? In other words, it is not only the possible TRC reconciliation master narrative that Verdoolaege (2008) argues that developed in these proceedings, or the possible framing of the subsequent witness testimony through emphasizing reconciliation and forgiveness perhaps at the cost of optimizing narrative spaces as discussed below, but emphasizing the importance of the TRC to the extent that it may have contested and competed for these narrative spaces with witnesses, whilst it had the power over the process. This is a fair question to ask, even just comparing the very limited emphasis on directly addressing the witnesses versus the TRC focus, in both testimonies.

Recall also the example from Mrs. Tau’s testimony above, where in conclusion of her testimony the Commissioner says the following about the TRC: “And I believe that is what is exciting about the Truth Commission, that all those cases which favour the

perpetrators, there is an attempt that the victims should get a fair trial on what happened before.” (Tau, Welkom, October 10, 1996). However, during her testimony Mrs. Tau actually struggled to tell her story, and the proceedings did not really reflect the favorable TRC outcome as framed by the Commissioner.

This trend of emphasizing the importance of the TRC as institution “being heard” was apparent in many of the other opening and other statements of the presiding Commissioners and persons leading the testimony, and where applicable will be pointed out in context during the discussion.

#### **6.4.3. The tension between a witness being encouraged to tell her story, and the TRC simultaneously signaling some constraint and/or limitation in respect to the narrative space**

The frequency of a Commissioner or the official leading the testimony in the TRC proceedings saying to the witness to “tell us *briefly*” or to “describe *briefly*” is actually quite striking, and one could say it became a type of refrain. Moreover, this phrase would often follow shortly after the witness was encouraged to ostensibly freely tell her story. A good example where this tension is apparent is just a little further on I the opening statement of Mabija above (“if you are not nervous you should be nervous”) where the Commissioner says the following:

“And I want you to feel very relaxed - you are amongst friends. For the first time perhaps in your life you have an opportunity to talk to an official Commission appointed by the President of the country and to tell us - to tell this audience and to tell South Africa and indeed the world what happened and what is in your hearts.

I'm going to ask you to be quite brief but at the same time it is your story and we want you to tell it in your own way. From time to time we'll be asking different Commissioners to assist in the telling of those stories but nothing more than that. On this occasion I will be doing that on your behalf." (Mabija, start of the proceedings at Kimberley, June 10, 1996)

The tension is quite clear, between "I'm going to ask you to be quite brief," directly followed by "but at the same time it is your story and we want you to tell it in your own way." In addition, the possible power dimension of reminding the witness that she will be testifying before a Commission appointed by the President (Mandela) no less, should not be overlooked. And just further in those same proceedings, when the witness starts to testify, the following transpires:

"MRS GCABASHE: Mrs Molehe, we greet you. I hope that even if you've come to relate a very painful story you are prepared to tell us all that you know about losing your son. We sympathise with you in your loss. In short I will request you to try and explain and give us a background as to what happened to your son, that is the circumstances surrounding his disappearance. We would also like to know about your family background in brief."

Therefore, yet another invitation to a witness to tell about her family background "*in brief*." Is it not possible to manage the brevity without frequently utilizing questions which limit the opportunity to speak up front? In the testimonies there are many examples of where not only the narrative spaces are constrained as shown in the preceding discussion, but where the actual narratives are also constrained.

#### **6.4.4. Power dynamics**

Several power dimensions are present in these two opening statements which limit the possibility for expression and prevent the development of agency. For instance,

even without any apparent need to go so far as to threaten with the powers of the TRC (bear in mind these are victim testimonies, not amnesty hearings), in the first opening statement above Bishop Tutu does so by stating that he “does not want to invoke the powers that are vested in us” and then spells out powers and consequences including that some people have been sentenced to imprisonment for trying to mislead the TRC; and that “on the whole we have had very little trouble” and ends in a somewhat condescending tone that “I don’t think the people of this area will be different.” Also, just before he states that even though the TRC is not a court of law it has similar powers, and in addition it is also a forum where “especially the so called little people” are given the opportunity “of telling their stories.” This presents as a power issue, in that Bishop Tutu and the others on the panel are then clearly not “little people” as expressed.

The other noticeable power dimension relates to the media. After thanking the national (state-owned) broadcasting media for their positive and extensive coverage, he then adds this:

“BISHOP TUTU: We are a little perturbed to hear that some of the local papers here have felt that they could not be present here. We had thought [indistinct - interpreter is speaking Xhosa] in a just system and by the conflict of the struggle to overthrow it and the resistance to that effort.

But most normal people have been appalled by what we have been hearing in the different centres that we have gone to. The price of our freedom has been very high and we pray that we will not devalue that freedom, we must cherish it with all we have. And we must commit ourselves to ensure that such evil and suffering should never happen again in our country, indeed in any other country. We must all of us black and white, young and old, say never again.”

So in this instance, without any more context and seemingly even suggesting that the media is not “normal” and not “appalled” and also that they lack commitment presumably by being absent and are not participating in the way he thinks they should be, the question is what atmosphere in respect to the proceedings is created by this approach? Moreover, he spends significantly more time discussing the media than welcoming the witnesses.

Importantly, the question is if the above approach shows that the people present (including the witnesses) are being accepted as being morally responsible, and are being allowed the opportunity to exercise their moral agency freely; or do we “constrain them by disciplining them?” (Nelson 2001, p.26).

It is clear that no malice is intended through any of these illustrative examples, but they can nonetheless have a chilling effect on the speaking contexts.

#### **6.4.5. Framing the subsequent testimony with themes of reconciliation and forgiveness**

Imagine a witness having the opportunity to finally tell her own story before the TRC but before that, she hears a strong message (and perhaps expectation) from the SA TRC Commissioner during the opening statement framed around reconciliation and forgiveness. In the first opening statement above, the proceedings commence with a prayer by Bishop Tutu, as was common, but it also sets the tone for what may be expected from the witness. Both the statements above extensively reflect the themes (if not expectation) of reconciliation and forgiveness. In Bishop Tutu’s opening statement

for instance, he dedicates two lengthy paragraphs on forgiveness including that those who have testified before the TRC “...have amazed us – have amazed the world with their readiness to forgive with their nobility and generosity of spirit” and tied to that “... we pray that the offers to forgive will not go unheeded, that they will inspire others to be ready to say we are sorry, please forgive us, then – then this miracle will be complete.” And from the opening statement of Dr. Boraine, in addition to the specific reference to the TRC being an institution “dedicated to the search for truth in the hope of the contribution towards the reconciliation which we all long for and are working towards and have yet to realise fully in our country,” one can reference the poignant and poetic lines he wrote and quotes there, including his hope that “Instead of revenge - there will be reconciliation.”

Again, it is also useful here to recall the potential role of the TRC to be standing in for the Other, as Sanders (2007) has postulated, which was underdeveloped in the actual SA TRC proceedings. What if the SA TRC went further and not only developed reconciliation into a master narrative as Verdoolaege (2008) has postulated, but also developed the concept from the perspective as actually standing in for the Other, using reconciliation also as a narrative opening or narrative cue for further discussion and elaboration? This question is discussed in more detail in the next section below, which focuses on the first organizing principle.



#### **6.4.6. Conclusion**

It should be noted that the Commissioners who are featured in these narratives, in particular Bishop Desmond Tutu and Dr. Alex Boraine, are highly esteemed individuals who have almost exceptional moral authority as a result of their accomplishments and roles against the apartheid government. This discussion is not meant to be in any way directed at them, but the narratives indicate that more could perhaps have been done to create the necessary speaking spaces and contexts.

Also, I am not arguing that the introductory narratives of Commissioners in TRC proceedings should solve all problems and be solely responsible for the necessary public spaces and speaking contexts ideally required. But it is a fair question to ask, whether these introductory Commissioners' narratives set the scene to give the witnesses ownership, and contribute maximally to the speaking contexts and public spaces necessary for victims to tell their stories. It is clear from the above discussion that more can be done by the Commissioners to enable favorable speaking contexts, and to assist the witness in her process of reclaiming moral agency. Where high level Commissioners make opening statements and set the tone for all the proceedings to follow, it appears to be a lost opportunity not to focus more on the things that matter to the victims, and less on the TRC institutional aspects. Or at least to address both equally, given the multiple audiences that the Commissioners had to address, and also given that they had to build out the institutional presence of the TRC and its important role.

Overall, even though viewed from a narrative perspective the narrative public spaces were not always developed as well as they could have been, it is clear that the

TRC officials took great care in their attempt to do so. A good example is where during the proceedings in East London some of the translation equipment was disappearing:

“MR. NTSEBEZA: Before I hand over to Dr. Boraine, there is a request here. Some people take these things home with them. I know they are not doing that deliberately it's just a mistake, if you go home with this equipment, it's not going to help you in any way. If you mistakenly take it, please bring it back, so that they can charge it over night for further use. I know that we understand each other.” (Calata; Mkhonto; Mhlawuli, East London, April 16, 1996).

There is clearly an undertone that the intention behind the removal of the equipment could possibly have been nefarious, but the Commissioner skillfully addresses the issue without accusing anyone which would have limited the public narrative spaces: “I know we all understand each other.”

This Part B will now continue along the lines of the four organizing principles or directions in respect to the elaboration of narrative in the SA TRC proceedings. The discussion will commence under each of the four headings with the reproduction and analysis of key parts from a testimony which could be seen as an example of that particular organizing principle or direction, supplemented by other examples and extracts.

## ***6.5. First organizing principle: Narrative is not elaborated, and seems not to assist the witness in the process of being heard***

### **6.5.1. Introduction**

Before I introduce this particular organizing principle in more detail, it is necessary to make a general point in respect to the selection of the main examples in respect to all of these four organizing principles. I selected the testimonies based on the

dynamics in respect to elaboration and not primarily based on the severity of the particular human rights violation. Even where opportunities for elaboration were not developed or fully developed in the SA TRC testimonies, still the personal stories of suffering and grief are moving and most often intensely so. Also, inasmuch as I will argue and show through the examples that these four organizing principles are useful and relevant *overall* to better understand elaboration and witnesses being heard in these testimonies, it is of course not possible due to the sheer volume and variety of the testimonies to show in respect to each of the testimonies how that particular testimony, or aspects thereof, would or could “fit” into this approach. I hope through the limited examples analyzed and discussed to be able to illustrate the dynamics of this approach. The testimonies selected represent largely, or even overwhelmingly, the dynamics in respect to a specific organizing principle for illustrative purposes, but often elements of one or more of these different organizing principles could be found in any specific testimony. Two additional (potential) values of reproducing and discussing the foundational testimony in respect to each organizing principle is that the reader will then get to know that particular witness as a more fully developed moral being with her own natality and moral agency (Arendt, 1998; Cobb, 2013); and also as Nelson (2001) writes, one of the characteristics of developing a counternarrative is that it is told by “quite a number of people” (ibid, p. 6), and perhaps by telling that story again here in this dissertation even if partially, the effort of developing a counternarrative may be assisted.

Also, I mentioned above that a certain approach or format (but not quite a template) developed over time in respect to these testimonies. Usually some kind of

introduction and welcome is extended to the witness which on occasion appeared to be quite pro forma; followed by the swearing in of the witness which underscores the quasi-judicial nature of the TRC; and then often some form of confirmation about the witness's personal circumstances and family members seemingly based on the witness's prior statement, and the witness then being invited to usually say something about themselves, and often framed by some form of "briefly." This would usually be the first opportunity for elaboration, and the notable aspect is that these invitations often were not further elaborated, as will be pointed out in context in these testimonies.

In addition, the witness is during this introductory phase often invited to tell "their story," but the question can often be asked whose story is being told, as the TRC is interested in the facts of specific events and circumstances which of course is very important and central to the TRC narrative of the witness. However, what the witness herself experienced in terms of the loss encompasses much more than just the facts and circumstances, and also her own experience of living under apartheid (and more) which may presumably be a key part of her story, is often not developed and elaborated to the same extent.

It is also in this context where the logic model developed in Part A above is useful to show how the discussion often did not go past the "input" phase (described as "inputs, resources and activities" mostly being the initial TRC questions), and the immediate "output" phase (described as "the direct consequence flowing from the output" and

mostly centered around the initial answers), and then not elaborating the narrative much beyond that.

In respect to the first organizing principle more specifically, the most apparent examples of witnesses not elaborating their testimonies, and where their testimonies probably did not assist them in being fully heard, were in cases where even the usual approach of the TRC was somehow incomplete, and the apparent SA TRC rationale for the witnesses testimony based on the witness's prior statement somehow all but disappears. In that sense, it could be said that the witness was not heard even based on the TRC's own focus for that particular testimony. For instance, as can be seen from the following example based on Ms. Engelina Sionzana's testimony, whose daughter was shot and killed by the police, even the usual introduction is not present. There is also no conclusion in the usual sense where even the minimal (and usual) pro forma question of what the TRC can do is present, and so little elaboration in the testimony that even the apparent main incident which is the foundation for this testimony disappears. It must also be said that there were not many of these almost minimalist testimonies, but within the context of the present dissertation framework this is a relevant dimension which must be included.

In addition, other aspects which stand out include interruptions of the witness without any apparent positive impact on elaborating narrative or preventing a "victim" narrative from gaining traction; and another important factor here is that narrative "cues" for elaboration introduced by the witness were not picked up on by the TRC officials,

which resulted in missed opportunities in respect to elaboration. I now turn to the first testimony in the context of the first organizing principle, where narrative is not elaborated and also seemingly not assisting the witness in the process of being heard, and the testimony is that of **Ms. Julena Sionzana**.

#### **6.5.2. Testimony examples and discussion**

With no introduction, Ms. Sionzana starts off her testimony:

“JULENA SIONZANA: Whilst we were sleeping, we had a few people singing and as these sounds was approaching, it stopped right in front of my yard. It took some time. My brother’s child went into my house, Fundiswa, and she told Funeka that we must go. And Funeka was already up at that stage. They left together. After a while when they were gone, I just heard a few shots... Thereafter I lay down until in the morning. And then my sister Sionzana arrived and she said your child is in Bloemfontein in the government mortuary. And then I was shocked and that’s the last thing I heard. Thank you. It seems I have finished giving my testimony.”

The first of seemingly important narrative cues for possible elaboration which are never followed up on, are starting to emerge. For instance, who were the attackers? Also, at this stage she says nothing about how she experienced the news about her child being shot, and there is no return in the testimony in respect to the experience of the loss of a child by the witness. No questions or invitation is extended to her to set the context for the events as often happened, even for the sake of the TRC’s own information. The testimony continues:

“MS BURTON You have mentioned that in your statement that Funeka and also Nombulelo were taken in the same ambulance, is that right?

JULENA SIONZANA Yes that is so.”

Note as the testimony continues that there is no return to any of the above narrative cues or openings, and therefore no elaboration. Instead there is a return to the

prior statement, and without any context about who Funeka and Nombuleno was, or if that had any additional meaning for the witness. It turns out later in the testimony that Funeka was indeed her daughter. The witness's own role, or presence, or the impact is not explored at all. The testimony continues with a reference to subsequent legal proceedings apparently against four policemen (being the perpetrators?), and nothing about the aftermath for the mother. Where and how did she find the body of her deceased daughter? The testimony continues:

“MS BURTON: And was there ever any court case or any enquiry of investigation?

JULENA SIONZANA: Yes, there was a court case. We were called to appear there. We were called and we were told that our children's matter will be discussed. In that court there were four policemen. Apparently were from Graaff-Reinet. Their case was discussed in our but we were not aware as to what was happening and the case was to be postponed to Grahamstown. Till today we are still waiting for that.”

This is an important narrative cue for elaboration in respect to the legal proceedings, even within the TRC's own approach as seen in other testimonies. Often the TRC would ask follow-up questions to determine where subsequent legal proceedings or investigations occurred seemingly for purposes of following up on behalf of the witness to find out what happened and also for the historical record, and often would state that. In this case there is no elaboration and no return to the topic. The testimony continues with the introduction of an important fact and narrative cue as the basis for possible elaboration, apparently gleaned from the prior statement:

“MS BURTON: Mr Sionzana you mentioned that in your community clinic has been named after Funeka, but that one of the things you would like to do would be to have a [indistinct]

JULENA SIONZANA: Yes, Funeka is the clinic is named after her. I don't know why, but the clinic is named after her."

This is again an important missed cue, as surely having the community clinic named after her daughter could/ should be followed up on, to elaborate at the least the humanity and memory of her daughter? the naming of the community clinic could even have been used to start a counternarrative, to reposition her daughter (and the witness) as recognized by the community for their contribution, and not only as victims. But then next a question follows which ostensibly also invites elaboration, but at the same time this question is framed directly within the context of "before I move on to one of the other witnesses" which could signal some restraint:

"MS BURTON: Thank you. Is there something else you would like to say before I move on to one of the other witnesses.

JULENA SIONZANA: The one thing that I want to say is that I am very hurt about my child because she would have been helping me today."

Now the witness explicitly introduces her feelings in respect the loss of her daughter which is yet another important narrative cue which is missed, with no enabling of elaboration regarding her feelings or her loss at all. Also nothing about the daughter herself, she remains almost anonymous in this testimony. In conclusion there is a pro forma question about her pension which is also not followed up on and the testimony ends there, and in terms of the logic model approach there are barely even inputs and outputs, not to speak of outcomes or impact:

"MS BURTON: Thank you Ms Sionzana." (Sionzana, Karoo, October 9, 1996).



The next three testimonies which are discussed under this first narrative organizing principle (narrative not elaborated and appears not to assist the witness in being heard) reveal different dimensions of this organizing principle. The first two testimonies focus on certain events emanating from the conflict and dynamics between the African National Congress (ANC) and the Inkatha Freedom Party (IFP), which actually in many respects escalated dramatically around the time of the first South African democratic election on April 27, 1994 and in the next couple of years. Over 90 percent of the IFP support comes from the Zulu ethnic group which is largely based in the KwaZulu–Natal (KZN) province, and therefore the stronghold province of the IFP (Piombo, 2009). The first two testimonies are from the SA TRC proceedings in the Town of Mooi River in the KZN province, conducted on May, 28, 1997; and the third testimony which is not related to the ANC/ IFP conflict was delivered in the town of Middelburg (situated in a different province), on June 4, 1997.

There are several specific aspects discussed below which point to witnesses not elaborating (or at least not elaborating in respect to aspects which may be important to them), and then also probably not being heard. In addition, in the first testimony the question is how much opportunity the witness had to testify about the very (apparent) main rationale for this testimony, namely the death of his daughter Jabulile? In addition, what about the death of another child who was shot and killed in another incident, but seemingly (based on the interaction) whose death was not recorded in the prior statement and is not at all elaborated upon? The witness is **Alpheus Shabalala**:

“CHAIRMAN: The next witness is Alpheus Shabalala. Good afternoon, Mr Shabalala, we greet you, welcome you here today. You've come to tell us about the death of your daughter, Jabulile, and the shooting of your grandson, Thokozani, in the same attack. Before you give your evidence can you stand up to take the oath please.”

A big part of why I have included this testimony under this first organizing principle is the way that the witness's children and his grandson are presented during the course of the testimony, and the accompanying confusion. The question must be asked what confidence that inspires in the witness that he is being heard, especially as the TRC has the prior statement at hand. In addition, it will also be seen that beyond this brief introduction where his daughter's name (Jabulile) is mentioned, the witness has no (or little) opportunity to elaborate anything about her beyond that, with ostensibly the main rationale for this testimony being the death of his daughter Jabulile. The testimony continues:

“DR MGOJO: Good afternoon, Mr Mshengu. We appreciate your coming here before the Commission to tell us the story of your son. Before you relate that story to us I would like you to paint a picture of your family to us. Do you still have your wife? --- Yes, I still have my wife.”

Note that the witness's daughter and his grandson become his “son” which for a parent could severely impact the sense of how he is being heard. Already one can ask how a parent may experience this in the context of being heard, which is just compounded as the testimony continues, focusing on pro forma questions about his income (pension) and family (a wife and 12 children). However, in this exchange the daughter who was shot (Jabulile) is now correctly identified and acknowledged, but this questioning now also brings out the information about a son (Siyabonga) who died in another shooting incident which the TRC seemingly did not know about, which means it

was not in the witness's prior statement. From the research framework developed for this dissertation this interaction shows that the procedural fairness dimension of the TRC as a quasi-judicial forum can uncover very important factual information not in the prior statement. However, the fact that the witness lost another child to a shooting is at the least a very important narrative cue or opening for elaboration and to be heard. The testimony continues only with a question about the sequencing of the two deaths (who was shot first?) and this important information about a son being shot and killed is left hanging, and is never returned to by the TRC. This means that the witness is not heard on that aspect at all and this narrative cue about his deceased son Siyabonga is not explored and not elaborated.

In addition, there is also a lack of any subsequent meaningful elaboration in respect to the deceased daughter Jabulile (as will be seen from the discussion below), which shows the overall lack of elaboration and that the witness in the context of the frame of this dissertation probably was not heard. The testimony continues:

“At this area what was going on when this incident happened? What was going on? --- It was during the Easter holidays, and there was a violence between - people were killing each other, ANC and the IFP. My family was an ANC family...

- What happened?”

The witness responds as follows, and bear in mind that he testified earlier that he and his family supported the ANC which is confirmed in the extract above, and also bear in mind that there was much violence between the IFP (often supported by the police), and the ANC:

“--- It was a night vigil. It was a night vigil, a church night vigil. The reverend went to the police station... that they must come and guard that service or that function for the Zion Church. The police didn't come.... there was no ANC there, it was just church members.”

It appears from the witness's testimony that even though the underlying and ongoing conflict between the IFP and the ANC has been introduced and constitutes the basis for the ensuing attack on the parishioners during the night vigil, in setting the context he then seems to be steering away from involving the church in the IFP/ ANC conflict, and specifically sees them as church members and not as members of a political party. This seems to be confirmed in his following responses. He is building the narrative around the church and the members which seems to be important to him, and not around the political parties. But note how the TRC comes back to the IFP/ANC political conflict instead without acknowledging this distinction, which seems to be the narrative the TRC is building. Note also how the daughter (and the grandson) just seem to disappear from this narrative. What does the lack of elaboration in respect to the daughter in particular, and the grandson, mean to the witness who is also the father and grandfather, if not to have a negative impact on him being heard? The proceedings continue:

“Did your church have different members of the organisation? --- No.

But what about the church? Did you have a combination? --- No, they were just church members or Christians.

In other words they didn't belong to any political organisation? --- No, they didn't ... in the church...we all had our different card members.”

The witness thus acknowledges that there were both ANC and Inkatha members, but note how he then again returns to his narrative and ends with “... but we all had our different card members” meaning some *church members* carried ANC cards and some

carried IFP cards, so he seems to be emphasizing their church membership above their political affiliation. The question about these competing narratives is this: whose story is being told here? The witness is now defensive and protective towards his church, and again the daughter and grandson is still not in the discussion. The TRC then again returns to “what happened then:”

“Now, when they (meaning the IFP) came to the church what happened? --- They started firing, and it was quite bright, and they just shot randomly at people, even women. They killed five people, women and children.

And that's how you lost your two children? --- No, Thokozani didn't die there. Jabu died.”

So here the witness has to again correct the TRC Questioner about who died and who did not - obviously a very important aspect for a parent and grandparent - and the fact that the Questioner also got it wrong about Thokozani being a grandchild and not a child in addition to the fact that he did not die there. What does this do to the narrative spaces and the witness being heard?

And then, now that they are at the actual shooting, and the witness himself re-introduced his deceased daughter Jabulile (i.e. Jabu) who was absent from the discussion in any material way up to now, note how the Questioner next does not pick up on that important narrative cue, and Jubulile is not at all referenced again except in summary by the Chairman at the end of the testimony, and no further elaboration is enabled at all in respect to Jabulile. That is why the question can be asked in respect to this testimony, and the shooting death of his daughter, to what extent the witness was heard at all (or not)?

This follows on the earlier lack of any follow-up on his son Siyabonga whom the TRC did not know about, and who was also shot and killed. The proceedings continue:

“What about Thokozani? --- He was just shot at his leg and his fingers were cut, and he is still alive in standard six (i.e. the eighth grade). He is in standard six. And his leg had been healed, and his fingers got cut, two of them.”

Note even in respect to Thokozani, where narrative is somewhat elaborated, how abrupt the questions and answers are – again, in terms of the logic model, barely even questions (as “inputs”) and answers (as “outputs,” i.e. defined in fig. 1 above as “the direct consequence flowing from the inputs”), and leaving no narrative room for developing the “output” answers into “outcomes” (i.e. defined in fig. 1 above as the “results or effects of outputs on stakeholders”). It may have been useful to at least develop these answers, and the lack of any elaboration seems to point towards the witness probably not having been heard in this respect. The proceedings continue:

“Was this matter reported to the police? --- Police came. My son, my elder son, was shot by an AK47 and he was admitted in hospital. For nine months he stayed there. His name is Petros.”

Here is another important narrative cue which stands out for possible elaboration, and which is not picked up on. The witness introduces Petros, yet another son who was shot. However, note the follow-up questions in respect to Petros, and again, the question can be asked if the witness was at all heard in respect to Petros? The proceedings continue, and note the “input”/“output” format developing with little elaboration:

“Was he there? --- Yes, he was in the church, and he got injured. He didn't die, he is just limping now.

Is he still working? --- No, he is not working, he is just selling cabbages.

Was he working before the incident? --- Yes, he was.

Where? --- He was working at Ellerines at Estcourt. But he started working at the police.

After you reported the matter to the police did they come? --- Yes, they came.

Was there anyone arrested? --- No, no one was arrested. They came, many of them came.

In your statement it's written that those people who shot at the people in church were arrested and they were released. --- They were arrested for a short period, and there was a case, but - they did appear in court, but they were never sentenced. They were released and some of them went to Johannesburg. Some of them are still here.”

It seems that even with small clarifications these apparent contradictions could be clarified, but particularly for purposes of this first organizing principle, the absence of any elaboration even in a factual sense about the events and the humanity around the witness’s three children and grandson who were shot is apparent, and therefore the question can be asked to what extent the witness was heard on those important aspects:

“You also made a request. You said you're asking the Commission to investigate in connection with your daughter's death, and also you requested for a bursary for your daughter's children, and also money to maintain the children. These are just requests which we will send to the President. We will just make recommendations.”

It is to be noted that the witness is not asked to say anything more about the request as was often the case, and the issue seems to be just reiterated from the prior statement. One could say that at least there was acknowledgement and a management of expectations in respect to the bursary (i.e. scholarship) for the children, which in terms of the present research framework could be framed within the procedural justice literature as attempting not to create a false consciousness. The Chairman then summarizes as follows:

“CHAIRMAN: Mr Shabalala, you heard the witness before you, who told us about her two children who had taken refuge in a church, but even this did not protect them from people who came to the church and shot those two young boys there. And now you have told us about your daughter and her child, your grandson, who were at this church attending a church service, and they were shot. Your daughter was killed, your grandson was badly injured. They were shot at by a group of people who fired on the people attending the service. It's really - we know that these stories are true, but it's very difficult to believe them, that people can act so brutally and so callously. In fact the stories that we have heard from Brandville I have to say are some of the worst that we have ever heard in our trips round the country, and we extend our deep sympathies to people like yourself, and those other people from Brandville here today, who have suffered so much. We will do what we can to try and get to the bottom of some of these terrible murders, and inform the people of Brandville if we are able to get information about them.

“So, thank you again very much for coming in and sharing your story with us.”  
(Shabalala, Mooi River, May, 28, 1997).

This is a fair summary of the events and getting all the parties correctly identified, except with no reference to or acknowledgement of the witness's two other sons whose circumstances also emerged during the testimony; the first being Siyabonga who died in an unrelated shooting, and Petros who was actually also shot during the attack in the church, and spent 9 months in hospital. This summary does at least act as a type of brief witnessing to their humanity, and the suffering of the witness. However, the reference to “People *like yourself*... who have suffered so much” and not addressing the witness directly in her suffering appears to be empathy expressed in a more representative, prototypical or allegorical fashion, thereby diminishing its impact (Shuman, 2005).

The overall question again is whose story was this really? With reference to this first organizing principle of narrative not elaborated and probably not assisting the witness in being heard, even though the Chairman at the end provided some context, the witness himself did not get any further opportunity, and so the testimony ends there. The



question is ultimately, when looking at the discussion regarding the death and injuries of the witness's children and grandchild, and in terms of elaboration and being heard, to what extent the witness had an opportunity to elaborate, and to what extent was he heard. It appears that the witness was focused on additional aspects to what the TRC wanted him to testify about. As could be seen above, the TRC was building a narrative of the conflict between the ANC and Inkatha manifesting in the attack at the church, even as the witness was interested for instance in the particular circumstances of his daughter and her children making specific requests of the TRC in his prior statement, as we learn at the very end when the TRC Questioner places the request presumably from the prior statement on record. Moreover, at least this conclusion to the testimony is within the context of the witness's daughter Jabulile's story, who was shot and killed in the church attack, and who all but disappeared from the narrative.

The next witness is Ms. Thokozile Ndlovu, who did not witness her husband's murder, but yet had an opportunity to tell her story, and the question is to what extent her own story was actually elaborated and to what extent she was heard (or not), hence the inclusion of her testimony in the discussion here under this first organizing principle.

Here follows the testimony of **Ms. Thokozile Ndlovu**:

“CHAIRMAN: The last witness today is Thokozile Ndlovu.

Good afternoon, Mrs Ndlovu. Thank you for being so patient. You have waited all day to tell your story, you're the last person today. You are from Brandville, and, like so many other people today, you've come to tell us about the death of a member of your family. This time it was your husband, who died in March 1991. Can you please stand up to take the oath before you give your evidence?”

The proceedings start with the Chairman (as in the previous testimony) expressing empathy in a representative or allegorical fashion (Shuman, 2005) which one could argue does not assist the witness in being heard (“...and, like so many other people today, you've come to tell us about the death of a member of your family”.) It should be noted that the testimony also ends similarly, with empathy expressed in a similarly less favorable fashion, as will be discussed in conclusion.

The proceedings commence with the witness being asked a few very short factual questions about her personal circumstances and family (5 children ages 12-21; she is receiving some welfare assistance; she was born in 1950 and was 43 years old at the time her husband was murdered.) The proceedings continue by the Commissioner asking her “Please tell us what happened,” which constitutes the first opportunity for the witness to elaborate. However, more time is spent on the above particulars than for her to “tell her story” as it was framed initially. As will be seen, she did not witness the incident but her loss is no less for that reason especially given the circumstances, and the challenge is how to allow her a reasonable opportunity to elaborate her narrative and hear *her* story? For instance, one very important overall narrative cue flowing from the lengthy initial formalistic questioning is that she was left a widow with 5 children, but no follow-up questions are asked in that respect. What is “her story” if not how all this impacted her life? Nonetheless, it is promising at this stage that elaboration of her narrative is invited within the context of the death of her husband: “Please tell us what happened?”

“There was violence in 1991 at Brandville, and the situation was tense. There were sporadic outbreaks of violence, and on this particular day he went to the office where he

was called. They said he must come and fetch the house title. As he was coming back from the office, just next to the hostel, a group of people approached him from the back and they shot him. He tried to drag himself and walk up to Mr Zokela's house, and he reported that he had been shot.... I wasn't present when this happened. He was taken to the Brandville Hospital, but he was certified dead on arrival.”

Imagine from Mrs. Ndlovu's perspective how terribly sad and senseless this murder had to appear. Her husband who was well employed in spite of many structural challenges under the apartheid system, was on his way back from his place of work after having transacted an event which was even more challenging under apartheid, which was for a “non-white” person as generally described under the apartheid system, to become the owner of immovable property. He had just received the title (deed) indicating ownership of his house from his employer. Mrs. Ndlovu is awaiting his return to their house, and instead hears that he had been shot in the back and died. It is understandable that the TRC questioner especially at this early stage would ask “what happened” as the TRC is from its perspective trying to extract facts and is also perhaps trying to create a narrative about the particular conflict there, but by the same token when the question is put to her as to “what happened” the implication is clear that this referred to the factual (and perhaps general conflict) situation, not to her own “story.” She then says in her testimony that she was not present when that happened, and describes what she was told. The question then becomes, what happens from now on out in terms of her opportunity to be heard, now that she cannot provide more facts? The question is if the TRC can make the adjustment and pivot the testimony also towards her own story, and allow her opportunity to elaborate in that respect, and similarly be heard in that respect. The TRC Questioner proceeds with a question about a witness to this incident:

“Somebody witnessed this incident. --- That is true, but that person is not present today. It was a certain girl who was doing some washing outside her yard.”

So Mrs. Ndlovu very clearly states that the witness is not present. Factually Mrs. Ndlovu still only knows what she has been told, nothing has changed, and with the witness who could be providing the facts not there, the question is if the TRC will now pivot or continue to seek facts from Mrs. Ndlovu. The TRC Questioner continues:

“We have her name. That's not important at this stage. Is it correct that she wanted to get assistance, but these perpetrators prevented her from doing that? --- Who are you referring to?”

It can be seen that Mrs. Ndlovu is confused, as if she is not expecting another question about the witness, having just said that the witness is not present. There is now clearly a tension between the quasi-judicial nature and mandate of the TRC to obtain facts and the position of the witness who did not witness the incident. Also, she is talking about her husband who was murdered, not just another factual situation. A very important narrative cue is missed here by the TRC. The answer to the question is seemingly quite obvious, namely that the TRC is referring to the girl who was doing washing as a witness to the incident. Mrs. Ndlovu just referred to her, and yet asks “who?”

In the further testimony the TRC Questioner then keeps pursuing the issue of the eye-witness who is not present and beyond the knowledge or control of the witness, and then finally stops pursuing the issue, perhaps understanding that Mrs. Ndlovu does not want to relate facts that she did not see herself. The TRC has the prior statement and wants to get those facts on record, to the point of perhaps not listening to the “story” of the witness, in spite of her having been invited at the beginning to tell her story, and this

tension is directly within the procedural fairness frame of the TRC as a quasi-judicial institution. In addition, there is no follow-up by the TRC on aspects that the witness can testify to, what *she* did, how *she* coped, and so on. By the same token, the aspects that the TRC is pursuing is probably in her statement, so she said something about that before. Could she perhaps instead have been asked suitable questions from her perspective instead of trying to lead her on the “facts” as set out in her statement? What transpired here cannot be conducive to restoring the natality and moral agency of Mrs. Ndlovu, it adds nothing to her capacity for making moral decisions or choices (Cobb, p. 157). Instead, this may even flatten and simplify the narrative and do nothing to reveal and unveil “the complexity of the people, as persons, and human beings” (Cobb, 2013, p. 220). The issue for Mrs. Ndlovu is now is that not only did she *not* see the incident regarding the murder of her husband and therefore from the perspective of the TRC has no more facts to provide, but in addition her opportunity to say more about how she experienced all of this is also slipping away. The testimony continues thus:

“What was your husband doing at the time of his death? Was he working? --- Yes, he was working at Mooi River Textiles, and on that particular day he missed work because he had to go to the office.”

Back to facts, moreover facts she had already testified to, and this part of the testimony then concludes with a short question on whether the matter was reported to the police (yes, but nothing happened). Overall, the question is where this leaves the witness in terms of elaboration and being heard as she was seemingly of less utility to the TRC as a factual witness, but that does not lessen her loss. What was the real opportunity that she had to tell her own story, as the TRC promised in the beginning? The Chairman then

makes a concluding statement, and even though a number of narrative cues were not picked up on, at least the Chairman does pick up on the narrative cue in respect to the title deed:

CHAIRMAN: Thank you, Mrs Ndlovu, for telling us that story, for coming in today. We note from what you've said that your husband was going to the Council offices to collect the title deed for his house, and we presume that that meant that he had paid off the house and he was entitled to receive the title deed, a house for which he had worked hard all his working life and finally paid off, and on that very day he was attacked and shot. As I said to earlier witnesses, the stories that we've heard here in Mooi River, Brandville, are terrible stories, some of the worst that we've heard, and your story is really no exception."

So here is again some form of recognition and witnessing the humanity of the witness, but then again the specter of possible "bad empathy" enters, where the very personal story of Mrs. Ndlovu is framed in a way which is representative and allegorical, with the potential to destabilize the association between her and her very own personal experience (Shuman, 2005) by stating that her story is "really no exception" in respect to the "terrible stories, some of the worst that we've heard." Why not address it more specifically? How are these stories compared? Is it some kind of competition? Where is the individual experience in that? And still, no opportunity for the witness herself to elaborate further, so in that sense the earlier narrative cue was not used for elaboration of *her* testimony. The Chairman then concludes:

"But we thank you for bringing this case to our notice, and we hope that by coming here today and telling your story it has made it a little bit easier for you, along with all the other victims whose stories we've already heard. It makes it easier for you to understand and accept your husband's death, and we hope that you and the other victims feel some unity in the sorrow that you have experienced. Thank you very much indeed." (Ndlovu, Moirivier, May, 28, 1997).

What is meant by the witness telling her story, when the circumstances of this testimony shows that there probably was very little of that? To what extent was she really heard? Even so, is the impression (and expectation) in this final paragraph created that the witness (should have) experienced some procedural fairness here today? If so, especially if this sentiment is focused solely on the procedural fairness aspects of the opportunity to be heard and not on any substantive outcome, is there a type of false consciousness present?

The next testimony is of Mr. Noah Nkosi, and was selected for a brief discussion under this first organizing principle, as it shows how the TRC's quasi-judicial nature and the TRC's framing of a witness's experience as being outside of the TRC Act's formal human rights violation context can negatively impact the elaboration of narrative. The witness's son Eric was shot and seriously wounded by a municipal policeman whilst the community was maintaining a rent boycott as mandated by the ANC (as the leading liberation movement), and as part of the civil disobedience campaign. I only provide a short extract here, to show how the finding of whether the action rose to the level of a human rights violation in terms of the TRC Act can impact elaboration and a witness being heard, as the TRC seemingly loses interest after that point. Moreover, even at the start of the testimony the person who leads the testimony invites the witness to "tell us about your son Eric, who was shot and killed," and then he has to correct her that Eric was seriously wounded but is still alive. It can be argued that this is not exactly establishing the most favorable narrative public spaces, where the TRC does not even

know if your child was killed or not even with the prior statement in their possession.

Here follows the later relevant part of the testimony of **Noah Nkosi**:

“CHAIRPERSON: May I just ask one follow up question on your son? In your statement you say he is not presently in a stable condition. What do you mean? Is it simply that he's weak or is there other complications?

MR NKOSI: His problem is that the operation is so extensive. And also his hands isn't well. They make it difficult for him to cope when it comes to work under heavy conditions or doing some tough work.”

Earlier Mr. Nkosi asked for help from the TRC, and also described the extensive injuries that Eric had sustained from the shooting. In spite of these injuries, the Chairperson continues as follows, somehow deemphasizing the extent of the overall effect, and it will be shown how the TRC uses this later:

“CHAIRPERSON: But otherwise he's stable. It's not that there's anything threatening or - he copes as he is?”

The TRC then moves on to the rent boycott, and the link to the shooting (not) being a human rights violation:

“But in your statement to us, you are saying that the community organised this march against the municipal police who were violating human rights. Is there a connection?”

The Chairman is now reframing and more specifically and explicitly positioning the discussion in terms of human rights. To the understanding of Mr. Nkosi on the face of it there is indeed a human rights connection and he answers affirmatively as follows, but it is uncertain if he had a full understanding of the intricacies of the SA TRC Act framework:



“MR NKOSI: Yes, there is a connection. This particular policeman, he was working as a police for the municipality and he was involved in municipality matters, I mean in connection with rent.

CHAIRPERSON: Was he issuing summonses or in what way was he involved in the collection of rent? Don't you pay this at the offices of the municipality? I'm not trying to put you questions that you can't answer. I want to know, really, what the subject matter of this gathering was? Was it really focused on rent or was it on the violation of human rights by municipal police? And if so, what were you referring at?”

The implication in this question is that the meeting had to be about human rights abuses by the police in order to have any subsequent police action seen as human rights abuses, which of course is a circular argument. He is drawing a distinction, but the rent boycott as an integral part of the political resistance leads to a 13 year old being shot in a police action where the policeman worked for the municipality. The issue of the “rent boycott” as a community action supported by the ANC is not explored at all, and that this is not an individual rent dispute. The questioning then pivots next directly to a conclusion which excludes the action from being a human rights abuse:

“CHAIRPERSON: Okay, but the focus was not the human rights violation by policemen. The focus was the rent boycott. So we can strike the other from our record, just for our personal records.”

And that is that, but yet someone was shot and extensively injured under circumstances which strongly suggest human rights abuses. Situations are seldom so clear. The statement in this case gave an indication, why can the TRC be so adamant about a stark distinction? The human rights violation is dependent on the circumstances, and it was committed by a policeman. Given the consequences, should there not have

been an opportunity for the witness to comment after the implication is explained to him, that this may mean that possibly neither he nor his son would later be classified as “victims” under the TRC Act and maybe not receive reparation? Maybe at least investigate the matter further to establish if the rent boycotts were indeed under the auspices of the ANC? The legal interpretation could be unclear, but the potential implications for the witness if this is not a “human rights violation” could be serious and warranted more elaboration and detail. Was the witness actually heard in this respect, if there could be doubt even as to a proper opportunity to be heard? The proceedings conclude thus:

“CHAIRPERSON: Okay. Thank you very much, Mr Nkosi. Thank you for having come to us. There seems not much outstanding in terms of what we can really follow up to get more information and I think the information as to what has happened is clear in your mind; much more clear than in most of other cases that are coming to us.”

Is the implication here that as far as the TRC needs have been met, we are done with you? The Chairman continues:

“Especially where people have disappeared and so on or have died. That does not say that you're not experiencing pain. We acknowledge it, especially if it's your child. We can just imagine what it must mean to a parent, although we haven't personally experienced that. Or certainly not all of us, not many of us.” (Nkosi, Middelburg, June 4, 1997)

The Chairman seems to initially suggest that the witness has suffered less because his circumstances do not relate to someone having disappeared or died, but then he immediately also seems to realize what he said and attempts to correct that, with “We acknowledge it, especially if it's your child.” He then ends with a rather awkward form of empathy.

It will be noted that the Chairman did two things from a narrative perspective to shut the witness down: He first framed Eric's situation to be such that he is actually not in such bad shape; and then second that the rent boycott was probably not a human rights violation. So plenty of elaboration on the facts and skillful questioning, but one can perhaps say that on the aspect most important to the witness, hidden away in a lot of testimony about the events, is the request for help, which is not only all but ignored, but actively deconstructed by the TRC. In this respect there is little or no elaboration, and the witness is probably not heard.

As was seen in the discussion above, similarly to some of the other examples discussed in this dissertation, it is as if the TRC is so intent on its own "story" and what it is looking for (i.e. facts and in this case whether there were human rights violations as defined), that the narrative spaces dry up when the TRC perspective has been covered. It appears that the narrative cues and potential narrative openings provided by the witness are particularly vulnerable to not being recognized by the TRC at that stage. Also, in this case it is particularly noticeable how the quasi-judicial nature of the TRC can prevent the very opportunity to be heard to be stifled, even though ironically that opportunity was created by the TRC. Is this the law acting imperially, and thereby stifling elaboration and the witness being heard? (Cobb, 2013).

### **6.5.3. The SA TRC standing in for the Other, and reconciliation**

In the discussion above on Commissioner's opening statements and narrative public spaces, I reference examples of how (often) the Commissioner opening statements framed the narrative spaces and ensuing testimony in the context of reconciliation and

forgiveness. Given the nature and mission of the SA TRC, it is of course not surprising that reconciliation as a theme would feature heavily in the opening, closing, and other statements of TRC officials throughout the proceedings, even to the extent that it has been argued that a reconciliation “master narrative” developed in these proceedings (Verdoolaege, 2008). Witnesses would on occasion also reference or infer reconciliation, and the question arises how references to reconciliation, or inclusion of this theme in the narratives, could impact elaboration, and/or assist witnesses in the process of being heard.

Even though the theme of reconciliation hovered constantly in these TRC proceedings, as a cue for possible elaboration of witness narratives it was not noticeably utilized. Moreover, in the context of the broader framework discussed in the literature review section above I would argue that reconciliation necessarily and by implication has to include the Other, otherwise there can be no concept of reconciliation. Reconciliation cannot happen in a vacuum. With the Other most often not present during these human rights violation (“victim”) proceedings, one is reminded of Sanders’s (2007) argument that the TRC acted as a national conflict clearinghouse and stood in for the Other. Within the critical narrative frame, to launch an aesthetic ethic in the sense that “construction of the Self by Other is as important to voice and to speaking and being heard, as construction of Self alone, to speak and be heard” (Cobb, 2013, p. 233-4), the question then arises if the TRC could not have done more to develop that role to stand in for the Other? Already the theme of reconciliation is front and center as part of the mission of the SA TRC, but usually as a static topic with little or no involvement from the witness. On occasion there was a spark of a larger context within the theme of reconciliation, but

still perhaps not taken up as a narrative cue for further elaboration and an opportunity for meaningful development of the moral agency of the witness, and perhaps to start the process of launching an aesthetic ethics. Compare for illustrative purposes the following example from a Commissioner closing narrative addressing the issue of a witness not being informed about what happened to her loved one who was caught up in apartheid violence, and having to search for him:

“CHAIRPERSON: Thank you Ms. King... I don’t think it would ease the pain, but it certainly seemed to increase the pain to have to go from pillar to post, to go to police stations and hospitals and mortuaries. It is important for us to take in this pain, all of us, and try to commit ourselves that we want to see a country where these things will never happen. Because whatever we may say about the people who committed atrocities (and we know that atrocities were committed on all sides of the struggle), we can keep remembering that they too, are God’s children. And that we - we need to keep reminding ourselves we do belong in one family. And to help those who lost their humanity to recover their old.” (Kwisomba, Cape Town, April 23, 1996)

As can be seen, the Commissioner not only introduces reconciliation as a theme, but actually humanizes the Other (perpetrator) even though through a religious lens, that they “too, are God’s children” and then yet does not follow up on this (own) cue and just concludes the testimony without any further opportunity for elaboration by the witness herself. Could this narrative opening been further developed as the TRC adopting the role of the Other, and then specifically by including the witness? Could this process with the participation of the witness have assisted her to rebuild her own moral agency, or at least to assist in that process? A very simple and basic example could perhaps be that at suitable junctures during the course of the TRC processes at a certain venue say, as here in the case of Ms. King, to engage the witness from the perspective of the perpetrator, that is to say from the perspective of the “Other” as Sanders suggests, perhaps even to

just ask what the witness would have said to the perpetrator if he were there, and then within a critical narrative frame and opening to facilitate that “conversation?” And also importantly from that perspective and during that process (as the “Other” so to speak), to help construct the witness (as the Self), in a way that will move to include her where she was previously excluded by the Other, and in a way that will recognize and acknowledge her humanity, in order to help in the process for her thus “... to speak and be heard” (Cobb, 2013, p. 233-4) as referenced above. There was always an audience present at these proceedings, and could such skillful interventions at key moments also perhaps have served to assist other victim witnesses in their processes to be heard, and also by humanizing the Other, have served to assist the larger process of reconciliation?

Or consider the following example from the testimony of Mr. Vusumuzi Ntuli as a potential cue or narrative opening to explore the moral agency of the Other. In his testimony, the witness has expressed his ongoing and intense hatred of certain policemen at whose hands he has suffered much. In fact, he actually still encounters some of them regularly as they are still working as policemen, and when he meets them on the street they even sometimes seem to taunt him. The TRC Commissioner then asks a question which inclines towards adopting the role of the Other, and the witness replies as follows:

“COMMISSIONER: If you are saying you haven't forgiven and you still feel this hatred, is there anything that a person can do to make you better?

MR NTULI: What they did was terrible bad. I think the only thing that will make me relief is that if I can see them in prison, or if they can come here before the Commission and tell why they did what they did, and who sent them to do what they did. I want them as people who are working for the community, so that people can trust them tomorrow they must come before the Truth and Reconciliation Commission.” (Ntuli, Newcastle, September 10, 1996.)

See how the witness is actually here prepared to confront the Other, and more importantly seems to suggest that he sees them as beings with (at least potential) moral agency, in spite of what they have done to him in the past. By appearing before the TRC, they can possibly be “people who are working for the community, so that people can trust them tomorrow...” meaning that there is room for rehabilitation, and therefore this a strong narrative cue to perhaps have elaborated, in order to explore the potential moral agency of the Other. But there was no follow-up and no further elaboration of that answer.

Or consider what is perhaps an even stronger narrative cue introduced by the Commissioner himself in his closing narrative at the end of the testimony of Mr. Vusumuzi Nene, who lost both legs in a bomb explosion at a Magistrates Court in Newcastle in 1986. Note the specific effort by the Commissioner to humanize the Other who planted this bomb, and how he presents the Other as (again a potential) moral being, but then there is also no follow-up and the witness is not involved:

“COMMISSIONER: We know that people who opposed apartheid went sometimes to terrible lengths to show their opposition. People became angry, frustrated, and they acted very, very irresponsibly. We know that there were bombs that were placed in many parts of this country by both sides, and some of those bombs were aimed at installations like electricity pylons, where no one was injured. Other bombs were placed irresponsibly in public places, and you unfortunately became a victim of one of those bombs, and there were many other innocent victims like yourself on both sides. And I think it's important to understand what made people do these sorts of things. You probably heard the young man who gave evidence before you, Mr Vusi Ntuli, and he said because of the experiences that he had had at the hands of policemen he harboured a deep suspicion of policemen, and it's probable that the person who did this thing, planted this bomb, had a similar feeling, that he was prepared to go to any lengths to show opposition to what he saw as the system, and in the process of doing so people like yourself were very seriously injured. And we see today that you have - you obviously have suffered, and you've told us that you are a different person to what you were, although you have demonstrated

considerable courage to come here today and to share your story with us and with the public in front of the television..." (Nene, Newcastle, September 10, 1996).

I acknowledge the difficulty of even just presenting the Other in the way that the Commissioner did here bearing in mind that this witness has suffered greatly and that he has just testified. The potential further development of the perpetrator as a moral being is therefore not at all easy, but this is a seemingly very important narrative cue. The purpose would be for the *witness* to potentially benefit from that, not only in respect to rebuilding his own moral agency, but perhaps even starting the process of launching an aesthetic ethics.

Following on the preceding comment, I want to briefly reference an example where the Commissioner addresses the humanity of the perpetrator specifically in his closing statement after picking up on a narrative cue from the witness earlier in his testimony. The witness then actually (positively) acknowledges the Commissioner's observation which presents another potential narrative opening, but the matter is not further developed. This extract is from the testimony of Mr. Abdulhay Jassat who was detained without trial and who was severely tortured. His testimony is also discussed elsewhere in this Chapter Six but the focus here is on the humanity of the Other:

"COMMISSIONER: The other thing that I found noteworthy in your testimony was something that went contrary again to a great deal of the testimony that we have been receiving of unhelpful or even obstructive magistrates, police officers, sometimes doctors and that you in answer to a question here said the magistrate was sympathetic but was impotent because he was reporting alleged perpetrators to perpetrators. And I think we are grateful for that. So that people are aware that we are just human beings and everybody is a human being, even the perpetrator.



MR JASSAT: Basically that's true.” (Jassat, Johannesburg, May 2, 1996).

#### **6.5.4. Closing of testimonies**

At the conclusion of a testimony the witness was routinely asked if she had any requests of the TRC, or if the TRC could do anything for her (or some similar question). These were often requests which the TRC would not be able to fulfill, even though presumably these requests were passed onto other authorities. These requests would sometimes be dealt with in great detail, where specific people were identified, police stations or other prior official actions clarified to follow up on, and more. For present purposes it should be noted that there was also often no further elaboration (or even response) from the TRC, and the proceedings would then be abruptly concluded. It would be fair to ask to what extent these witnesses were heard in that (request) respect, or maybe even if these situations bordered on the “false consciousness” situation discussed in the context of procedural justice above. What is the expectation of a witness who was just asked what else the TRC can do for them, and then states a wish or wishes, and then there is no response from the TRC and that is the end of the communication? If the belief of the witness is now that this request is going to receive attention, where does that leave the witness if not with some form of false consciousness? From the perspective of the research frame developed in this dissertation it would mean that procedural justice has to substitute for substantive justice; in other words, that the witness’s opportunity to be heard should substitute for any substantive requests.

From the TRC perspective, is it assumed (or maybe expected) that the witness should have the opportunity to express these substantive wishes (i.e. at least having the opportunity to be heard *also in respect to the substantive outcomes*), but that there is no obligation for any feedback, not even stating what the TRC *cannot* do? Due to this situation sometimes being present of no elaboration (or response even) by the TRC following such substantive requests, and the witnesses then probably not being heard in that respect, I situate this discussion under the first organizing principle. I discuss two examples where there is little engagement from the TRC, and no follow-up in the narrative, or even an inconsistency in the response to different witnesses at the same hearing:

Example 1:

The case of Mr. Michael Bolofo is striking for the eloquence of the witness, and for how his life changed in an instant when he was seventeen years old (he was twenty-seven when he delivered his testimony on May 3, 1996 in Johannesburg), and for the circumstances of the event. He was on his way home at night from visiting a friend during the State of Emergency which was in force at the time, but the curfew time had not yet kicked in. Army units were patrolling the township and it transpired that they shot in the direction of Michael, seemingly in the dark confusing him with someone else they were after. The bullet penetrated his abdomen, and as he testified:

“While I was lying helplessly down in a pool of blood which oozed from my left side where the bullet had exited, because where the bullet came through it obviously burst, so one will wonder what situation I was in when I was lying down. Where the bullet came out was opened out to such an extent that even my intestines came out. One would not

even have identified the colour of my clothes because they were all red from blood by now.

While I was lying down I managed to pick up my left hand to touch my intestines which were like a balloon expanding inside my T-shirt and I heard the voices of soldiers approaching me. Now the only thing in my mind was that whoever arrived first is going to put a heavy boot on these ballooning intestines of mine which went through my left side, but I will like to emphasise the point and take this moment to let everyone know that God is great and God is alive and therefore I will always and forever praise him. When the first force member reached me, his first words to his colleague were, **Ag hy's 'n klein laaitjie (oh, he is just a little boy)** Those were the only words I managed to hear from him.

After a while my trouser was pulled down so that my left buttock could be exposed and I found that I was receiving an injection from them, possibly a pain-killer, because I felt much better after they injected me than before. An ambulance arrived and I was immediately transferred to Hillbrow Hospital.”

As can be seen, even though he was shot by the soldiers and was very seriously injured, and in fact was literally holding onto his intestines, they also cared for him and arranged for him to be transported to the hospital. Note also how seemingly surprised they are that he is “just a little boy.” The next two paragraphs follow sequentially later in the testimony, and note how the TRC Commissioner picks up on the interaction with the soldiers, and note also his response to that:

MS SEROKE: Michael you said when you were lying there wounded them say, **He is just a little boy**, but when you held on to your intestines you thought they would come and crush them, and then suddenly when they came they didn't do what you expected. Do you think they expected somebody bigger than you and they must have been sorry perhaps that, it was just a little boy?

MR BOLOFO: That's what I thought of, and I thought that they must have looked for someone who was armed, rather someone who maybe had some kinds of weapons, but seeing that they did feel pity for me, that's what puts me in a position to be able to reconcile, because if it wasn't for their sensitivity, their sense of humour, I don't think I would be narrating this story to you today.”

The above reaction where he opens the door to reconciliation and recognizes the humanity of the soldiers based on their pity, sensitivity and sense of humor, even though they had shot him; coupled with the nature of his testimony and what he went through, and the way that he delivered it, created an engaged and meaningful interaction and atmosphere between the witness and the TRC Commissioners. In addition, as part of his testimony he was asked about his schooling, and in spite of having lost many months of schooling due to his recovery period, he returned and finished high school, and was at the time of his testimony studying part time in a technical college studying electrical engineering whilst working. All this was quite an effort and an achievement, so when he is asked by the TRC if he had any requests of them, his reply is not surprising, as one could see what was important to him:

“DR BORAIN: Can I ask you, you've come to tell your story and you've told it and we are grateful. What would you like to see the Commission do for you, if it was able to do anything at all, what would you really like to tell us?

MR BOLOFO: What I would the Commission to do I think is to consider not only myself, but almost everyone who has been victimised or harassed, even maybe those who were killed during those heavy times of our lives, to be considered in the sense of like approving bursaries for those people who have been victimised, making some recreation facilities and the most important I think is for the Commission to look after them.”  
(Bolofo, Johannesburg, May 3, 1996).

But the TRC does not return to even address this request to establish scholarships for other victims, not even to acknowledge it or state what they can and cannot do, and thus represents a missed opportunity as with other testimonies where explicit invitations were not acknowledged, and represent missed opportunities, and therefore noted under this first organizing principle.

Example #2:

I want to address a comparative example based on two testimonies which were delivered at the same venue, but which were treated differently in respect to the expression of a substantive need, with both witnesses present. From a “being heard” perspective within the research frame developed in this dissertation, it raises the question of witnesses being “heard” differently, or perhaps even feeling differently heard. It is of course not possible to be fully consistent across all venues or maybe even across all proceedings in one venue, or that the relative merits of all the cases are the same, but I raise the issue here to ask how the *witnesses* could possibly experience this? Consider the examples of two testimonies delivered during the same proceedings at the same venue on the same day (in the town of Empangeni, on November 4, 1996), and the different reaction of the TRC to the substantive needs of the two witnesses.

The first testimony is that of Mrs. Zibuyusile Msane, whose husband was violently stabbed and killed in his own house, within the context of the ANC/ Inkatha violence that is described more fully elsewhere in this Chapter Six. His death left her with *inter alia* educational needs for her children and questions about her husband’s killers, as they were wearing balaclavas during the murder. The TRC’s response is contained in the Chairman’s closing statement, as follows:

“CHAIRMAN: Thank you. Mrs Msane, thank you very much for coming in, telling us your very sad story. We can see that you are still suffering from your husband's death, even though it took place three years ago. We know how difficult it is for a parent not to be able to look after and care for their children, and this has been brought about by the loss of your husband and the breadwinner of the family. We will try and investigate what took place here, who were the people responsible. It can't bring your husband back, but it may assist you to know who did this terrible thing to you. And, as Dr. Mgojo has said, we

will attempt - we will certainly make recommendations to the Government about how you might receive assistance in the education of your children. So, again, thank you very much for coming in today and telling us your story.” (Msane, Empangeni, November 4, 1996).

Note the detailed response in respect to the follow-up actions which the TRC to undertake in order to find out more about the husband’s death, and also the specific recommendation in respect to the children’s education.

Consider next the testimony of Ms. Elizabeth Mbatha, who is testifying about the death of her father who was shot also as part of the ANC/ Inkatha conflict, that is to say within the same broader context as the murder of Mrs. Msani’s husband in the previous testimony. She testifies in terms of substantive aspects, that she is now paying for the education of her brother; also that her father’s house was set alight but she managed to save the house (in which she is now living) but not the furniture; she also provides the name of a potential perpetrator during her testimony. Whatever the relative merits of the two situations of Mrs. Msani and Ms. Mbatha as they belonged to opposing political movements, the question is to what extent the TRC could address possible follow-up actions regarding for instance her father’s murder and her brother’s education, even just to say they can do nothing. However, she was a member of the IFP which emerges from the statement, and here follows the closing statement of the Chairman in this case:

“CHAIRMAN: Elizabeth, I want to thank you very much coming here today. We're very glad that somebody who - you said that your family were IFP supporters at that time and we, unfortunately, especially in this area of KwaZulu/Natal... (IFP supporters) have not been keen in coming forward to the Truth Commission, which is a pity, because our job is to make a report to the Government of all human rights violations that took place from 1960 to 1993. It doesn't matter who caused or brought about those human rights violations, and it's very important to us to hear stories like yours... You are also sitting here today with people who are members of the ANC, who have said that they were

killed by members of the IFP, because of their political views and we hope that you can both see and understand that the violence that both sides have been involved in does not bring about anything, except misery, poverty and sadness, and we hope that this coming together and being together under one roof, in one hall, can play a small part in bringing people together in this region. So, again, thank you very much for being brave enough to come and sit and talk to us today. Thank you very much. (Mbatha, Empangeni, November 4, 1996).

Note that apart from a brief reference to her father, the emphasis here is on the violence in the region more generally, and the importance that “more people like you come forward and tell us those stories,” and that the feuding parties being together in one hall will “play a small part in bringing people together...,” but no reference at all to any follow-up steps from the TRC or her personal circumstances. The question is if this negatively impacted the witness at least feeling heard in these circumstances, and whether even stating that nothing can be done would have an impact on being heard, especially given the specific commitments made in respect to the previous witness’s situation. Again, I am not debating the relative merits of the two testimonies, I am suggesting that the lack of equivalence may play a negative role in the process of a witness being heard.

#### **6.5.5. Conclusion**

One of the most often used phrases in these testimonies is “now please tell us your story” or something similar. That phrase presupposes elaboration of one form or another, maybe even through silence. In this section, the focus was on no or little elaboration, and where the witness was probably not heard, or had difficulty to be heard. In that sense, it could be said that the witness opportunity to be heard probably did not translate into her being heard, at least in respect to one or more aspects of her narrative

seemingly important to her. This is not to say that none of the narrative in such testimonies is elaborated or that the witness is not in any respect heard, as there always are (at least) facts emerging in testimony.

Examples which stand out and are situated under this narrative organizing principle are interruptions of the witness without any apparent positive impact on elaborating narrative, such as introducing prior witness statements at inopportune times without apparent benefit; also narrative “cues” for elaboration introduced by a witness which are not picked up on by the TRC officials, and which result in missed opportunities in respect to elaboration; also substantive requests at the closing of testimonies with little or no elaboration which again presented missed opportunities; and then also missed possibilities for the TRC to stand in for the Other to assist a witness to be heard, through increasing narrative complexity and to reposition Self and the Other in the narrative in order to legitimize the voice of Self (as the previously excluded), and of the Other, and in this process assist the witness to rebuild her moral agency.

**6.6. Second organizing principle: Narrative is not elaborated, but yet still seems to assist the witness in the process of being heard**

**6.6.1. Introduction**

For this second organizing principle where narrative is not elaborated but yet still seems to assist the witness in being heard, extracts from only one rather lengthy testimony will be utilized and discussed. This testimony illustrates the various aspects of the dynamics that I wish to highlight under this theme, and which dynamics also similarly



appear in a number of other TRC testimonies. The main aspect of these testimonies is that the witness is always testifying primarily about the circumstances, and the suffering (including often the death) of a loved one or loved ones, but at the same time has an own story to tell. However, her own story is seemingly not part of the TRC expectation and also seemingly not part of the prior statement that frames the TRC expectation of the witness testimony, and also maybe not even part of the expectation of the witness to tell. But still the witness has an own story so compelling that even with no or very limited specific elaboration, weaved in amongst the primary focus of the testimony which is extensively elaborated, her story is being told.

#### **6.6.2. Testimony example and discussion**

This testimony concerns a very prominent and well known case. More specifically, it focuses on a school teacher and activist by the name of Mr. Fort Calata, who was one of four activists murdered by the police and who became known as the “Cradock Four.” Fort was arrested with the other three (also including the most well-known member, Matthew Goniwe who is referenced in the testimony), upon their return from a United Democratic Front (UDF) meeting and who were then killed. Their bodies were burnt and scattered across the city of Port Elizabeth. Civil unrest increased dramatically as a result of their deaths and great crowds attended their funeral in Cradock. It is generally accepted that these events hastened the end of apartheid.

The witness delivering the testimony is the widow of Fort Calata, namely Mrs. Nomonde Calata. The testimony is a study in contrasts. On the one hand it can be seen as

an example where elaboration of narrative takes place and where a witness is heard, in respect to those parts where the testimony focuses on the witness's murdered and more famous husband; however, on the other hand in respect to her own story which is compelling and moving, and which is weaved in between the story of her deceased husband, I would argue she is also very much heard, even though there is no or little elaboration or enabling of elaboration by the TRC of her own story. It is for this reason that I discuss this testimony under this second organizing principle in respect to the elaboration of narrative, i.e. where there is no (or little) elaboration and yet the witness is heard.

The important question tied in with the above perspective is why she had no or little opportunity to elaborate her own story. It was after all her opportunity to testify and be heard. Yes, the focus of the testimony is on her deceased husband for many reasons, but it is also fair to ask if she had her deserved and full opportunity to rebuild her own moral agency; also to start the processes of developing counternarratives and to launch an aesthetic ethics, which aspect will be returned to following discussion of the testimony below.

This testimony is also illustrative of the larger group where the personal narrative of the witness who herself endured much over a long period, is overshadowed but *not* lost in the narrative of the main case. However, to the extent that the witness's own story survives is not mainly through the efforts of the TRC, but through the compelling nature of her own story which in the circumstances happens not to be the main focus of the TRC. Of course the main topic of her husband's death is inextricably interlinked and

impacts her greatly and is part of her story, but perhaps because of the importance and prominence of the people and the circumstances who were killed, the facts and circumstances of their death are also of more interest to the TRC than the additional aspects of her own story. I will therefore not only be discussing and illustrating the particular organizing principle in respect to elaboration and being heard, but will also be contrasting the lack of elaboration of the witness's own (many) narrative cues that she introduces, with the elaboration and emphasis of the circumstances surrounding the story of her husband, as she is telling both stories simultaneously even though not always obviously. For instance, in respect to the "you did well" as spoken by the TRC official at the end of her testimony, the question can be asked to what dimension of the testimony that is directed. I focus in the extracts from the testimony and in the discussion below more on the parts where Mrs. Calata weaves her own story into the testimony, given that the overall testimony and the parts which focus on her husband run over multiple pages. I start the discussion with the last part of the Chairman's opening statement:

"The 27th of June 1985 is a day which will be indelibly printed in your minds and in your hearts and in the minds of many, many thousands and hundreds of thousands of people in South Africa. Many people within this hall and many of us sitting at this table knew your husbands well. We had met them, we had worked with them and like you we heard with horror of the gruesome killing of those four, the Cradock Four... And you know as well as I do and as the Commission knows, that everybody who comes to this Commission is as important as anyone else."

Again, as in an earlier example referenced above, it is as if the Commissioner realizes that what was just said in respect to the importance of the Cradock Four may send the message that some witnesses before the TRC may be more important than others, and seems to correct that right away next.

“Everyone who has suffered is a sufferer, you have come together and you will be answering questions about something that was very very painful for you. We're hoping very much that you will find this experience helpful and healing and in the end will enable the Commission to be of some service to you as well. Mr. John Smith will lead the questions and I'm going to hand over to him now. Thank you so much for coming.

MR SMITH: Thank you Mr Chairman. Good morning Mrs Calata, how are you?

MRS CALATA: Good morning Mr Smith. Fine thank you, and you?

MR SMITH: Mrs Calata, I've got a copy of a statement which you have made and I've also consulted with you at length, we have spoken about this matter. So I'm going to be asking you questions and trying to get some of the important issues out in leading you.”

This is understandable because it is the TRC of course, but “this matter” to the witness is the murder of her husband under horrific circumstances as will be seen, and her perspective is more than the “important issues” that may be the primary concern of the TRC. She is put at ease though next, and she is invited to say more at any time. This is important for narrative spaces and potential elaboration of her story, but is the implication to say more about the facts, as this invitation is framed within the context of “this matter?”

“But I want you to feel relaxed and if there's anything you want to add, to what you're going to say, please feel free at any time. If you should leave out anything which is important I will alert you to it, so don't feel nervous about it at all. Okay? Thank you.”

Again, if she leaves something out and is alerted to it, presumably it is important from the perspective of the TRC, otherwise she may have mentioned it herself, i.e. being important to her? The questioning continues:

“Maybe we should start off by asking you to introduce yourself to the Commission here, tell us who you are and where you're from.”

MRS CALATA: I am Nomonde Calata, a wife to the late Fort Calata. My birthplace is in Cradock, I met Fort in 1974 there in Cradock. Unfortunately we had child unexpectedly and this child was unplanned, but we got married in 1980 and were blessed with two children. The eldest is Dorothy, she'll be 21 very soon. We have Lukanyo, he is 14 years old, Thomani is going to be 11 on the 8th of August 1996."

Note that she actually introduces the third child even though she said in the beginning that they had two children. See next how the TRC Questioner handles this:

"MR SMITH: To correct you, you also have a third child. Your third child is 10 years old, is that right?"

Why does he need to frame this as having to "correct" the witness about having a third child as if she would not know that, and that Thomani is 10 years old, especially as she actually introduces Thomani herself, and states that Thomani will be 11 years old only in August, when the testimony was delivered in April. What message does this send to the witness about how she is being heard? The questioning continues:

"MRS CALATA: Yes Thomani."

She keeps her composure, which is consistent with the strength she shows later in her testimony when dealing with the apartheid authorities.

"MR SMITH: Thomani. Thomani was born immediately after the funeral of your husband, is that right?"

MRS CALATA: Right.

MR SMITH: What are your children doing at the moment?

MRS CALATA: Lukanyo is at Adlidge Gymnasium doing standard 7, Thomani is in Cradock Primary doing Standard 3.

MR SMITH: Thank you, now your husband Fort Calata has had quite a strong background in his family in so far as politics is concerned, is that right? Would you like to tell the Commission about it?

MRS CALATA: The grandfather to Fort was a general secretary to the ANC organisation during the treason trial. Fort was born during that period. This name Fort was given by the grandmother, because she used to pay visits during the trial and she informed the grandfather that there is a child and he was named Fort, because at the time that he, the grandfather was at the Fort Prison.”

This reply indicates a deep involvement of Fort Calata and his family in the anti-apartheid struggle over different generations. The witness states that Fort’s grandfather was the leader of the ANC, which was the main anti-apartheid movement, and the treason trial which is referenced is where Nelson Mandela was one of the accused. Also, Fort’s father was in prison when he was born, all of which shows the links to the resistance against apartheid and the significance and importance of what happened to Fort. The importance of the history of his family and of the events surrounding his killing make it even more apparent that the interest in his story is very high, and as will be seen is amply elaborated. This same high interest and profile, however, make it even more challenging for the witness who is telling Fort’s story to elaborate and be heard in respect to her own. The questioning continues:

“MR SMITH: When you got married to Fort in 1980, was he involved in politics?

MRS CALATA: In 1976 he was involved because it was the time of the struggle. Everybody was conscious now. During the time when he was at school, he typed a letter to the municipality in Cradock, trying to inform them about the way in which they were overworked, the streets were dirty... He was detained for this involvement and for this explanation and then he was cross-questioned and why he wrote these letters...”

The Soweto uprising began on June 16, 1976, which explains the context of Fort’s community and political activism in 1976, and “the time of the struggle.”

“MR SMITH: At this stage, is it correct that at some stage you were living in Dimbasa and Fort was teaching there?”

MRS CALATA: Yes he started teaching in Dimbasa, in 1979 and in 1980. Before our marriage he was detained in Dimbasa for three weeks. After he was released from detention, I cannot remember very well, under which section he was detained, but he was on his way to school in the morning, thereafter he was released for a few months and then we got married in October 1980. He ... (intervention)

MR SMITH: Back to Cradock at that stage?”

Interruption for facts in respect to Fort, as her narrative appears to have been developing. This is apparently not an interruption to destabilize a flat narrative and prevent a witness from falling into victimhood, but more apparently an interruption which stifles the elaboration of a narrative, and the law acting imperially – meaning that the Questioner for the TRC as a quasi-judicial forum has the power and authority to effect this interruption, and then uses it to get back to the facts.

“MRS CALATA: No I didn't stay with him in Dimbasa, I was still in Dimbasa and he was the only one who was teaching in Dimbasa, so that is why he requested that he should be back to ... (intervention)

MR SMITH: In Cradock.”

Then a second interruption is introduced to seemingly seek a specific fact in respect to Fort, namely his return to Cradock. This is perhaps to establish him as one of the Cradock Four, but for the second time in two consecutive answers her narrative is interrupted, and for the second time one can ask, what was she about to say when she was interrupted? Was she not invited at the start “...to feel relaxed and if there's anything you want to add, to what you're going to say, please feel free at any time”? Mrs. Calata's testimony then continues focusing on Fort, his friendship with Matthew Goniwe, their

community action and related aspects, and also political developments in the context of Fort which are not reflected here. During this testimony which did not focus on her, notice how Mrs. Calata then pivots to her own story without any prompting, and after making an important point about her own struggle, pivots back to her husband's story:

“MRS CALATA: (These political) things went on and I was arrested in November 1983. I was fetched from work. I was wearing a T-shirt on which was printed, "Free Mandela". I was then arrested and charged just because of that T-shirt. While waiting for the case it was postponed and postponed, my lawyer was Mr. Suwisa at the time, and Mr Booysen Weranni. In December 1983, the schools were closed, Matthew received a telegram, informing him about his transfer to Graaf Reniet, but he dearly wanted to be in Cradock to be with his wife... In January when the schools reopened... (intervention).”

It can be seen that the witness is interrupted for the third time to focus on the role of, and what happened to, Matthew Goniwe as a central figure of the narrative important to the TRC. Even if her narrative is allowed to be elaborated (which it is not), it is clear that there could have been some trade-off between her story and that of her husband, Matthew Goniwe and the Cradock Four. However, even just in this short narrative she quickly gets to the point where she was arrested for wearing a T-shirt with “Free Mandela” printed on it, indicating her own resistance. This is an important narrative cue for possible elaboration about her own story, as is the introduction of the troubles she had whilst waiting for her case to be heard. The TRC returns to the factual inquiry, and also



back to Matthew. They do not return to her story at all even though prompted by these narrative cues. The questioning continues:

“MR SMITH: Did anything happen during the process of negotiations between the community and the authorities regarding Matthew's transfer?

MRS CALATA: During that time of negotiations with Education and Training to reinstate Matthew, instead of him receiving a letter telling him that his transfer will be cancelled, he only received a telegram saying he has been dismissed.

MR SMITH: On that particular year?

MRS CALATA: Yes it was in December. Now in January, when the students went back to the schools, they found out that Matthew is not available, it was true that the Department fired him. The schools reopened, school boycotts started, pupils were not going to school, they wanted Matthew to be reinstated... On the 31st of March, in 1984, it was 10 o'clock in the evening, we were sleeping, we heard lots and lots of cars outside, I said to my husband, "No let us not wake up, let's wait and see what happens." We heard knocks at windows at the front of the house, all over."

See how she pivots from the focus on Matthew's situation in January, to her and her husband's story and what they experienced as a family later in March, when the police raided their house. See also how she positions herself as close to her husband, and as strong and supportive, again significant narrative cues to elaborate her story, or their story together, which is not picked up on. The questioning continues:

“Because I was always close to him I tried to be very strong. We stood up and lit up the house. I said to them. "If you are not going to knock at the door only, I'm not going to open". They knocked at the door, Mr. Venter stepped in, he had a paper in his hands but he never showed it to me, what was written on it, he said to me, "Where is Mr Calata, we're here to detain him in terms of the Internal Security Act." My husband was in the room, he already had his clothes on and he was wearing very warm clothes. There policemen, I can remember, it's Mr Venter, Mr Kawia, a black man, it was Mr Strauss who was wearing uniform and had a small stick in his hand. They were not very patient with him, they were pushing him, they were really hurrying and I requested that they must please not push him or handcuff him because he's got a chest problem."

She is continuing the process of positioning herself as resisting, strong and even fearless in relation to the police, in some detail. She reprimands the policemen who had coercive power and could do great harm; even in the middle of that violation she cares for her husband and speaks up for him as she was worried about his health, being worried and also remembering that at least he was warmly dressed – all aspects clearly important to her.

“MR SMITH: Would you like some time Mrs Calata, are you fine to continue? Let me just assist you with this whole process, I'll put... (intervention)”

Note that Mrs. Calata is now the one who interrupts, as she wants to continue her narrative. See how she blends her own story in with that of her husband, referencing the trial that she herself is awaiting for wearing the “Free Mandela” T-shirt; and later also how she describes her court appearance and sentence and the difficulty of not knowing what happened to her husband, whilst losing her own employment as part of the political pressure on them; and having to care for the children by herself. The questioning continues:

“MRS CALATA: After leaving with him, they handcuffed him behind his back. Because I was also waiting for a trial for wearing a T-shirt, I didn't know where he was taken to, there was no word about my husband. The following morning I woke up to go to work and tried to ask the police where they took him because I wanted to give him some tablets. They said they would come and tell me and I went to work but there was absolute silence. I went for my own case on the 11th of April in 1984, the case was discussed and I was charged for three months imprisonment or a fine of R800. I paid R250 a month because I couldn't leave my children alone at home without their father. The following day I went to work after this case of mine. When I arrived at work, I was working at the Provincial Hospital at Cradock, they said the matron would like to see me. Well I went to the Superintendent with the matron, there was a form on the table which they said I must sign. I asked them to read me the form but they refused. They informed me that they want to make me leave the job. I asked them if we could wait until the case is finished, but

they never gave me the chance and just dismissed me with immediate effect. They said that I shouldn't be seen anywhere around the premises in the hospital and I went home.”

Here again are many narrative cues to which the TRC Questioner also does not return for elaboration. She refers to her own situation, and tells a story of enormous hardship in respect to herself, now also having to pay the court fine whilst being unemployed, with children to care for. The questioning returns directly to Fort:

“MR SMITH: After your dismissal on that day, your husband was still in detention at the time. Did you manage ... (indistinct) after your dismissal?”

To the credit of the TRC Questioner she is asked a question about coping, and about her husband being in detention, and then see how she continues to weave her narrative in with that of her husband, even though focusing largely on the facts. However, from the perspective of this second principle of the witness being heard even without much elaboration, I refer to the absence of elaboration following the many narrative openings or cues that emerged from Mrs. Calata’s testimony. Yet, through a blending of the factual aspects of their narratives, she tells her own story in a compelling fashion. Her testimony continues:

“MRS CALATA: The police came to tell me he was in Diepkloof Prison in Johannesburg. We applied for a permit to go and see him... (and) at the entrance the police took me, and put me into their cars. I tried to shout to my dad that I am being taken by the police, because I could see him in the distance. At the police station, the head of the police asked to see my identity document. I gave them my document with the hope that I may see my husband. At that time I was carrying a so-called Coloured ID. They asked me, if I am going to vote now... they said that they knew that I could not even vote, because they knew that I’m a member of the ANC. I never gave them an answer, I just kept quiet. They were now threatening me, saying, “Your children long to see their father, hey, they will never see him.” And I asked them what child doesn’t want to see his or her father? They told me that I will never ever be employed in Cradock. What will we

eat because my husband was in prison and my children had to go to school? I just kept quiet...”

She is testifying how she acted, revealing again many narrative cues for possible elaboration. She is arrested, and describes how she tried to communicate with her dad, with the implication that her arrest could have enormous consequences for her and her children, as subsequently confirmed by the police threats. However, in her narrative she positions herself as strong, and not answering the police whilst they are trying to humiliate and intimidate her. Even after she is arrested she is still not positioning herself as a victim, but gave them her documents “with the hope that I will be able to see my husband.” The questioning continues and I omit part of the testimony, but note in the next section which I reproduce below how she acknowledges the humanity of the policemen, referring to them as Mr. Venter and Mr. Gouws; and also see throughout how she continues to humanize them, or at least does not dehumanize them. See how this also impacts her narrative, where she does not fall into victimhood, even with the invasion by the police of her personal and private space in her house searching for documents. Instead, during this process she is positioning herself as brave, and in the face of very intimidating circumstances, also positioning herself as silent, strong and not intimidated: “I kept quiet looking at him.” It is palpable how she is trying to maintain and build her moral agency during this process of testifying, as can be seen from the narratives, and receiving very little assistance in this respect from the TRC. Her testimony continues:

“MRS CALATA: In May Fort was not around, he was in Johannesburg to see the physio authorities because he had a frozen shoulder. On the 27th of May in the early hours, I was woken up by the knocks and the lights of flashlights right in the house, and I went to open the door. I saw Mr. Venter and Mr. Gouws as well as many other policemen, horses,

SADF, just full of military. They entered my house and said they want to search. They searched my bedroom for UDF documents and took everything. In their search Mr Venter asked me where my husband was. I told them that he was in Gauteng. He asked this in Afrikaans and he said, "The day we find him he's going to be in very big trouble." I was worried and scared but brave at the same time. I kept quiet looking at him... After that they left my house, Matthew arrived and he said that they had visited all the executive members, taking all the documents from them. In April before Fort went to Johannesburg for his physio treatment he... said, "I think they plan something very big about us". We took this lightly but we were unhappy and uncomfortable while we slept. He kept on thinking about this incident in Port Elizabeth where they planned this and expressed that he was shocked about what he had heard...

MR SMITH: 1985?

MRS CALATA: Yes. On the 27th of June informed me that he and Matthew would be going for a briefing in Port Elizabeth. Matthew came in at about 10 o'clock, he was with Spiro, with Sicelo and Fort was the fourth one. They went together as usual."

Recall that the Commissioner during the introduction said that "The 27th of June 1985 is a day which will be indelibly printed in your minds and in your hearts and in the minds of many, many thousands and hundreds of thousands of people in South Africa" which is a key date in this testimony. It is to be expected that the testimony will become more factual because of the importance of the events. But see how the narrative spaces change, when Mrs. Calata is overcome after relating the facts and circumstances, and the audience also becomes involved. A note of explanation: a "Casper" is a military style armored troop carrier that the police and military used. The questioning continues:

"MR SMITH: Were they returning?

MRS CALATA: Yes he mentioned (that) "We think that we'll be coming very late, maybe at 11 in the evening, I'll be here I'm certain about that." And then this kept on. At 11 I was anxious and unable to sleep because my husband was not yet back as he had promised. I knew that he was always being followed and harassed, even when he went to OK, wherever he went, he was harassed by the police force.... I was anxious because my husband had not returned... I felt this was unlike him as he reports when he is going to sleep over somewhere. He doesn't just act without informing me. When I looked out,

there was a Casper and vans. The Casper was on the other street but not a single car moved around as they usually did. This was also an indication that something was wrong. I had this premonition and I was very expectant at the time... Mrs. Goniwe came to visit in the afternoon and she said and said that she went along to search for her husband... We started to feel very unhappy and uneasy, we were really in the dark. We slept uneasily on Friday as we did not know what happened to our husbands. Usually the Herald was delivered at home because I was distributing it. During the time that it was delivered I looked at the headlines and one of the children said that he could see that his father's car was shown in the paper as being burned. At that moment I was trembling because I was afraid of what might have happened to my husband, because I wondered, if his car was burned like this, what might have happened to him? I started distributing the papers as usual, but I was very unhappy."

Here she introduces many cues on her own suffering, state of mind and her anxiety - see the discussion directly below – but she continues in her narrative to position herself as strong, even still delivering the newspaper for income as she lost her employment due to political pressure from the police. She was also caring for her children within all this pressure of constant police presence and harassment, and she was only twenty years old at the time, as we learn next. Her testimony continues:

"After a few hours some friends came in and took me and said I must go to Nyami, who was always supportive. I was still 20 at the time and couldn't handle this. When I got to Nyami's place Nyami was crying terribly and this affected me also. (sobbing)

MR SMITH: Mr. Chairman, may I request the Commission to adjourn maybe for a minute, I don't think the witness is in a condition to continue at the present moment.

CHAIRPERSON: Can we adjourn for 10 minutes please?

OBSERVERS SINGING: What have we done? What have we really done? What have we done?"

Under this organizing principle two (narrative not elaborated but seemingly still assisting the witness in being heard), the issue of witness silence can be very powerful. Look at this example in Mrs. Calata's testimony, and how impactful her silence is when

she breaks down after having learnt of her husband's death. Due to importance of the silences in these testimonies where it is clear that the witness is overcome in the moment of her testimony to better contextualize Mrs. Calata's silence here, it is useful to recall what Ross (2003) wrote in this regard, which is discussed in the literature review above. She confirms that "...some horror is not and cannot be articulated: silence marks particular kinds of knowing, and, further, silence may be gendered. In other words, silence is a legitimate discourse on pain and there is an ethical responsibility to recognize it as such" (ibid, p.49). It is indeed so when reflecting upon what Mrs. Calata was experiencing here, having to recall and relive these horrific events in public, in the formal SA TRC forum. Ross also notes the limitations of testimony and the underlying assumptions regarding "voice" in the SA TRC, because "remembering and recounting harm is neither a simple nor a neutral act. The Commission's rubric of harm focused on the individual and *on the sayable*" (own italics, p.162). Here it can be seen what happens where even the sayable is no longer sayable.

Not only does Mrs. Calata's silence focus the proceedings for a moment on her as a person and not just as a witness, her silence also allows the audience to participate in a very moving and meaningful fashion by singing, and through that fill and expand the narrative space and also offer their support on different levels to Mrs. Calata. It may also be useful here to recall the premise of audience participation and the relationship to "the healing potential of storytelling, of revealing the truth before respectful audience and before an official body" as set out in the TRC Report (TRC Report Vol.5, p.351), regarding the participation of an audience. It does appear that the participation of the

audience in this particular instance confirmed the TRC view. However, it should also be said in terms of audience participation in these TRC proceedings and testimonies, that the Commissioners in an effort to keep control also often “constrained the participatory power of the audience” (Verdoolaege, 2008, p. 108), which is exactly what happened in the testimony of Mr. Smiles in Kimberley on June 11, 1996 as will be seen in the discussion under organizing principle four below. (i.e., “narrative is elaborated and seems to assist the witness in being heard,” par. 6.8 below). In that case, when the audience starts to clap during a key breakthrough moment in the testimony of a witness who previously provided false evidence to the police which led to the imprisonment of an innocent person from the community, the Commissioner says to the audience: “Please could we refrain from doing that please.”)

Next as the testimony continues it will be seen how the process is restarted by the TRC Questioner. There is no reference to any of the narrative cues as to her state of mind or what she experienced as conveyed in her just delivered harrowing testimony to the point where she broke down:

“MR SMITH: Mr Chairman, may I be allowed to proceed, please? Thank you. Mrs. Calata, you're ready to go on, are you feeling better?

MRS CALATA: Yes.

MR SMITH: You were still telling us, after you saw in the Herald after the disappearance of your husband and saw the burned car, that you went to Mrs Goniwe's house. Can you please proceed from that point.

MRS CALATA: Well of course, I arrived with other women at that place. Mrs Mkhonto was there with us, Mrs Goniwe was also there, people were very full in the house, and I



heard the news that the bodies of Sparrow Mkhonto, and Mhlawuli have been discovered. I was wondering what happened to Matthew and Fort....

“When I got home, the reverend from my church visited me. He had come to explain that the bodies of Fort and Matthew were found. At that time I had my second child, this child was very close to the father. After hearing this news the child was sick, I was pregnant at the time... I don't know what happened to me on that day. An appointment was made with the doctor the next day, the thing I did not know was why this appointment was made so secretively, but when I arrived there, the security police were already there... When they saw me they saw a very strong person. I went to see the doctor and I went home thereafter.”

Again, note that there is narrative cue after cue of her circumstances, her children, the fact that the youngest was very close to his father, all aspects clearly very important to her. And also the positioning about her resilience, when the police saw her they saw a “very strong person.” The cues are not specifically picked up on for elaboration at all.

The question can therefore be asked whether in spite of the lengthy testimony on facts, to what extent was any focus of the TRC on these aspects that she raised and which seemed to be very important to her in how she is developing her narrative. She continues:

“The community and the family members went out to identify the bodies. Mr. Koluwe, the man we as families asked to go and identify the bodies, has passed away. He said that he had seen the bodies but he discovered that the hair was pulled out, his tongue was very long. His fingers were cut off. He had many wounds in his body. When he looked at his trousers he realised that the dogs had bitten him very severely. He couldn't believe it that the dogs already had their share. Well the funeral went on, I'm sure the Chairman of this Committee knows the function, if I remember well, the Chairman was supposed to have attended the funeral. After their burial, they were buried on the 20th ... (intervention).”

Mrs. Calata did not identify the remains of her husband, but he was obviously tortured and his mutilated physical condition was relayed to her. Understandably she quickly moves on in her testimony to a seeming casual disclosure that the Chairman, being the well known Nobel Prize laureate Archbishop Tutu was “supposed to have

attended” the funeral, which again shows the overall prominence of these events. This raises the question of where she is positioned in relation to these events, narratively speaking. Even here, when she is apparently in the process of developing her own narrative and directly again wants to move on to what happened “after their burial” perhaps not wanting to relive the events, she is again interrupted in order to bring her back to facts seemingly important to the SA TRC:

“MR SMITH: Allow me please. There is an incident that happened after the funeral, when the police actually came to your house, I want you to tell the Commission what happened.

MRS CALATA: They were buried on the 20th of July, that time there was a declaration of a state of emergency. On the 8th of August I went to deliver my baby Tulani, I was used to giving birth in the normal way but Tulani was a caesarian. Well I gave birth to the child and went home the following day. A few days after the birth of this son, the security police arrived at home, the leader was Mr. Labuschagne, and they said to me, "Don't you want us to be the father of this child?" I kept quiet, I didn't give them an answer. They waited a few minutes and then left. After a few minutes they came back. They said, "We want to evict you from this house. You do not have money to pay for the rent and we know you do not have money, you took out all your money in your bank. Even in Fort's account there is not a cent left, so we are here to take you out of the house." I didn't give them an answer or indicate whether I will move out or not. They repeated that they are here to evict me and I said to them that I am not going to get out of the house. They could take a gun and shoot me, but I'm not getting out of the house. Well they stood up and they went off. I asked my next-door neighbour to come and take care of my children, I went to see my baby sitter and my dad to ask him if he can do anything about the rent issue. Well they organised me some money and I stayed in the house. You know that people were so after me that in January 1986, I just decided to leave Cradock and be far away from there. I went to stay with my friend in Johannesburg for six months. Well I came back when I realised that the situation was a bit quiet.”

Mrs. Calata continues to introduce one cue after another about her personal circumstances and what she experienced, including that she went home directly the next day after undergoing a caesarean which is in itself significant; also about the police attempting to humiliate her, and again she “kept quiet;” their return to further terrorize

and intimidate her about losing her house and having no money – bearing in mind that here is a twenty year old now single mother with three children, the youngest only a few days old with her still no doubt recovering from the surgery. Her resistance about the threatened eviction and having to try and get some money together from the family to stay in the house is significant in this narrative and not even acknowledged. She then ends this answer by relating how she left and stayed with a friend in Johannesburg which must have posed its own practical problems. Yet again, none of these narrative cues about her own personal circumstances, experiences, resistance and anguish is picked up on by the TRC for elaboration. Instead the next question is related to the subsequent inquest, which is a magistrate court procedure to determine if anyone can be held liable and should be prosecuted for the death of a person or persons. The rest of her testimony largely focuses on the legal proceedings regarding Fort's death and a legal claim that she has ongoing with the assistance of a legal aid clinic against the government for the wrongful death of Fort, which I do not reflect here. Later in her testimony the Questioner asks if she would like to know the identity of the perpetrators. She answers as follows:

“MRS CALATA: I'd be very glad to know this person. If I can know the individuals who are responsible for this I will be able to understand why they did it. Most of the time I can remember that this child, the third born, Tommy does not have a picture of his father and the last born has no idea at all and they always ask how he was and what he will be doing at this time. Tomani, the last born is a child who always wants attention, always wants to be hugged, and even if he's playing with the other children and talking about the others who always say that their fathers are coming at a certain time, you'll find that when he comes back he doesn't know what to say about his father. As a mother I always to play the roles of both parents but I'll be really glad if I can know what happened so that my children can get an explanation from me, so that I can say it is so and so and so and so. This will probably make me understand. I do not know the reason for their cruelty, but I just want to know and my family will also be happy to know who really cut short the life

of my husband. Not to say that when they are old I'm just teaching them to retaliate or to be revengeful, it's just to know who's done this and who changed our lives so drastically.”

As can be seen, her answer is again very thoughtful and presents very important narrative openings for the TRC to assist her in launching an aesthetic ethics as she even now does not dehumanize the Other nor seek vengeance. Note also the positioning in her response, and how she is still rebuilding her moral agency. However, no acknowledgment follows from the TRC. Her testimony continues with a question by the TRC Questioner:

“MR SMITH: Anything else that you want to ask this Commission to do for you?

MRS CALATA: Yes there is something that I can request. Because I have these children that are still at school, they have to survive with inadequate means, even if everything is worn out they report to me like any other child, "Mama I don't have any shoes any more", I just ignore them because I know I am unable to do anything about it. Sometimes they would say, "Ooh we've at long last got new clothes, I've been wearing these for quite a long time." That hurts me very much because I believe that if the father was here, he would provide.”

And here comes her actual request of the SA TRC after all the testimony, she needs substantive help and the procedural justice aspect now strongly emerges. The opportunity to be heard, and the experience of that opportunity which is the basis of procedural justice may not be enough, if there is no response or acknowledgement from the TRC in respect to her substantive request. The TRC already promised to follow up on the pending legal claim and also to try and find who the specific perpetrator/s were, both offers made by the TRC. But the important question is how will the TRC handle this actual substantive request from Mrs. Calata? Will they promise to make suitable recommendations to the President for reparation as they have done at the end of so many of the other testimonies? Will there be any follow-up and opportunity for elaboration in

respect to any of the aspects that she introduced during the course of her testimony which were not followed up on? Here is the rest of the testimony:

“MR SMITH: Thank you very much for the evidence. You have done very well. Mr. Chairman that concludes my questioning of the witness, thank you.”

The question from the perspective of “being heard” is this: In respect to what aspects of her testimony did she “do very well”? The Chairperson then takes over and after some pro forma questions the proceedings conclude with this final paragraph:

CHAIRPERSON: You must know because we are here we are listening attentively and we are very very impressed by the way in which you carry yourselves, and the strength with which you carry the burden, and this has also been noted because you have been able to come and present your cases in front of everybody. We are very and grateful for your efforts, thank you. I think we'll break for lunch and we'll come back at two.” (Calata, East London, April 16, 1996).

So here is the conclusion of her testimony, the TRC being “very very impressed” with how she carried her burden, and also “grateful for her efforts” and that is all, no acknowledgement of her specific substantive request and no follow-up. The question arises why Mrs. Calata received so little recognition or witnessing in respect to her own story pertaining not only to her factual role in these events which she introduces, but in respect to her experience and other aspects which impact the development of her moral agency, and perhaps even launching an aesthetic ethics, as referenced above. In this respect one can ask if the TRC could have done more to adopt the role of the Other, as Sanders (2007) argued the TRC could do. With the prominence of this case the narrative public spaces were amplified (as shown by the audience participation), and more opportunity for the TRC to more fully enable her narrative. Mrs. Calata has suffered

much under the actions by the police and other apartheid authorities as they were targeting her husband, and it can be said that she was narratively speaking an excluded person, as the testimony also shows. Moreover, this narrative exclusion and negative positioning by the Other is in addition to her general exclusion and positioning effected under the policy of apartheid. So it becomes an important question how the TRC can now also amplify Mrs. Calata's opportunity to be heard in her testimony before the TRC. One way could be to embrace Sanders's view, and then for the TRC more actively take a role to include the perspective (if not role) of the Other in a way that increases narrative complexity, using Mrs. Calata's own cues were she did not dehumanize the Other, and also possibly using the theme of reconciliation, and then through that process ensure Mrs. Calata's narrative elaboration *by that very "Other"* who had (narratively speaking) effected the prior state of her exclusion, slightly adapting the argument of Cobb, 2013. This approach would imply a much more active role for the TRC in the elaboration of a witness's narrative.

The testimony of Mrs. Calata particularly leant itself for the TRC to assist her in developing an aesthetic ethic, particularly as she does not use her opportunity to be heard to dehumanize the policemen. This is remarkable, recognizing what she endured as only a twenty year old mother of two, and pregnant with a third child who was born shortly after the murder of her husband; being extensively harassed by the police, on several occasions including in her house alone with her husband away; her employment having been terminated due to pressure from the police; her still trying to cope by delivering

newspapers and continuing with that responsibility even as she was awaiting word on the disappearance of her husband whilst expecting the worst, and more.

### **6.6.3. Interruption or disruption which seems to assist a witness in being heard**

It happened in these testimonies that witnesses were interrupted, or narrative disrupted, and drawing on the research frame developed for this dissertation, seemingly in some instances these interventions appeared to assist and in other instances appeared not to assist the witness in being heard.

I already provided some examples and discussion in Part “A” above of where interruptions by the TRC seemed *not* to assist witnesses in being heard, for instance where the TRC would interrupt a witness narrative by referencing the witness’s prior statement in a way that caused the narrative to be interrupted and not to be elaborated. Drawing further on the research frame developed for this dissertation, it also happened that under certain circumstances the lack of elaboration, or even limiting elaboration, could be effective and maybe even more effective than extensive elaboration, in order to enable a witness to be heard; for instance, where a witness is falling into victimhood, or where conflict narratives are gaining traction, or where the testimony loses incoherence to the point where it is even just difficult to “hear” her. I next provide some examples and discussion of such interruptions or disruptions that actually appear to assist the narrative process, and the witness being heard.

#### Example 1:

Mr. Solomon Setene is testifying about a conflict that existed in the town of Ficksburg between a civic organization generally known by its acronym SANCO (South

African National Civic Organization), and the ANC in 1992. In addition there was also an underlying personal conflict between the witness and one Mr. Pius Mohlome. The TRC Chairman interrupts the witness several times when the testimony becomes too personally directed at Mr. Mohlome. The interruptions are actually helpful to the witness being heard, as every time he is interrupted the discussion is seemingly reset for him to continue and so actually to extend his testimony; but soon after such a “reset” he would introduce another negative opinion of Mr. Mohlome, and so it went. These interruptions were not only helpful to extend the witness’s testimony which otherwise may have been summarily terminated due to the ad hominem attacks, but also prevented the witness from falling into victimhood, and furthermore prevented the conflict narrative to gain (too much) traction. There are several interruptions, to the point where the TRC Chairman ultimately says “Mr Setene, is there some last thing you want to say, because we must wrap this up now?” This is a final type of interruption, as even this process of interruption which actually assisted the witness to elaborate, or at least created the potential narrative space for him to elaborate and to move away from the positioning of Self and Other in his narrative, was apparently depleted. However, note that even then following this final and effectively terminating interruption, the witness still expresses one more unfavorable opinion of Mr. Mohlome. Here are some extracts from Mr. Setene about his views of Mr. Mohlome and some of the interruptions:

“MR SETENE: It was in 1992 when SANCO was launched in Ficksburg and there were problems between SANCO and the ANC, and this man called Pius Molefe Mohlome is the man behind this whole problem. He did not want to accept that he cannot be a leader for all the organisations within the township. Now he wanted the ANC as its leader, and he also wanted to be the leadership in the SANCO. And on top of that he designed a



badge, and we could see that he was troublesome, and this badge indicated that SANCO still existed in the township and it was under his leadership. Now, it appeared many a time that this man was not in favour of peace.”

This is just one example and it can be seen that the narrative tone is very combative which culminates in the subsequent interruptions. The TRC Chairman then later asks a specific question about Mr. Mohlome, and see how the TRC Chairman then interrupts the witness when the comments become increasingly personal:

“CHAIRPERSON: “What civic or political position does he hold?

MR SETENE: I do not know how to describe him. He doesn't take any advice from anybody. He is self-righteous. When you have to be tortured by the police they would torture you in ... (inaudible) ... now this is in his blood. I do not refer him as a politician. His blood is really boiling. That is what I can say. He is a parasite.”

CHAIRPERSON: Ja, Mr Setene, I think you must just stick to the question I ask. What position is he holding at present?”

It can be seen that the Chairperson interrupts the witness and brings him back to the topic:

“MR SETENE: I think he is in the leadership position. He is the leader of that little group of the ANC, and I think he is hijacking the township. That is why I have mentioned that I do not know what kind of politics is he involved in. Can I - I just want to say something... I am not politically inclined, but what I can say is this person himself wants to know politics, but he is a vampire.

CHAIRPERSON: (Inaudible) ... you should not make personal insults against people. We have given notice to him about allegations that have been made against him, and it's not the correct place now to trade insults with somebody. But we can see that there are strong feelings about Mr Mohlome, and strong allegations made against him, and perhaps the best thing for you to do, and those who feel like you, is to take this up with the provincial leadership of the ANC to see whether some sort of peace committee cannot be established in Ficksburg to bring the people together.”

So the Chairman interrupts him again, and it is interesting how this extended opportunity actually does cause the witness to be somewhat reflective, and to focus on

Mr. Mohlome's actions:

“MR SETENE: How do I put this forward really, because I have just explained we've been discussing the ANC office of Mukaleng. I am not insulting, but I am giving you my feelings, and he is up there. He knows deep down in his heart. I do not despise him, I do not humiliate him, but I hate what he did to my mother. That is my mother. I have to fight what this land did to me. Now, what we are talking her about the ANC, they ANC failed. I can talk about the deceased, the late Mr Sibutelo. I had to rush to Bloemfontein to meet the late Mr Sibutelo to tell him about the situation here in Ficksburg. I realised that revenge was not the good thing. I am talking here of something that happened to me. This man uses somebody else's power and makes it his own, and this is wrong.

CHAIRPERSON: Mr Setene, is there some last thing you want to say, because we must wrap this up now?

MR SETENE: I have just one last thing to say. I am requesting the TRC please do investigate this case and let the ANC know, inform it that it should come to Ficksburg. They should inform Pius and the other members that they are coming, because the people of Mukaleng share no interest in his leadership at all. We have told ourselves as the members of the local government that we are not going to provide our support because he is a snake and he is involved ... (intervention)”

There seems to be underlying personal conflicts and history between the two, so again the quasi-judicial process before the TRC is in tension between investigating the community conflict between the organizations in terms of its mandate on the one hand, with the personal conflicts layered on that. Again the Chairperson interrupts, and acknowledges the witness's emotions and feelings, but it can be seen next that the witness seems to be repeating what he said before, and is again interrupted:

“CHAIRPERSON (Inaudible) ... not to make insults in public like that. We're not allowed to permit people to do that. We know that you feel very strongly about the incident, and we thank you for your evidence.

MR SETENE: I also thank you. Pius confessed in the presence of us all while we were at the hotel that he did all this, and enough evidence came up, and I will leave you with this document so that you have enough evidence. And other people were also present. I want to be really ... (intervention)

CHAIRPERSON: Mr Setene, we will take those documents from you. It's - we can't make any comment or any findings on this issue. Obviously we haven't heard (Mr Mohlome's) side of the story, and it will be necessary to see if we can get that side of the story, and we will certainly request that our investigators take up this issue... And it's completely wrong that something like this, which started up in 1993, should still be continuing in 1997, four years later. We all believed that in 1994 we had achieved an era of peace and democracy, and it's wrong that these things should still be plaguing communities like yours, so thank you very much for coming in and telling us that very difficult story.” (Setene, Ladybrand, June 26, 1997).

The Chairperson has a broader reconciliation view, and situates the personal conflict within the larger community frame. It can also be seen that the conclusion of this testimony constitutes a good example of where the TRC actually follows up on the substantive issue under discussion by taking the documents and confirming that the investigators are looking into the matter; but also the TRC cannot make any comment or findings on the issue. Overall, the witness had a meaningful opportunity to be heard, greatly assisted by the interruptions.

#### Example 2:

Interruptions which elaborated narrative and assisted a witness to be heard did not only come from the TRC Commissioners but also from the witnesses themselves. This would happen where the witness felt strongly about a matter and witness interruptions also indicated a higher level of witness participation in the process, and perhaps also a higher awareness of the opportunity to be heard and potentially experiencing procedural justice. Note the following example of Mr. David Mnyazana who is testifying about his

son who disappeared from the house one night after the family and his son (who was named Blessing), were extensively harassed and assaulted over a long period. Blessing was also periodically detained during this period as part of the harassment. The witness is uncertain if his son was abducted or left to join the armed resistance movement. At one stage the TRC Questioner wants to establish what generally happened after the police came to their house to harass the family but without seeking more detail of what actually happened in the house, and the following ensues. Note the witness interruption, and then the subsequent elaboration of the details:

“COMMISSIONER: You can continue. At the time that they used to come to your place is there anything that happened thereafter? Did you get any ... (intervention)

MR MNYAZANA: When they used to come to my place they would come in large numbers, especially the boers, and they would speak Afrikaans, not caring whether I could hear Afrikaans or not. At times we would be eating, having supper. Most of the time they would come during supper time, and they would spill the food and we would not have our supper on that particular night. And they would ransack the wardrobes, and they would look in the wardrobes even though they had been told that this was not my son's house, and they would turn everything upside-down looking for whatever. I don't know what they were looking for. And they would take everything out of the wardrobe and spill it on the floor. Each time when they came they would just gun straight for the wardrobes and spill everything down, but they would never get anything. And each time we asked them as to what they wanted. They never told us what they wanted, they would just say they want to find out where Blessing was. (Mnyazana, Newcastle, September 10, 1996).

### Example 3:

Consider the example of Mr. Abdulhay Jassat, who was detained without trial and severely tortured. Aspects of his testimony are also discussed elsewhere in this chapter but the focus here is to illustrate how a TRC interruption can serve to assist the witness in being heard. Mr. Jassat's torture included electric shocks, assaults in different ways

including being hit on his head, and also being dangled out of a third story window which is discussed elsewhere.

During the course of his testimony, the witness came to an important part of his testimony where he discussed that whilst being in detention (without trial and without access to lawyers), he actually became quite friendly with one of the policemen named Greeff, who was sympathetic to him, and he describes it thus:

“We subsequently became fairly good friends with this policeman. And because he was helpful to us, I mean he was the type of policeman who used to go home, if we wanted cigarettes he would bring us cigarettes back. He would go home and bring food for us. Sometimes prison food isn't that edible and we became very friendly. So I thought we needed to reward him in some way. We sent him to a friend in Market Street with a note saying that please give Mr Greeff a pair of Dr. Watson shoes. The friend of ours gave him the pair of shoes knowing that he would be paid when and if we got out, otherwise he could collect the money from my brother or someone from the family.

Then one day Greeff came to us and he said that he had to appear in court because apparently there was a drunken man who had been arrested and came into the police station and aggravated him to such an extent that he had given him a smack. They had charged him for beating up a prisoner and he had to appear in court and didn't have "nuwe pak kleres", (i.e. a new suit) he didn't have a new suit. So we sent him to another firm, this time Mosi wrote a letter and said please give Mr Greeff, open an account and give Mr Greeff a suit, which he got.

But nonetheless when things started becoming a bit more difficult we thought that we needed - oh yes Mosi was - Chiba ...(intervention)

Note the interruption here just after the witness says that things were becoming more difficult, and “we thought that we needed...” and then starts to drift with “... - oh yes Mosi was – Chiba...” It seemed that he was relating an important part of his narrative when he was interrupted by the TRC Questioner. However, it also seems that he was perhaps drifting off and struggling to remember, and it transpires below (probably as a result of the assaults to his head) that he started to suffer from epilepsy and he states

elsewhere in his testimony that he is not sure if he is suffering from brain damage as a result of the assaults. Note next how the TRC interruption and the witness's response together show that this interruption was probably timely:

“DR RANDERA: If I can just stop you, you ....(tape ends) What happened to you subsequently and the long term effects that you still suffer from after those days of detention and torture?

MR JASSAT: We managed to escape after bribing Greeff. He opened the gates and we got out. Wolpe and Goldreich went to Hillbrow, Mosi and I went to Fordsburg and we were in hiding for approximately five weeks. Eventually I managed to get out of the country through Botswana. I went to Tanzania.”

When I got to Dar-es-Salaam I found that I was - well other people noticed this, I didn't realise it myself but I was suffering from epilepsy. The movement sent me to numerous places for treatment, including Moscow, Germany, Czechoslovakia, Cairo and the...” (Jassat, Johannesburg, May 2, 1996).

Following the interruption the witness seems to get back on track and provides two important specific aspects, namely that they escaped with the help of the policeman who was sympathetic to them (and also perhaps as a result of the bribes) and went into exile; and also that he discovered he now suffered from epilepsy. Given the circumstances as described, it seems clear from the testimony that the TRC interruption was helpful to the witness in his process to be heard.

#### Example 4:

As a final brief example in this group, I want to turn to interruptions which show the increasing impatience of the TRC Commissioner towards a witness (Mr. Bonginkosi Dlamini) who tells his story over fourteen pages of single spaced transcript. His testimony describes how the police was trying to recruit him to be an informer which he resisted; and later how he joined Inkatha at the their start when he believed it was a Zulu

based cultural organization, but which it will be recalled from the discussion above was a rival organization to the ANC structures with its stronghold in the KwaZulu-Natal Province, and which often cooperated with the police; and later how he moved away from Inkatha due to the direction of their politics and violence; and how he was then harassed by Inkatha which culminated in an attack on his house where both he and his common-law wife were shot. The level of detail he narrates included (for instance) the number of times he spoke at a specific meeting, and about minute details of his election to one of his community positions, and (much) more. So here is a witness who had ample opportunity to be heard, and opportunity to elaborate, but by the same token the interruptions to a large extent allowed him to limit what one could perhaps describe as rambling, to the point that the Presiding Commissioner in his closing narrative could actually provide quite a lucid summary of what the witness testified. Here are some of the interruptions by the TRC Commissioner who understandably becomes increasingly impatient, and these interruptions actually assist the witness in being heard as the witness in the transcript in each case actually answers the specific question:

“COMMISSIONER: (Inaudible, interrupts): ... understand we don't want the exact details of the whole meeting, and every time who spoke, and what you said, and what someone else said. We want you to try and get to the point a bit more....”

“COMMISSIONER: (Inaudible, interrupts): ... understand there are many people after you, and you are eating their time as well, and that's why I want you to be fair to them. Now, tell us about how you've suffered, and what has happened to you as a consequence of that. Okay?”

“COMMISSIONER: (Inaudible, interrupts): ... let's not listen about you being chosen. Please come to the point. As I've spoken to you now it's over 45 minutes you've been talking. Please, I don't want to be rude to you, but let's get to the point.”

“COMMISSIONER: (Inaudible, interrupts): ... you're making a very long story about what can be quite a short statement, and I must just say to you, what were you arrested for? Just briefly, what were you arrested for?”

“COMMISSIONER: (interrupts): If I could cut you short. To this day no one has been arrested and there's been no case?” (Dlamini, Newcastle, September 10, 1996).

#### **6.6.4. Conclusion**

There are many instances in these TRC testimonies where a witness is testifying about another (usually a loved one) and telling the loved one's story, but at the same time has an own story to tell. These personal stories interlink with the story of the loved one, but as the person telling it is herself a developed moral being she has more to say than just where stories interlink. These personal stories are then sometimes heard, but not through elaboration or through the enabling of the TRC questions, but because of the compelling nature of a personal narrative being weaved in amongst the primary focus of the testimony.

Witness silences can also be a powerful manifestation of a witness being heard where the narrative is not elaborated through words, but through silence brought on in these testimonies often when the witness is overcome with memories and emotion where the narrative spaces expand through silence instead of words which is another form of elaboration, which could greatly assist a witness in being heard.

Another manifestation of narratives that are not elaborated but seemingly assist a witness in being heard, are interruptions and disruptions, where the lack of elaboration, or even limiting elaboration, could be effective and maybe even more effective than extensive elaboration, in order to enable a witness to be heard; for instance, where a



witness is falling into victimhood, or where conflict narratives are gaining traction, or where the testimony loses incoherence as could be seen in the discussion above.

**6.7. Third organizing principle: Narrative is elaborated, but seems not to assist the witness in the process of being heard**

**6.7.1. Introduction**

We saw above in the case of Mrs. Calata that she weaved her personal story in with that of her husband, and that her story as such was also told around the events as they played out with her husband. So even though her many narrative cues were not elaborated, I argued that she still probably was heard in spite of the lack of full elaboration or enabling by the TRC, based on the way the two personal narratives were interwoven and the way she still managed to thus get her story “out there.”

However, there was also another group of testimonies where the personal narrative of the witness, and what she wanted to elaborate on, was larger in scope than the purpose of the main testimony as it came before the TRC based on the prior statement and other dynamics that caused a particular witness to come to testify. The witness could then of course just let go of her own narrative to the extent that it “exceeds” or is not part of the main testimony, but it also happened on occasion that a witness would resist that situation, and continue to try and introduce or elaborate her more comprehensive or very personal story. This would again happen through the introduction of multiple narrative cues, or the same narrative cue multiple times as in the example of Ms. Zweni below which are then not being followed up on or even acknowledged, and which further

reinforces the notion that she is probably not being heard. However, the key differences between the previous (second) and this third organizing principles as I see them is that first, the story of the witness's very personal circumstances even though situated in the larger context of the TRC focus, does not closely dovetail with that TRC focus as in the previous example; and second, the witness's active and more obvious narrative *resistance* in her struggle to be heard.

The additional striking aspect (and perhaps irony) of the testimony of Mrs. Zweni below which is used as the testimony example for discussion, is that not only is she resisting and struggling for her own narrative cues to gain traction in her TRC testimony, but those very cues concern her resistance and struggle against the system of apartheid during the course of her life.

#### **6.7.2. Testimony example and discussion**

Ms. Nomakula Evelyn Zweni is the witness in the following testimony delivered before the SA TRC on April 22, 1996 in Cape Town. In her testimony she relates how she arrived in Cape Town in 1957 to join her husband, and how over the course of her life she experienced much oppression and humiliation living under apartheid. Also how she has over the years built up a deep hatred of apartheid and how she in her own way tried to resist the system. Inasmuch as the TRC is seemingly primarily interested the broader political context and in certain events, she is struggling in her testimony to tell her own story of resistance against apartheid, or at least she tells it, but very little of it is recognized by the TRC. This situation is even more noticeable as the testimony of Ms. Zweni actually reflects the experiences of the witness herself, and is not primarily

focused on experiences related to a son or husband as was often the case. It is not apparent whether the SA TRC was intentionally ignoring these personal references to her hatred of apartheid in order to somewhat “depoliticize” her opportunity to be heard, in order to keep a focus on the larger theme of her testimony. She was clearly a key witness to also provide political context.

I now turn to extracts from her testimony where I focus more on the parts and context where Mrs. Zweni is resisting and developing her own narrative to illustrate this third narrative principle (“Narrative is elaborated, but seems not to assist the witness in being heard”), as the total testimony again runs over multiple pages. I start the discussion after the initial welcome and swearing in of the witness:

“DR BORAINÉ: Ms Zweni in welcoming you today, I notice that your troubles started as early as 1960 which is when the work [indistinct]

MS ZWENI: That’s so.”

DR BORAINÉ: Started, at the start, but you also had more trouble in ’76, in 1977, beatings, shooting, torture. So you have come a very-very long way and we’d like you to tell your story to all of us now, and not only to those in this room, but of course to many-many others who are listening on the radio, or perhaps will watch the television or read about it in the newspapers. You have a story that we all need to hear. And Pumla Gobodo is going to help you as you tell that story.”

This introduction affirms her opportunity to be heard, and invites narrative, and provides a good basis for possible elaboration later. The audience is specifically incorporated which could also serve as basis for expansion of the narrative spaces – moreover, not just the audience there, but also at home and through other media. This is also a way of framing the importance and prominence of the TRC. A question is whether the “story we all need to hear” also includes the full story that she wants to tell, in

addition to the one the TRC thinks all should hear? This is particularly so as next there followed a somewhat unusual part (not reproduced here) where the TRC questioner provides historical context of the political events in the Cape Town area at the time, which underscores the interest of the TRC in Ms. Zweni's role in that context. This can perhaps be seen as prior elaboration of the witness narrative through providing factual information. However, this does also frame the witness testimony to come, in that the summary describes historically important resistance events such as marches, and places the witness inside those events as she was there. So the message is that she is more than a witness to her own experience, but to history. The testimony continues:

“MS GOBODO-MADIKIZELA: I want to welcome you again here ma, I would like to ask you to start by telling us when did you arrive in Cape Town. Tell us about yourself when did you - when did you come to Cape Town and what were you doing in Cape Town.”

“MS ZWENI: I came here in 1957 - I came here in 1957, I came to my husband...”

So here is already a little bit of resistance from the witness and effort to reclaim her narrative, as the starting point “of her troubles” as stated above by the Commissioner is not 1960 but 1957 when she came to join her husband in Cape Town. So even by this short introduction, she is already indicating that there is more going on before 1960, and she is already introducing her narrative of resistance:

“Now he told me all the Xhosa speaking people must go to one place over to the other side. I never went, I never moved, I stayed. My husband told me do you know that if somebody gets arrested if a person does not obey the law. I told him I do not want to move. But we left because I ended up giving in to my husband. I went to live to NY6 in a two-room which was sandy on the floor. And it was made of - it was built of zinc with no ceiling or anything, that's where we lived. We fixed it up.”

A stronger sense of resistance and of empowerment is being introduced into the narrative. By dating her arrival as far back as 1957, and repeating twice that she (initially) did not move as part of the apartheid forced movement, she is thus narratively positioning herself as a true veteran of the struggle against apartheid. However, there is a sense that the TRC is positioning her in the questions following below, in respect to the events, more like an historical repository. Also, she is utilizing the opportunity to be heard to continue building on her own sense of empowerment and resistance, and not falling into victimhood, as she did not accept living in an inferior house as part of the forced removal - “fixing up the house” introduces a sense of empowerment, and that the system cannot suppress her basic humanity and repress her moral and other agency. So it is clear that even though she has barely started her testimony, she is strongly expressing her sense of resistance both in respect to her reaction to apartheid, and also in developing her own resistance narrative before the TRC which is not picked up on:

“In 1959 we all covered to get away. We formed an organisation because we were tortured. While we were still moving around in Cape Town, we were told that if we go into a certain place we were told that we were trespassing. When we saw this we really didn’t like it. We simply told everybody else and we - we made meetings, we had held meetings only we had informers amongst us who were informing the boers about what we were talking about in our meetings.”

The witness introduces a number of acts of resistance as narrative cues in just this short paragraph, especially the meetings. The testimony continues:

“...in 1960 we held a gathering in the field... While we are still in the meeting the boers came in a van... “I can still remember what they said to me. Because at that time I was still - I hated apartheid with all my heart.”

“Boers” generally would refer to Afrikaans people but in this case and usually in these contexts would refer to the police. And here is the strongest, most direct narrative

cue so far which forms the underlying theme of resistance in her testimony, namely her hatred of apartheid. This is a very important statement, as she is clearly recalling what was said as far back as 1960 which shows the intensity of the memory, and that is enough to move her testimony into silence next, due to the underlying emotion. The Questioner acknowledges this, with her empathetic reaction: “sorry mama”:

“MS GOBODO-MADIKIZELA: We are sorry mamma - sorry mamma would you like us to continue?”

Her emotion (as a form of silence in her narrative) is seemingly a result of her remembering the system of apartheid and how she hated that which overcomes her with emotion, not the specific event she is relating – i.e. there is not specific event to that level of clarity - so this is not just a cue but a strong cue. The testimony continues:

“MS ZWENI: Yes we must.”

This is an important element of her own narrative of resistance, the person used to the struggle, and having sacrificed for it, and a type of duty to continue and prevail as in the past: The questioning continues:

“MS GOBODO-MADIKIZELA: You said before you made provisions before - I just want you to tell us please what role did you play, you personally. What is it that you actually did in the preparations of the 21<sup>st</sup> of March, what did you do before the 21<sup>st</sup> was the day prior to everything that happened.”

This emphasizes the TRC’s interest in the witness’s’ historic role in the struggle, whilst she has a strong and personal narrative to share, again as can be seen all through her testimony in her narrative positioning, related to her hatred of and resistance to the apartheid system, and her reclaiming of her moral agency. So it is apparent that there is often a tension between a witness story, and the interest of the TRC. The question is not

that those events are unimportant, nor that the TRC should react to every new narrative cue introduced by the witness, but how to find a balance and explicit acknowledgement?

The issue here is that there is a witness who experienced and suffered in a systemic conflict situation all of her life, over many years. What is the responsibility on of the TRC to enable these narrative cues in a manner consistent with the proceedings, even as a specific and separate effort, in order to play a role in also assisting the witness to rebuild her moral agency, to develop counternarratives and even launch an aesthetic ethics? The testimony continues, and it can be seen how the witness is still further developing her active resistance narrative:

“MS ZWENI: We had a meeting at Guguletu, what I did I was going up and down, trying to organise the march, that was my role. Even when I got to the meeting, I didn’t sit down, I had to go up and down just to organise everything. I told them that if I- could be arrested by a boer, and now white man would stay in Parliament, I would even come back in a spirit if I am - after I am dead. Everybody would be free in the field like what we were before. We left in the morning, we went to [indistinct] to pray there.”

Here very powerful empowerment and resistance themes are introduced; she is active, organizing, even death will not stop her resisting. There is no elaboration or even acknowledgement of these cues by the TRC as a type of witnessing, and the testimony continues by introducing an important theme of resistance against the “pass laws:”

“(We were waiting for) a response about this pass - this pass laws... Bullets were just flying all over, there was a [indistinct] I hid next to a shop, I told - I asked my God, I asked God - God if it is you who has allowed this, if it is you who want us to be killed [intervention]”

This message about the pass laws is a reference to the passbooks (i.e. personal identification) that Black people had to carry under the apartheid racial classification laws, and was the very symbol of oppression and the control of the apartheid state. As

will be seen below, Ms. Zweni refused to even have such a passbook. This action would constitute a massive symbol of resistance (and this adds to her resistance narrative), but also would have exposed her to a lot of practical problems, and also of course political risk, harassment and even prosecution. Note also the religious reference which appears often in her narrative, and interesting here her resistance narrative also extends to challenging God: “God if it is you who has allowed this, if it is you who want us to be killed.” The interruption by the TRC Questioner at this juncture could well be more in line with an interruption which actually assists the witness being heard, as her narrative shows that she is becoming very emotional and fragile and then the TRC Questioner acknowledges and expresses empathy, twice referencing “understanding.” This use of understanding (twice) reminds one of the definition of empathy as described by Shuman (2005, p.5): “Understanding others across time, space or any difference in experience.” Again, there is no return later to that in the witness narrative which gave rise to this intervention:

“MS GOBODO-MADIKIZELA: Mamma these memories we know are very difficult for you to recall. We understand that they are terrible, we understand. If you want to wait, you can just take your time. You can take your time mamma...”

MS ZWENI: [indistinct] the citizens were running in front of us. They were just bodies, strewn all over the place in front of us. I am from the ANC there were just dead bodies all over the place. Some were trying to climb buildings, from Langa, that’s where actually everything happened. That was the time I kneeled down and try to pray, that’s when - that’s when I kneeled down he was bleeding from his head.”

Even in the middle of this traumatic recollection, the witness references that “I am from the ANC” which is positioning her narrative in the resistance movement, and what happened there was part of the resistance. She also again invokes a religious reference as



part of this traumatic memory of the events, and as she is kneeling down to pray, and as people were fleeing and being killed, she then saw a person bleeding from his head. This last memory becomes a very individual, specific and personal image within the generality of the description of what was happening, and constitutes a powerful narrative cue for the violence that she had to endure up close:

“I said God please I am asking you, I am asking you God, we are tired of apartheid, after that I left, I simply left. I went to Guguletu, I was told that - they must come back with their passes they would be responded to. I didn’t even see where my husband was. I heard a certain woman saying your husband has been shot somewhere, he has blood on his - has been - he has blood on his shoulder. That’s how - I said that’s how soldiers die.”

These few lines combine the centrality of her narrative. Not only how she hates apartheid, but in the context of a religious reference and a further statement of resistance and manifestation of her moral agency: “I said, that is how soldiers die.” Yet even as these narrative cues accumulate, and many more below, it will be seen there is still no recognition or follow-up, or encouragement to specifically elaborate:

“We are arrested, we are tired. You just go to Parow, you are told that you are trespassing, you go to Paarl, you are told that you are trespassing, which South Africa are we going to live in, if you go anywhere you are told that you are trespassing. After that the boers were just going in and out of our houses, taking people beating up people, eventually they came to me.”

This is an indictment of the system, and the suffering that she endured at the hand of apartheid, to the point of exhaustion. However, the witness does not fall into victimhood, she also recognizes that she was not singled out or the only one who suffered. Her testimony continues:

“They came to me, they asked me - they asked me what are you doing here. I said you are trying to destroy apartheid, that’s what I said to him. I said we are tired, we are simply

fed up. We are simply fed up to have the boers on our shoulders. We are tired of the yolk on our shoulders. They didn't ask, they didn't ask they just simply beat us up."

Notice that in addition to another very specific reference to apartheid and the system, and her being fed up, and the suffering she endured, and more specifically being beat up, what she specifically references twice is the fact that she had no voice, no opportunity to be heard even: "They didn't ask, they didn't ask they just simply beat us up." This emphasizes and amplifies that fact that she seems to have needed narrative acknowledgement, recognition and witnessing in respect to her resistance against apartheid, now that she at last had her opportunity to be heard before the TRC. Her testimony continues:

"I was fighting back - I was fighting back - I was telling myself that if I - if I die, I will die in the struggle, but my child will - will know what I died for. I don't want anything, I don't even want to go to work in a white man's place, because that's - they treat us like monkeys. We left now after that we were taken to different places. Around 1968 was a little better. In 1975, something started now again."

Here are different aspects of her resistance testimony and sacrifice emerging. The first cue is her child, and as will be seen later it is the child she left behind, and fortunately the TRC does eventually return to this narrative cue as will be discussed below, and illustrates how these narrative cues could have been individually acknowledged even if not contemporaneously or simultaneously, especially her resistance against apartheid; second, how she was fighting back (twice), and then see the response of the TRC in response to all the above:

'MS GOBODO-MADIKIZELA: Excuse me mamma, you said you said as a - your husband was shot on the shoulder."

This is the response after all the testimony and specific references, and narrative cues that were introduced based on her own lived experience, and her indictment of the system. It is of course not to say that her husband's injury is unimportant, it is just that what is being left unsaid and unelaborated by the TRC is so much more. The testimony continues:

“MS ZWENI: The bullet was taken out, he couldn't go to the doctor, because the doctor himself was afraid. You couldn't go anywhere, you had to do the treatment yourself buy medicines from the chemist because you couldn't go anywhere, because if you take them to the hospital you would now be identified as one of the rioters. I tried to take the bullet out myself, I did everything myself.”

The witness's testimony about her husband being shot also ends with her role and responsibility in the matter; and then one can ask, is she from a narrative perspective now falling into victimhood? But then the fact is that that her husband could not receive treatment in hospital due to the targeting for being shot, when even the doctor is intimidated, and then it indeed does become her problem. Next the TRC Questioner turns to the beatings that the witness herself received in specific circumstances, and see how that narratively plays out:

“MS GOBODO-MADIKIZELA: Mamma let's just talk about your beatings during the 1960's before we can go on to the Bellville beatings. Just tell us again how were you tortured just because you were part of the 1960 march, on the 21<sup>st</sup> of March. Please just tell us what happened there.”

The intention seems to be to obtain specific information, but also to contextualize the beatings within the protest march specifically. However, see how the response pivots back to the injustice of the system, and to her resistance even as she was beaten, and how she is not only physically beaten but also beaten down by the apartheid system, but without providing specific detail as to the beatings she was asked about themselves:

“MS ZWENI: Since then I never rested. The boers were coming in and out, everyday they would come and fetch me, put me into a van, we were scattered all over and you would be beaten up. You would be beaten, you would even be beaten and not fight back and tired - and not fight back. Who told you that this is - this is your country. Who said to this is your - you - you - I use to say this is our land, you are visitors. While he was beating me, I would him tell him these things, you - I live in this country. Your - you will take your apartheid with you and - away to - from South Africa.”

Here she again references apartheid directly. Her continuing narrative continues to be resisting and empowerment in the face of suffering, even as there is an emphasis on beatings: “While he was beating me, I would him tell him these things...” The questioning continues:

“MS GOBODO-MADIKIZELA: Mamma did you have a pass?”

As mentioned above, this was the identification document that not only was an instrument of control under the apartheid system, but also indicated the carrier’s race and other particulars, and the passbook was seen as a symbol of oppression. A person not carrying her passbook could have dire consequences, and burning passbooks became a visual and powerful sign of resistance. Ms. Zweni’s response to this question is therefore a very important cue to her resistance, and her identification with the resistance movement and with Nelson Mandela in particular. Again, no acknowledgement, no recognition, no elaboration from the TRC:

“MS ZWENI: No I never had a pass, I only had an ID when Mandela was out from prison. When I saw the newspaper that Mandela was out that’s the only time that I had, I took - I went to get myself an ID. Somebody said to me - somebody said to me Mandela now is back, go get yourself an ID. When they asked what about a pass, when are you going to get your pass, I said I am not a dog, I am not going to have a pass somewhere in my body, I will never have a part, never. I only had an ID just now.

MS GOBODO-MADIKIZELA: Mamma again let’s talk about your beatings and the torture, then we can go to the Bellville incident.”

Bellville is a town near Cape Town. The TRC Questioner returns to the Bellville beatings for the second time as the witness did not provide detail after the Bellville beatings were referenced the first time above. The witness finally provides some detail but still the TRC Questioner returns for the third time to the Bellville beatings below. I point this out, as it shows that the TRC could return to certain aspects, even for the third time for elaboration (if only factual elaboration) if there was seemingly some purpose the TRC wanted to pursue. The testimony continues with her describing physical assaults on her by the police, and further down in her testimony whilst describing the beatings she says this:

“They use to say you - you - you think you clever, you - one day you’ll get what you looking for, that’s what they said to me.... They told me that we think we are clever, you say - you say have the land, where do you think you have the land from. I said to them we have the land, this land is ours - I am going to say that until I die. Until I get under the grave, I don’t want [indistinct] in front of my face, because our blood is one, we are all created by God.”

She not only returns to the resistance theme, but also references the same insult by the police twice which shows the extent that the insult bothered her, to this day in her testimony: “So you think you are clever.” This seems to point to her effort (and need) to rebuild her moral agency and damaged identity, and how developing counternarratives further could have assisted in that process. Her narrative continues describing police beatings over a period still intertwined with the theme of resistance, but she also introduces further cues related to her apparent need to rebuild her moral agency:

“MS ZWENI: I can’t remember some of this incidents, there were so many. After I was beaten up in Bellville, then the boers came again. When they came in, they told me we are here to fetch you, you are wanted in Court. I told them I am not going anywhere, you want to kill me now. They pointed a finger at me and I said to them if you - if you point a finger at me, why are you still doing that,... You came to our country and take everything

that is ours. I said you are the - you are the offender, I am not offending anyone. This is my country, I want to - I want to go around in the country with no fear. And you come to take our land... I must just tell you that.”

See how she cannot remember all the physical beatings, but the disrespectful pointing of a finger at the witness is remembered in the same context as the beatings.

This shows that the humiliation and sheer injustice of what happened to her over many years are seemingly over time no less important than the actual physical suffering, and the need for rebuilding her moral agency, yet none of the narrative cues introduced are elaborated. Later in her testimony she introduces another topic related to her moral agency, namely her resistance against the bars run by the authorities in the townships:

“...after that some people were just arrested... Bars were set alight, I was there, I told the boers no we told the boers not to have their bars in the locations, because these bars were abusing our husbands, our husbands use to come back from this bars, drunk with no money, those are the things that the boers did to our people.”

In her narrative, she seems to be asserting moral authority not just in terms of her own struggle against apartheid which is so amplified throughout these narratives, but also formulates another systemic impact of the apartheid policy, in the context of social problems and alcohol abuse, and here she makes the link with apartheid explicit:

“Our husbands would go and spend the money in those bars and come back with nothing to us. When I talk about apartheid, I feel like crying, I feel like screaming.”

“MS GOBODO-MADIKIZELA: It is - it is obvious mamma that many things happened to you, it is not just the beatings by the police, the things that you talk about, there - they are talking about the way you lived then. We know - we can see that, that beating is not the only thing that tortured you. It is obvious to see that you are very angry to the people, we understand.”

This is an expression of some measure of recognition and empathy by the TRC by recognizing that problems (i.e. bars) existed in addition to beatings. But the several

references explicitly to apartheid as a central theme and her resistance also in this context of the social impact on the men and husbands is not at all explored and fully recognized and not elaborated. Again, I am not hereby saying that every time a narrative cue is present, even compelling cues such as discussed in the context of this testimony, that the TRC Questioner should then steer the testimony on a tangent as the facts for purposes of the work of the TRC are important. However, where the witness's narrative regarding her very struggle against apartheid cannot fully break through during the testimony, why not allow her a structured and deliberate opportunity during or at the end of the testimony (for instance) for elaboration, and not only briefly recognize the witness's struggle. It can be said that in this case her very personal struggle against apartheid also translated to a narrative struggle during her testimony to tell that part of her story. Was she feeling that she was not being heard, and perhaps that being the reason why she returned to this theme so often? The testimony continues:

“MS ZWENI: We burned this places up, there was a bar where I use to live, we burnt it -I am telling you we burnt it. Because they use to call us kaffirs how can you call a person kaffir, what is that - what is kaffir, what is that, what is that? I don't want apartheid at all. You will be beaten up - you would be beaten up in your land by the boers. People who came from abroad [intervention]”

Before the interruption, the witness is narrating an escalation in her resistance, physically burning down a source of social ill which she has framed within the apartheid context, and also further supports her struggle to maintain, gain or regain her moral agency. Now she introduced one of the foundational aspects of the apartheid system's narrative which was used to humiliate and frame Black people, and for the use of which a

(white) woman was actually imprisoned in 2018 showing one of the impacts of the political transition. As the New York Times reported on March 28, 2018:

“Ms. Momberg, a white woman, became the first person in South Africa to be sent to prison for using racist language against someone, according to prosecutors and legal experts. Specifically, she hurled the term “kaffir,” considered the most offensive racial slur in South Africa — so radioactive socially that it is often referred to as “the k-word.”<sup>11</sup>

This explicit testimony goes to the heart of positioning, and reclaiming moral agency. This may have presented a difficult situation for the TRC as it is not certain how far they would have allowed this narrative to develop, but it is surprising in the many testimonies how relatively few times the word or a discussion thereof appears. The testimony then continues at some length including by incorporating a reconciliation narrative which I do not reproduce here, and then further in her testimony she reaches a key aspect which I want to conclude with. She left her child which is still a very traumatic event for her; moreover, it is not just her leaving her child, but also that she still cannot find him after all these years. The TRC actually does enable elaboration of this narrative later, and it turns out that is one of the most important narrative cues which is actually somewhat and empathetically elaborated by the TRC. However, it will also be shown that even this (all too infrequent) elaboration may not have led to the witness being fully heard, when seen from within the context of procedural and substantive justice as part of the research frame developed in this dissertation. Notice next the intense

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<sup>11</sup> “Woman Becomes First South African Imprisoned for Racist Speech,” reported in The New York Times on March 28, 2018, <https://www.nytimes.com/2018/03/28/world/europe/south-africa-racist-speech.html> (accessed on 06/16/2019).



trauma which is still present in her narrative regarding this event, as her testimony continues:

“If I hadn’t left, I would have died, I left my small child, nobody knew what happened to that child, children - children were buried in black refuse bags. Even now our children’s graves, but I don’t know. It will never be 20 years and the child is still alive, I don’t know if my child is still alive...”

The questioning continues, and the witness is not asked about any of the many specific and important narrative cues that she introduced even in the above answer, but instead about her experience of testifying before the TRC. Within the research frame developed in this dissertation, this question instead relates to how she experienced her opportunity to be heard or in other words, if she experienced procedural justice. It may be recalled that procedural justice has been described as the level of satisfaction experienced by a party for having an opportunity to be heard (such as testifying), independent of the outcome (Thibaut & Walker, 1975). The question is asked thus:

“MS GOBODO-MADIKIZELA: Mamma how do you feel about coming here during these past minutes talking to us, how do you feel now that you have expressed yourself?”

By not following up on the cues of resistance; of hatred of apartheid; of her empowerment and the continual struggle for her own moral agency; and the substantive aspect of leaving her child, is this creating in the context of the procedural justice frame a type of false consciousness? Is the TRC Questioner really saying: “Tell us how wonderful the TRC experience is”? There somehow seems to be a disconnection between her preceding narrative on the one hand and the TRC focusing in the very next question on the experience of testifying. Consider also the next paragraph from a substantive (or outcomes) and not procedural justice perspective:

“MS ZWENI: I feel like that I have vented everything from myself. But now I am worried about my child, God will give me a forgiveness, because I pray him all the time, yes he will give me peace. I also pray that he gives me peace, a soldier dies in the war. But now how can I - how can I accept the death of somebody else’s child if I will not accept my own child’s death.”

See how her framing and anguish in respect to her child overshadows any venting, and how this is continuing to impact her moral agency. But the initial questioning ends as follows, before the TRC Chairman and Commissioners take over:

“MS GOBODO-MADIKIZELA: Thank you mamma, thank you very much. Mamma is there anything else that you would like to add?”

The witness then introduces another request for substantive justice, and again no acknowledgment from the TRC, or even recommendation as was sometimes the case:

“MS ZWENI: Please help me with something because I will - my - I lost my house, I am just nothing now. I would like it if you can just help me with something, I don’t know, you will - you will see what to do yourselves.”

Now she reveals not only her material need, but also possibly the present state of her moral agency through this narrative positioning, which is a marked change from her apartheid resistance narrative: “I am just nothing now.” How can the TRC not pick up on this narrative? The Questioner does not acknowledge the substantive request at all, and just moves on to the other witness. Can one help but ask if this resembles a type of false consciousness where the focus of the TRC is exclusively on the experience of having testified, but not even acknowledging the substantive requests? The implication is that she still believes that the TRC will do something in respect to the substantive request/s. Does this also point to the witness probably not being heard in that respect?

The TRC Commissioners now take over and various aspects are discussed, but I want to conclude with an interaction in respect to the child that she left; and also an interaction in respect to the exact number of dead bodies following a skirmish:

“DR ORR: Ms Zweni you mentioned that you saw bodies when you - you said that the - you saw the things flying around and you saw bodies. Can you tell me a little bit more about that please.

MS ZWENI: About the bodies, these - these bodies were the result of the shootings from the citizens. On the way to the flats to Langa, there were - there were shootings and I am telling you for sure I saw - I saw this bodies, we buried those bodies, all those people we buried them.

DR ORR: Do you know how many of them there were more or less?

MS ZWENI: The ones I saw if I can just estimate, there were more than 20, but now I cannot really remember because it was a long time ago.”

This factual clarification of what becomes a body count narrative below due to discrepancies in the numbers, starts in a very respectful way (how many “more or less”), but then takes a narrative turn:

“ADV NTSEBEZA: Excuse me mamma, I would like to follow up a certain question that was asked by the - my colleague here. Just listen that’s all right. The history about this period, especially things that happened on this day that you talking about.

They say there are only two people who died. But now you are talking about bodies. Now what do you say about that, are there three of them. No but the reports that we get say only two people.

MS ZWENI: Never there are not two, there were not two, they were bodies. They were not just two, there were strewn all over from twelve to fifteen or even twenty. There were even over twenty, some of - some of the people I actually saw them being shot myself. I witnessed this.”

I referred above to a more general tension in these proceedings, but here is also a specific tension and contradiction in respect to the body count. On the one hand the

witness testified that she saw over twenty bodies, as opposed to two bodies based on the TRC records, but she says “I was there.” This tension underscores the reality that testimony is not only “a representation of history, where accuracy is the focus; i.e. not only represents reality, but also constructs reality (Cobb, 2004). The body count is important to the TRC, but how to solve this dilemma and what are the implications for being heard and for rebuilding the witness’s moral agency? It will be seen below that Commissioner Boraine diplomatically moves away from her (historically probably incorrect) version, at least in respect to the deaths. But she saw many injured bodies, and that is her recollection and narrative. Her testimony continues:

“I was going up and down by a car. I was looking at all of them, nobody can ever tell me about this, I was there myself. I was there from Langa to Guguletu, nobody can tell me any stories about that, I was there myself.”

This now becomes a tense moment, because obviously there is a discrepancy in respect to the number of bodies, but given the trauma, and the time that went by and everything else, how far should the historical truth be measured against the narrative truth? She becomes defensive, which impacts the narrative spaces, whilst at the same time the TRC is in search of the truth for an historical record. However, narratively speaking, the witness actually explicitly earlier said in respect to the “over twenty” bodies that “...if I can just estimate, there were more than 20, but now I cannot really remember because it was a long time ago.” So the TRC also did not pick up on that explicit narrative cue about her memory, which could have been used to not potentially diminish her moral agency. A Commissioner then focuses on the witness’s child that she left:

“DR BORAINÉ: Ms Zweni I wonder if you could just put the [indistinct] Ms Zweni I have two questions, the first please tell us a little bit more about your child, the one that is either missing or dead that you don’t know about.”

This is the one narrative cue that Commissioner Boraine picks up on, and on which he then enables some elaboration. The witness’s child that she left behind is a most important topic to her, as based on her earlier testimony and also on what follows below:

“MS ZWENI: In the first place I left my child here.”

This is a short statement but narratively speaking must have been a very difficult framing for her, where she positions herself explicitly as a mother who left her child. How must that feel for a mother? I would term this a foundational cue of her narrative and that which what concerns her, as opposed to what may primarily concern the TRC, even if it is introduced late. Then also, given all the other dimensions and aspects about her life even just introduced in this testimony, how can she not hate apartheid “with all of my heart” as she said earlier when seen from within this additional dimension? And how can there then be no elaboration, or at least more elaborate acknowledgment and witnessing by the TRC, in a way that could help the witness to reposition and rebuild her moral agency? And how especially can there be no enabling of her narrative to help her develop counternarratives? Recall that Nelson (2001) postulated that marginalized persons have damaged identities, and that stories which can be constructed to enhance the image of Self (again reminding one of the potential role of the TRC in this process), can then constitute a counternarrative which is a “story that resists the oppressive identity and attempts to replace it with one that commands respect.” (ibid, 2001, p. 6). The questioning in respect to the child who still remains nameless, continues:

“DR BORAINÉ: How old was the child?

MS ZWENI: He or she was born in 1953 on the 20<sup>th</sup> of March.”

Now here is another narrative cue about the uncertain gender, which may reflect back to the depth of trauma that has been enveloping this mother from the birth and after, in respect to this child. The questioning continues:

“DR BORAINÉ: [Indistinct] when you came back the child was gone?

MS ZWENI: When I came back no, I couldn’t find my child. I came back in 1992 on the 16<sup>th</sup> of December. I have been looking for my child all over the place, I have been to Transkei, other people they were helping me, he or she is nowhere to be found.”

She is showing how she still tried to find her child, and this is a very difficult matter for her as can be expected. Again, as with the discrepancy in the body count, the Commissioner stops the questioning at this stage by saying “thank you very much” thereby in fact invoking silence on the topic (for now) showing that further words now will probably not assist the witness in being heard. He does return to the topic later, but first asks her a series of questions about her injuries not reflected here. He then says this at the end of the discussion about her injuries:

“DR BORAINÉ: And the pain was so great you decided that if you were going to live you had better leave.”

The Commissioner is linking her injuries to the circumstances that made her decide to leave her child, which was a very skillful and empathetic way to show understanding, and to return to the topic which is obviously very difficult for her, having left her child. This is another example of how elaboration of narrative can be pursued, and the question is why not more of this was done here. See how the witness affirms the

Commissioner's framing, which probably assisted her in the process of rebuilding moral agency whilst she is (also) narratively still working through this difficult issue:

“MS ZWENI: Very much so because I thought they were going to kill me, especially after they took me to the forest, they say to me eventually you, you will get what you looking for if you don't stop this... They said you are going to get your day one day. Something came to me - you know when I was asleep at night, at night I just thought - I just thought you know this people has been warning me one of these days they are going to kill me. I just took my bags as if I am just going next door, aah, but I was going away. That's how I left.” (Zweni, Cape Town, April 22, 1996).

Reflecting overall upon the above testimony of Ms. Zweni, the logic model approach discussed above as reflected in fig. 1 can perhaps provide insight, and also better contextualize and situate elaboration and being heard in respect to her testimony from a different perspective. In the logic model approach, it can be said that the process focused much more on the “inputs” (i.e. the questions of the TRC to Ms. Zweni), and “outputs” (her answers ) and how her several references to her resistance constituted her own “inputs” with no response from the TRC. This shows the absence in respect to elaboration from within the logic model perspective, where there were very few “outcomes” (described in that approach as “the results or effects of the outputs on stakeholders”) in that her resistance cues were not followed up on. Because of the preceding reality, it is at best uncertain how much of her testimony directly enabled the longer term “impacts” envisaged by the logic model for the witness (“impacts” being described as “long term effects, benefits and changes for stakeholders”). Here one can perhaps focus on the continuation of the rebuilding of her moral agency, the effect of developing counternarratives and an aesthetic ethics in the longer term as a result of her testifying before the TRC. This is not to say that none of that happened, but based on the

narratives as discussed and in particular the lack of recognition and elaboration of the many narrative cues, as seen from the perspective of the logic model as adapted, the opportunity for longer term “outcomes” seems to have been underdeveloped.

### **6.7.3. Empathy, seen from a less favorable perspective**

Empathy could be an important part of elaborating narrative, but empathy could also be seen from both favorable and less favorable perspectives. The more favorable impact of empathy in the context of these proceedings is discussed in the next section, under the fourth organizing principle below where empathy can be seen as “the act of understanding others across time, space or any difference in experience” (Shuman 2005, p. 4), but in this section, the less favorable or less constructive side of expressing empathy is discussed, namely where personal stories are used in these narratives as “representative, typical or stereotypical” (ibid, p. 5) of a situation thereby potentially causing destabilization of association among people and their own very personal experiences.

There are many examples of this less favorable side of empathy in the SA TRC testimonies overall, and I point out examples elsewhere in Chapter Six. Even so, as this is an important dimension I would like to reference just one further example in this separate sub-section under the third narrative organizing principle.

The example is from the testimony of Mrs. Nomasonto Kgalema whose son was shot by the police whilst on his way to buy milk and bread for the family, in what appears to have been “random shooting” as she testified. He was only ten years old and was paralyzed and also cognitively impaired as a result of the shooting. He died ten years



after this incident and the witness cared for him during all this time. When she made her prior statement to the TRC, he was already deceased. To set the tone for what occurred at the end of her testimony from an empathy perspective, it is necessary to note that at the start of her testimony, the TRC Questioner states that “You’re also taking us back to 1986 when your son Jabu was shot and has lived with a paralysis ever since.” So even with the prior statement at hand, the TRC presents the child as still alive which seems careless and does not set an overall empathetic tone nor favorable public narrative space. However, even though this must have been difficult for Mrs. Kgalema, she does not correct the TRC Questioner then, but in her testimony she quickly summarizes the events over the course of ten years, and ends with the fact that he died then:

“MRS KGALEMA: On the sixth of April 1986 I was on my way from the Slagpale Butchery, I had sent Jabu to the shop to buy milk and bread. After being in the house for a few minutes, I saw two children running, telling me that Jabu has been shot. I left the house just to check where he was shot. I met a car by the gate which was driven by a boy named Bafana... I told them not to get out of the car but to take me to the hospital. When I arrived at the hospital he had been admitted... Two white policeman came there whilst we were still at the hospital. Jabu was unconscious in hospital for five days. Thereafter, he was brought home, already paralyzed. He has been paralyzed for ten years. For the whole of those ten years he has not been feeling well. There was some things coming out of his nose. In Mar ‘96 he died. When we woke up in the morning, he was dead.”

Even after this explicit mention of his death the TRC still does not acknowledge the initial mistake, but only returns to it at the very end of her testimony and the fact that they do return to it later means that there was an awareness during her whole testimony that this mistake was made without correcting it, and issuing an apology. This is not even “bad” empathy, but perhaps the opposite of empathy. The reason why I include this example here as a discussion of “bad” empathy is what happens right before the initial mistake is finally acknowledged by the TRC, when the TRC Questioner does not ask the

witness about her personal experience at all, but instead asks the following. Bear in mind that there is no prior context for this question:

“DR RANDERA: We have to make recommendations to the Government. You are someone who for ten years looked after somebody, your son, who was disabled both physically and mentally. I have no doubt in my own mind that there are hundreds of other young people and parents like yourself who are also looking after disabled young people from the conflicts of our past. Are there things that you would like to actually tell us that we could recommend to the Government which will assist these parents and young people in the future, who have the disabilities that your son had. I’m sure it could not have been very easy looking after somebody.”

At first glance this question seems to raise a legitimate aspect, which is to seek a witness’s input on a potential recommendation from the TRC to the Government, as part of their mandate to make suitable recommendations. However, when seen from an empathy perspective, also bearing in mind that the TRC already set a tone of carelessness by the way they introduced Jabu; and by not correcting that mistake during the testimony whilst they knew what the real situation was; not enabling any personal narrative about this experience; and in spite of having the prior witness statement available, and having overall not acknowledged the humanity of Jabu or his mother, the TRC has certainly expressed no “act of understanding others across time, space or any difference in experience” (ibid). Now, when looking at the statement by the TRC Questioner above, consider the following. By essentially asking her to view her personal experience from the TRC recommendation perspective, and moreover being grouped in with “hundreds of young people and parents like yourself,” who are “also looking after disabled young people,” the association between her and her own very personal experience is being totally destabilized (ibid), and does not constitute empathy.

The testimony then concludes directly thereafter with an unrelated interaction, and then a concluding remark by the TRC Questioner. First the TRC finally acknowledges the mistake from the beginning of the testimony regarding Jabu's status, and an apology of sorts follow but note Mrs. Kgalema's response, which is a clear rebuke of the way the TRC handled this:

“DR RANDERA: Is there anything else you want to add, Mrs Kgalema? Ma'am it's okay. If you don't want to say anything else, it's fine. Mrs Kgalema thank you for coming. First of all I just want to apologize to you because at the beginning I said your son was still alive but paralyzed. Our notes don't indicate that he had passed away and I'm very sorry for any offence I may have committed.

MRS KGALEMA: When I submitted my statement he had already died.

DR RANDERA: Thank you. We're very sorry to hear that your son died. Thank you very much for coming and telling us to-day what happened to him. We hope that you get strength from what happened to-day and that you get stronger as the days and years go by. Thank you very much. This would be an appropriate time to stop for tea. We'll come back at twelve o'clock. (Kgalema, Witbank, June 5, 1997).

Now also consider the concluding remark by the TRC Questioner. Apart from the general “we hope you get strength” from experiencing procedural justice to the extent that her experience was not diminished by the way Jabu's status was handled, note from the witness's perspective that the TRC expresses empathy for Jabu's death and not him being shot and paralyzed as a ten year old, and what all that meant for everyone involved over the last ten years, and one wonders how the mother experienced that in the context of being heard.

#### **6.7.4. The reluctant witness**

It is not possible to discern what people *feel* in terms of being heard in the TRC testimonies and narratives, unless it is implied or stated, or perhaps through silence if

apparent from the particular context. However, from reading these many testimonies one is left with the sense that even though not always apparent, there must have been a wide range of emotions accompanying the giving of testimony, including what the witness may have felt in respect to being heard. One very noticeable (even though somewhat unusual) situation occurred in these SA TRC proceedings in the context of elaboration and being heard, whenever a witness stated outright that s/he did not want to give testimony at the TRC. I discuss just one example below. It will be seen that in this case the additional implication is that whatever may ensue will probably in the opinion of the witness not make a difference anyway, but yet his particular narrative is elaborated. This raises the question as to what the nature of a witness “being heard” may be, where s/he in effect decides s/he does not want to be heard, and in spite of that narrative being elaborated, and hence the inclusion under this organizing principle three, “narrative elaborated but probably not assisting the witness in being heard.”

This example relates to the death of Mr. Henry Kwisomba which is discussed under the next (fourth) organizing principle below, where the focus is on the testimony of Mr. Kwisomba’s widow, Mrs. Joan Mangtombi King. As will be seen from the discussion below she was visiting relatives when her husband was killed, so prior to her own testimony the witness who testified was Mr. David Motlale, who was actually with Mr. Kwisomba during the events that led to his death. Mr. Motlale describes what happened that evening/night of December 26, 1976 when Henry Kwisomba came to his house and collected him to fight the migrant workers known as the “witdoeke” (“white head-scarves”), who were attacking the Guguletu Township community just outside of

Cape Town in collaboration with the police. It was dark and confusion reigned all around during the altercations, and he relates how they were not armed whilst the “witdoeke” were, and how at one point he heard Henry say that “Hey they shot me” and how he then ran leaving Henry behind, and how he was just trying to survive and how scared he was. His testimony elaboration then becomes quite personal, perhaps because he has a sense of guilt for leaving Henry, and also because he had his own personal struggles to deal with. When Ms. King interacted with him upon her return, during her process of trying to find out what happened to her missing husband, Mr. Motlale was apparently not very forthcoming. He continues his testimony in respect to the preceding as follows:

“There were so many things that happened to me in the past, the first time was in Bloemfontein, but now in Cape Town it’s getting worse... I couldn’t tell this poor woman next to me what happened to her husband. I simply couldn’t tell her, I saw - I saw the sadness in their - in the children’s eyes, but I couldn’t tell them anything still. Her husband was my best friend. We were together in the Drummer School at Santos. I was in the sports - we were doing boxing together. We were never worried too much about politics. That’s the time, now, I thought... if she wants to know about her husband, she has to do it herself. Even now, for me to be here, I didn’t wish to be here. After 20 years of not getting information, I don’t know what to do and I don’t want anything.”

And then shortly after, he says this in conclusion:

“But now I am actually surprised that it is only Masomba (i.e. Kwisomba) that we are talking about here. There were so many people there at Guguletu. Even the people that we are talking about here we’ll never see again and even the people who hurt our people, who killed our people... there is nothing that we are going to do to them.” (Motlale, Cape Town, April 23, 1996).

So it is apparent here that even whilst the witness was relating his story (including even sharing his feelings), that he has a type of fatalistic outlook that nothing will change after all these years, and that he ties his opportunity to be heard, and being heard, to that

reality. He even expresses surprise that Henry Kwisomba's case is receiving specific attention at the TRC, as he mentions "we are so many people here in Gugulethu," (i.e. a large township outside of Cape Town) and the implication is that everyone suffered. And then he explicitly states that he does not want to be at the TRC, and "there is nothing that we are going to do to them" meaning the apartheid perpetrators. It is thus as if he ties his reluctance to testify to the little likelihood of any substantive outcome to hold people accountable, and in that sense he does probably not feel heard.

#### **6.7.5. Conclusion**

Under this organizing principle the personal narrative of the witness is larger in scope than the main purpose of the testimony as it came before the TRC, based for instance on the prior statement. The TRC may be focused on specific events and facts and that story will be told because it is the TRC, but the witness has her own story to tell, and now she finally gets her opportunity to be heard before the TRC. A key aspect of these testimonies is therefore the aspect of the witness's resistance, and her struggle in her testimony to be heard based on her narrative cues. She has to introduce multiple narrative cues (or the same narrative cue multiple times) to elaborate her more comprehensive story. Also situated under this organizing principle is empathy, but what I term "less favorable" empathy, expressed in a way where personal stories are used in these narratives as "representative, typical or stereotypical" (Shuman 2005, p. 5) of a situation thereby potentially causing destabilization of association among people and their own very personal experiences. The reluctant witness as personified in the testimony of Mr. David Motlale does not believe he should be testifying (or at least states that); also does

not believe that testifying will make any difference (or again at least states that), and then in fact does elaborate but will maintain that because nothing will change, the testimony (and perhaps the opportunity to be heard itself), is of little value, and therefore seems to tie “being heard” in with specific outcomes.

**6.8. Fourth organizing principle: Narrative is elaborated, and seems to assist the witness in the process of being heard**

**6.8.1. Introduction**

In this section the discussion is approached from different perspectives to illustrate the fourth organizing principle, namely where narrative is elaborated and appears to assist the witness in being heard. First, as with the three other organizing principles above, I selected a testimony which will serve as the basis for illustrating this organizing principle overall (the next sub-section 6.8.2); the discussion is then followed by “Empathy, seen from a favorable perspective” (6.8.3), which is followed by “Elaboration of personal details or experiences” (6.8.4); and then in “Elaborating on your own story and that of the other, and being heard” I discuss a series of three testimonies in a group and around a theme, to illustrate how a single narrative was sometimes elaborated by different testimonies, and also how facts did matter in these quasi-judicial proceedings (6.8.5), which is then followed by a “Conclusion” (6.8.6).

**6.8.2. Testimony example and discussion**

The testimony below is that of Mr. Mralasi delivered in the rural town of Beaufort West on August 12, 1996. In this case key extracts will be reproduced and discussed to

show how the narrative spaces created and nature of the testimony allowed for extensive and detailed elaboration (not all reflected). This level of elaboration is the main theme here, and also reflects the narrative spaces enabled by the TRC and level of detail that the witness remembered, described and was intent on delivering. Tied in with elaboration is the development of Mr. Mralasi's moral agency, as will be seen:

“DR RAMASHALA: Thank you, Mr Mralasi. How are you?

MR MRALASI: I'm fine, thank you - nothing bad - it's just that I'm happy to see you and also to see so many people here after such a long time.”

The witness has a very positive outlook, and ostensibly happy with the opportunity to be heard, even though he does not spell it out, but also is apparent from the start of his narrative, that he is ready to tell “my story” as he states right away below when he commences his testimony. It will also be seen that the witness seemingly comes into this testimony with a well-established moral agency which he develops further here, particularly revealed during the episode towards the end of his testimony where he was at the point of killing a person who wronged him during the apartheid era, and then in fact turns the situation around:

“MR MRALASI: There - let me start off by making a - giving my story. We used to help each other. In 1968, on the 24<sup>th</sup> - on a Wednesday - and it was four o'clock in the morning then I was putting one child on my lap. This child was three years of age and I was trying to put a stove on because it was a very chilly day.”

Note the level of detail in addition to his eagerness to tell his story, and also that these events occurred some 28 years before this testimony and that he remembers the date, the day of the week, and also the time and weather, and what he was doing



including the detail of having a child on his lap. This level of detail is noticeable throughout the testimony, again not all reproduced here. He continues next by describing the police actions in his house, and at one stage he says that “I didn’t know why they were arresting me because... ever since I was born, I had never been arrested before. And I had never quarreled with anyone in my whole life. Then I kept on asking them why they were taking me and where they were taking me to.” Through this level of detail he is not only relating the events, but also asserting his moral authority about the type of life he has lived – no arrests, no quarrels even. It is also noticeable that the TRC is enabling the elaboration of his narrative over several pages (hence the discussion under this fourth narrative organizing principle). His testimony continues by stating more than once that he could see that “they (the police) were serious and that something was drastically wrong.” The witness also constantly places his story in the context of the presence of others whom he specifically names, to the point where the TRC Questioner actually interrupts him on occasion. But it does show that he is not only in the process of building his own moral agency, but by naming and including others, he also includes them into his narrative as real people with natality and as moral beings in their own right. This story is not only about him. He testifies that a whole group of men from their “small town” were in custody following the arrest, whilst still not knowing what was wrong. At some stage they were informed that the allegation against them is that they are members of the Pan Africanist Congress (“PAC,”), a liberation movement that broke away from the ANC and was also an organization banned by the apartheid government. This surprised him as he

was not a member, but he was also informed that some people had turned “state witness” and had incriminated him. His testimony continues:

“Two days there after I was also taken to Mr Maroma and we were taken in a car and I had a hope that I was being taken back home because I had left my wife behind. Even if it’s time to go on. My wife was pregnant - it was just before she was going to get her baby and this what was worrying me most. So we were taken to Oudtshoorn with Mr Marona and there was a room there of this size.

And there were many men inside... Then I was called into this room and I saw Mr Nortje (i.e. a security police officer) who said to me - addressed me Alwinus - and told me that I had been in a political meeting... They tried to beat me but I blocked. So I was locked in back to the cell... There were 26 of us who were taken to Victoria West and were sent to the Magistrates office. We were in a file - standing there in a file. I was the twenty sixth in that queue. I was standing at the back, so the others went in and I was there standing. Then Sergeant Vosloo - of Security Branch in Oudtshoorn - asked me why I was standing there. Then I said that I wasn’t thinking of anything but except what they had arrested me for. Then he asked me to get in. Then they said our case had been revered to the High Court in Cape Town.”

He is referring to standing behind a police van, not getting in, and that he tells the policeman he is thinking about why he was arrested. He is not just accepting this fact as a declaration of guilt, he still feels he has done nothing wrong as he mentioned before in his narrative. This is a subtle form of expressing his resistance and moral agency, as he then continues after the policeman answered him by saying that their case was remanded to the Supreme Court in Cape Town (the lower magistrate’s court did not have jurisdiction to hear this probable ‘terrorism’ case), and just the fact that the policeman actually answers him with a proper answer, and then “”asked” (not ordered or forced) him to get into the police van, indicates a positioning of strength and a high level of moral agency in his narrative. It also turns out later in his testimony that he was in fact wrongly arrested and acquitted in the eventual criminal trial - as the Chairperson states at

the end of his testimony, the witness was “not active” meaning not an activist. His testimony continues describing the journey to Cape Town in the back of the police van:

“... they said we were going to spend a night in Worcester in a jail called Dronkhel and in Worcester twenty six of us, with other men we found there, we were given accommodation to sleep. Then the following morning I can point out the way we were handled where as I done nothing. Then ... [intervention]”

Note that he again repeats “...as I done nothing (wrong)”, and he is then interrupted by the TRC Questioner. The TRC is now interested in the beatings and note that there are several follow-up questions in that regard as this is obviously important to the TRC. He answers those questions including stating at which venues where he was detained he was in fact not beaten, and then asks for more time as he has “a lot to say” and then picks exactly up on his night that he spent in the Worcester jail, on the way to Cape Town. He is not to be denied his opportunity to be heard. The questioning continues as follows:

“DR RAMASHALA: Mr Mralasi, may I just interrupt. You said the way you were handled - could you be specific about that.

MR MRALASI: We - it was - we got a very rough handling because all that we’re supposed to get we were not - we were denied of. The elderly ones were put aside then the younger ones were the ones who were being beaten up severally (severely) so that should tell lies. That was the way in which we were handled. Then it became better when we got to Pollsmoor.”

The witness does not exaggerate, and expresses no self-pity, and therefore does not present himself as a victim; this I would submit assists him in rebuilding his moral agency and being heard. The questioning continues:

“DR RAMASHALA: Were you beaten when you were in Calitzdorp?

MR MRALASI: No.”

It can be seen that inasmuch as he recalled the specific injuries of his comrades earlier in his testimony, now that he is asked about his own situation, he is quite candid and truthful to say that he was not beaten – at least not here – which also is still showing his moral agency, and also showing that he is not seeking sympathy and falling in victimhood. To the extent that he is in the process of building a counternarrative, he does not base it on exaggeration and placing blame where it is not “deserved.” The proceedings continue:

“DR RAMASHALA: And in Victoria West?

MR MRALASI: No, even in Victoria West I wasn’t beaten.”

He follows the same approach as with the previous two answers, and does not use the opportunity to dehumanize the Other. The witness continues his testimony as follows:

“MR MRALASI: There is quite a lot - a lot of - I would even asked that you should extend my time because I have a lot to say because it happened twenty six years ago. It happened in 1968 up to now.”

So here he is asking for more time, and not only is he then allowed ample time for his initial narrative to build, but there is also time (and space) for elaboration. Then after answering the questions about the possible assaults on him, he gets right back to where he left off and relates his journey to Cape Town for the Supreme Court trial over several pages, and where they are locked up in Pollsmoor Prison outside of Cape Town, in order to be transported to their trial daily. The testimony continues from there, when he testifies that they were given the charge sheet and notice how he remembers the names:

“At about this time there was a sheet of paper with names like Thike, Willie Manene and we asked these bewaarders what was all this about. Then this Willie had evidence in this case and had he - his name appeared on this page. Then they - the allegation was that we were going to be put in poison in the - in the dam and were going to disconnect the electricity. Because on the side of Victoria East there is a hill and we as twenty six, as we were - we were - referred to as an army. And they alleged that we were going to lay there and we were going to take over the whole town and that was not true.”

So the allegations against this so called army of twenty six, as conveyed by the prison guard, include that they were going to poison the dam water, damage electricity installations and attack the town. These would probably have been prosecutions under terrorism related legislation which carried very serious penalties, including on occasion the death penalty. This must have been of great concern to the witness which explains his subtle “they were serious” references in his narrative, and as it transpires later he was not even an activist and was falsely accused by some kind of informer, and he was released during the proceedings as will be seen below. I mention this now, as it shows the noticeable restraint in his narrative which I believe assisted him in “being heard.” His testimony continues in a positive frame describing his time in detention; also describing the court proceedings; and that his wife gave birth to a baby boy during this period and that he could correspond with his wife. Following some questions by the TRC which essentially interrupts the witness narrative, he responds as follows and then asks:

“MR MRALASI: ...and we were kept in Pollsmoor and we got a chance to write letters home. Are you now satisfied?”

Note from a narrative perspective two examples even just in this reply and the next, of how he is in fact is an active co-producer of the narrative spaces created, which greatly contributed to him probably being heard. First example: At the end of this answer

he checks back with the Questioner to make sure that she is satisfied with his answer (which was not very common in these proceedings), asking whether she heard him, which indicates self-awareness and shows how he engages actively with the narrative process; Second example: In his response to the factual question by the TRC Questioner next, instead of providing the facts requested he answers that “I’m coming to that, it’s only that I want to explain how...” and he then proceeds to elaborate on his ongoing narrative, and thus very clearly signals that he is still in the process of telling his story and will not be rushed, and that he is a co-creator of the narrative spaces and narrative process:

“DR RAMASHALA: You were released on the 30<sup>th</sup> of April in 1969. Could you tell us what happened after that?

“MR MRALASI: I’m coming to that, it’s only that I want to explain how a person is mishandled, being - then the judge was – Mr. Theron, one was Hertzog. The prosecutor was Brunet. I’m coming now to where I feature. We - then they talked everything there in court. There were witnesses giving evidence until it was my turn on the 22<sup>nd</sup> - on the 23<sup>rd</sup> of April, on a Tuesday - I appeared in court.”

The response of the witness to the factual question of “what happened after that” was instead to elaborate on his previously ongoing narrative, and by doing that he in fact actively claimed his opportunity to be heard. He has far more ownership and control over the proceedings before the TRC than he had in Court previously and actually claimed co-ownership of this TRC process, and it is useful to view the situation from the perspective of the logic model as depicted in fig. 1 above. By insisting that he elaborates his narrative, he utilizes this opportunity before the TRC to move the process on from the previous TRC question (as “input”) not only to his answer (as direct “output”), but he

insists to elaborate the answer to possibly become an “outcome” (defined as “results or effects of outputs on stakeholders”). In terms of the research frame developed in this dissertation, the “result or effect on a stakeholder” could be that the witness now possibly may be better situated and enabled to “be heard.” By resisting answering the question, and continuing to elaborate his narrative, he could at least *feel* heard. From the example set by this witness, the value of the TRC from within a narrative producing frame can also be appreciated more - even though it is a quasi-judicial forum and has a fact-gathering mandate, the proceedings do allow for narrative to be elaborated and enabled within a structured environment, if it is only utilized as such.

Now see next when he discusses the criminal trial how this narrative process, and elaboration, and narrative spaces, culminate in him saying directly what was apparent up to now, namely how important naming the people are to him “so as to get satisfied,” and this would not have happened but for the preceding narrative process and elaboration. His own name too is important to him and part of his moral agency, and of his narrative:

“MR MRALASI: I’m going to remember just now because I want to - I want to - name these so as these person - so as to get satisfied... So I was called and they asked whether I was Alfiuns Mralasi. Then I said no I didn’t know that person. Mralasi was right but Alfiuns was not the name, otherwise my name is Alwinus... So I took out my identity book and also a letter that came from home with the news that I had a baby boy and I took - gave it to them. The judge looked at me and looked at my ID book and said you are Alfiuns... so I was discharged. Then at Pollsmoor I was given a ticket and I got onto the train and on the 1<sup>st</sup> of ’69 I came to Victoria West - that was the 1<sup>st</sup> of May 1969.”

This again is a high level of detail (also in the portions omitted) nearly thirty years after the fact, which shows that it was important to him to convey this detail, and that he had the opportunity to do so. It is noticeable (and commendable) how the TRC allowed

the spaces for him to tell that story, even if incoherent at times, and how that narrative was elaborated and revealed an important story. This was not always the case before the TRC. His testimony continues:

“At home I found my house disorderly, my children were very thin, my wife - who had never worked before - was working for Mr. Van Britten who was a farm owner and I’m now telling you about how we used to suffer those days. My wife was earning R4.00 monthly and during the day she would get a plate of mealie-meal, half bottle of paraffin - mind you.

We had five children and she had to feed this children with all this, because one of my daughters was at High School and - but she had to leave because I was not there. So when I got home, I saw the baby boy and I was looking at my baby and this baby was running away from me - crying - because he could not recognize me. And it was really hurting to me, then he ultimately got used to me and he grew up such that today, as I’m speaking to you now, they are grown-up men.

Bishop knows my eldest son - he knows what he is today - he is a traffic cop today. My other daughter is a teacher in Colesburg, my other daughter is a teacher in Richmond, another daughter is a nurse because God has worked. That is as far I can go ...”

This is the first time that he introduces suffering into the narrative in a sustained way, and he builds the physical suffering and struggle narrative mostly around his wife, with his own pain (as described) being that his own child did not recognize him. But again, he ends on a positive note relating how well seemingly they are all doing now, and then terminates his own very moving narrative (or at least this part of it), being enabled to tell his story as he wanted to until he concludes with, “That is as far I can go.” The proceedings then touch on some factual clarifications in respect to political affiliations and such; also about the witness’s present livelihood, and then the testimony and narrative takes an important turn:



“MR MRALASI: One other I have omitted is - which I would like to explain here in this gathering is - that Thequewe Willie Manene ... accused me, together with his brother and another brother of his.”

The witness now actually gives some kind of warning that a new narrative is developing, in that he next says “I must tell you everything that I thought about him so that one could make a story out of this.” What then follows is remarkable for several reasons. The first is that this story which he is about to relate was almost an afterthought, which he introduced by saying “one other I have omitted is...”); also, were it not for this additional opportunity for elaboration, a most important part of his overall narrative at the TRC would have been lost, which could also have detracted from him being heard. The second reason that this is remarkable is that even after his lengthy and well elaborated testimony up to now, the TRC just lets him tell this part of his story uninterrupted to the very end. This shows that it was possible to blend the extraction of facts with the development of narrative, if the TRC only wanted to enable that. The third reason this is remarkable is the content of the narrative itself, and the extent of moral agency positioned in this narrative; and the fourth reason this is remarkable is the reaction of the TRC officials, and the indication that the witness was probably heard. The witness narrates as follows:

“I must tell you everything that I thought about him so that one could make a story out of this. Willie Manene - I hated him for five years, I even wanted to stab him to death - stab him because he had hurt me and he implicated me and said I was there in that (“illegal”) meeting... I saw him in King Williams Town in 1972 and I was with my children...

That is where I met Willie Manene who was working in a showroom where they sell cars. And one of my children pointed him and said there he is. So I asked for my knife, I opened it, I put it into my pocket, I went close to Willie Manene. This is God’s work because His works are wonderful. I had intentions to stab him.

I had last seen Willie in 1968, in court. At the time he was wiping the car and he saw me as I was moving slowly towards him. In fact a person who was guilty, will always spot you and you know this is the truth.

“So I went in greeted him and I asked him how he was and I asked him to go out with me. We went outside and he stood there and he had some difficulty to talk. And I was surprised what was wrong with him and I looked at him and I could see there was real change in him. He had gone through a lot of suffering - he had gone through a lot of suffering. I could see, it showed on his face and I asked why are you like this.

Do your people know that you are like this? Then he said no... He said he was suffering from high blood pressure, he had pains on his hip and his son to was ill treating and beating him. I could see he was finished, I then called my wife and even that one, who was born when I was detained. I called all them - all of them - and I said Willie here are your children because we had the same clan name. So he greeted them.”

As he sees his enemy whom he hated for years because of being falsely accused by him, and seeing that he was “finished” due to a number of reasons, the witness (Mr. Mralasi) calls over his own wife and children and in a symbol of forgiveness says to his enemy that “these are your children” due to the shared clan name. This is a remarkable act of rebuilding (or maybe displaying) moral agency in narrative, and also in the way he is re-positioning the relationship and narrative. As will be seen next, Mr. Manene still in the role of the Other then says to the witness “are you still going on with this” seemingly realizing that the witness set out to kill him. Instead the witness asks his wife to give Mr. Manene money to buy food. In this context it can be noted that Mr. Manene was probably working as a (low paid) worker cleaning cars on the car sales floor, as the witness says above, “At the time he was wiping the car and he saw me as I was moving slowly towards him.” The testimony continues:

“Then I said these are your children, you can see they are old. Then he said: Are you still going on with this. Then I said to my wife: Look at this person, how he looks like. And I asked my wife to take out one pound and give it to this man so that he could buy food for

himself. And that was the last I saw of him. He never went back to his house, he never went to see his family. He went to hospital and that was the end of his life. So when... I drove out the car and he was standing there... So, even the hatred I had just faded away. So that's why I say God is there and God is with us - we are parents but things may not do - people may not do bad things to others because we've got children, we have got children who we are bringing up."

These are thoughtful and reflective statements (if somewhat rambling) which indicate a high level of moral agency and which are relevant in the context of this witness "being heard" within the research frame developed in this dissertation. One can look at this from different perspectives, and the first is in terms of an *evolution of meaning* in his narrative. In this sense, narratives which legitimize the voice of the other can be seen as allowing that person an opportunity not only to speak, but also to be heard (Cobb, 2013), which also supports the moral agency of the Self. See initially how the witness (Mr. Mralasi) positions the Other (Mr. Manene) in his narrative as the enemy, when he describes that he "...met Willie Manene who was working in a showroom where they sell cars. And one of my children pointed him and said there he is. So I asked for my knife, I opened it, I put it into my pocket, I went close to Willie Manene... I had intentions to stab him..." But see next how Mr. Mralasi's narrative and the meaning in the narrative evolves, and how he starts to legitimize the voice of the Other who asks "Are you still going on with this" meaning are you still going to kill me; and next, instead of attacking the Other either in words or actions, the narrative takes a softer turn, and he narrates that instead of stabbing him, he just conversed with him, and then left. These are all important actions which assist in the process of legitimizing the Other, and which become part of Mr. Mralasi's narrative before the TRC. Shortly after these interactions at the car dealership Mr. Manene dies according to the witness narrative before the TRC, and he

continues in his testimony that then “...even the hatred I had just faded away,” thus also completing the evolution in this narrative. Mr. Manene is no longer the Other, and through telling this story before the TRC, the evolution of his narrative impacts both the former Other who is now included and legitimized, and also the witness himself, whose *own voice* was further legitimized and who was himself being heard, even if just by the reaction of the TRC officials at the end, just as he previously heard the Other.

Second, one can say that in terms of the logic model discussed in fig. 1 above, that this evolution of narrative indicates an “impact” (“long term effects, benefits and changes for stakeholders”) which based on that approach, would further support the notion that the witness was heard. Moreover, a broader “impact” of this narrative could also include the witness’s wife and children who were present during the development of the narrative at the car dealership that many years ago, and who were also now present in the SA TRC as related by the witness, as they are all “stakeholders.” In addition, the immediate impact on the TRC officials themselves as stakeholders is explicitly stated at the end of the testimony, and the impact on all who heard this in the wider audience is of course not determinable, but probably is not insignificant.

Third, the evolution of this witness narrative across space and time, from the car sales lot events to the TRC testimony as enabled through elaboration at the SA TRC forum, can also be seen from the perspective of launching an aesthetic ethics from within the perspective of a “better formed story” (Cobb, 2013, p. 233-5). Mr. Mralasi was previously under the apartheid system a marginalized figure, narratively speaking an

excluded and delegitimized speaker as could be seen from the way he was ignored, and also the way he was treated, when he (correctly) professed his innocence after being falsely detained. Now he is before the SA TRC, and see how through his narrative he repositions Self and also the Other, as he is telling his story across this time and space, “in a manner that increases the narrative complexity” (ibid), where he does not exclude the Other but instead recognizes the significant trouble that the Other was in, and witnesses to that before the TRC; and furthermore speaks from the perspective of being a parent, and from the perspective of the long term moral impact on his children, which prevent the narratives from simplifying and flattening. Based on these aspects of his narrative, one can say that instead of delegitimizing the Other, he is rather developing his narrative in a manner for “legitimacy, natality and moral agency to emerge” (ibid), for both Self and the Other. Also in the context of launching an aesthetic ethics, here the role of the TRC was not even to stand in for the Other as postulated by Sanders (2007), but the witness himself through a long process was rebuilding his moral agency, and all the TRC had to do was to provide the opportunity to be heard, and to provide the necessary narrative public spaces for that to emerge. After some final wrap-up questions to the witness, he concludes his testimony as follows:

“Even now, we are still staying together and as I can see wives are happy together and we men we talk about these things and I will always point out 1968 and these men would leave us. And leave us there talking about these things... I thank you, Commission.”  
(Mralasi, Beaufort West, August 12, 1996)

The witness again acknowledges the opportunity to be heard, in other words the procedural fairness dimension of the research frame developed in this dissertation. Also,

the fact that they are still continuing to tell the stories implies that they are still developing and strengthening counternarratives, which is a “story that resists an oppressive identity and attempts to replace it with one that commands respect” (Nelson, 2001, p. 6), and one of the elements which Nelson points out as being important is that it is told by “quite a number of people” (ibid) which they continue doing.

### **6.8.3. Empathy, seen from a favorable perspective**

Under this sub-section the potentially more favorable impact of empathy in the context of these proceedings is briefly discussed. Empathy can also be utilized as “the act of understanding others across time, space or any difference in experience” (ibid, p 4), and “in listening to or even retelling other people’s stories, narrators become witnesses to others’ experiences, and storytelling provides some hope for understanding across differences” (ibid, p.5). Under these circumstances, the effect of expressing empathy in terms of the research frame developed in this dissertation suggests that there may be a better enabling of the witness to be heard, at least because of the expanded narrative spaces that such understanding and empathy can provide as already pointed out in other examples referenced in this Chapter Six. I would like to very shortly reference one additional example, in order to illustrate how empathy was also introduced outside of closing narratives and how the overall context could be important. Next follows the example of Mrs. Khantse Nikelo whose son disappeared after being arrested by the police, and this clearly affected her deeply. I copy a few extracts from her testimony to show how empathy was expressed throughout her testimony, and how it was also expressed in a way that was directed at her personally and not utilized in the allegorical

sense. It should also be noted that a large amount of facts and circumstances were obtained and discussed during her testimony, again showing how facts and “good” empathy could coexist, which in terms of the research frame developed in this dissertation would argue for the witness having a better opportunity for elaborating her narrative, and for being heard:

“COMMISSIONER: Good morning, Sabina, how are you?

MRS NIKELO: Yes, I am all right.

COMMISSIONER: Thank you for coming here to tell the sad story about the disappearance of your son, Christopher Thelo Nikelo. We know it must be very painful, and we are not surprised that you are so moved emotionally. It has to happen when you don't know where your son is. So you just take your time, we are not going to rush you. If you want to drink water take a sip....

...

COMMISSIONER: How do you support your family? The father is not working and you are not working, and there are children in school.

MRS NIKELO: I am the person who tries to sell appliances, dishes and cups, and I am selling soup.

So it's almost self-employment.

MRS NIKELO: That's true.

COMMISSIONER: You must be a brave and powerful woman to do this.

MRS NIKELO: That's true, Sir.

.....

COMMISSIONER: Take your time, Mama. We understand. (Pause) Who was accompanying you when you were going through this said process, from police station to police station?

MRS NIKELO: I was accompanied by my daughter.

.....

COMMISSIONER: Mama, how has this affected you and your family, the loss of your son? I mean physically, mentally, emotionally how has this affected you?

MRS NIKELO: I am not able to forget him. Maybe he is still alive.

COMMISSIONER: Take your time, Mama, take your time. We understand your pain. How is your health?

MRS NIKELO: I am not feeling well.

COMMISSIONER: Can you say more than that?

MRS NIKELO: I don't sleep at night. I keep on remembering him every day and every night.

COMMISSIONER: Is that all?

MRS NIKELO: Yes, that's all, Sir.

.....

COMMISSIONER: Sabina, we really feel for you and your family very much indeed. This is tragic to have a child taken by the police, and the reason is not clear why he was picked up with the other Comrades, and when the other Comrades came back your son did not come back. The tragedy too lies in the fact that it was alleged that he was taken to certain police stations, which seem to deny his every being there. So this becomes a mystery of the mysteries. Your request, you have asked that the Truth Commission should try to help you to find you child, and it is a legitimate request. And I know that you have not lost the hope that your son - you have just said yourself that you still believe that your son may be alive somewhere. It is always good to have hope. We shall endeavour by all means, as the Truth Commission, to touch these three police stations in Orkney, Klerksdorp and Stilfontein, and investigate what happened to your son. And again I think the person who may be able to help us is Lekhowa, his best friend, who was with him all the time, and was with him ... (inaudible) ... now I want the other members of the Committee if they have got any questions to pose.

.....

COMMISSIONER: As I have just said, Sabina, thank you very much for coming to tell your sad story. We shall try all we can do to assist you to find out where your son is, and we give our love and best wishes to your family, to your husband, to your other children



who are not here. We are with you, we are supporting you during these difficult times. Thank you very much, Mama. (Nikelo, Welkom, October 10, 1996.)

#### **6.8.4. Elaboration of personal details or experiences**

It is noticeable how a real opportunity for the witness to elaborate her narrative in respect to personal details or experiences would often positively affect the narrative spaces and stories, and how (I would argue) that assisted the witness in being heard. By “real opportunity” I mean where the question or invitation to elaborate and to provide detail would be followed by the witness actually being allowed an opportunity to elaborate, even if that opportunity is not further enhanced with encouragement, support and additional questions if necessary. The preceding may sound obvious, but it was not unusual for such an invitation to be extended or question asked, and then for the witness to be interrupted or to not be provided a full opportunity to answer and/or elaborate, especially in respect to feelings and experiences. The preceding is particularly relevant as these witnesses so often came to testify primarily about and in respect to a deceased loved one, usually a husband or a son, and not primarily about their own experiences.

I will utilize just one example for purposes of illustration from the testimony of Mrs. Joan Mantombi King. Her husband Henry Kwisomba was killed on December 26, 1976 in the township of Guguletu near Cape Town by migrant workers and the police, who were conspiring together, and who were attacking the community for political reasons. The death occurred during a period when she was visiting relatives outside of the area with her minor children, in order to try and escape the political violence that was prevalent at the time. She delivered her testimony at the TRC on April 23, 1996 and the interactions, questions and answers show that the testimony situation is very difficult for

her. To see how important the opportunity to elaborate is that follows later in the testimony, it is necessary to see the lead-up to that. Twice the person leading the evidence acknowledges that she is emotionally struggling whilst delivering the evidence, and then after she recovers each time he continues with his questions. First, after asking her about her children, the following ensues:

“ADV POTGIETER: Can you give us their ages and their, their sex- the gender?”

MS KING: At the time of his death my daughter Smongile, sitting there, she was 10 years old.

ADV POTGIETER: Take your time Ms. King.”

One can see that she has difficulty recounting the events, even thinking about her daughter at the time. She recovers and the testimony then continues, and when she describes returning on January 6, 1977 from visiting her relatives and finding out that her husband had been missing since December 26, 1976, the following ensues:

“ADV POTGIETER: Now that was on the 6<sup>th</sup> - it was the very day that you came home?”

MS KING: Yes.

ADV POTGIETER: And you then found the situation where the husband is missing and nobody could assist. Nobody could tell you what happened. What did you then do?

MS KING: I went to a neighbour, another neighbour, aunty Mary, because she used to go to church with us. Her sister-in-law was there from Johannesburg. And [intervention]

ADV POTGIETER: It’s in order Ms. King, you can take your time. Are you okay to carry on?”

Again she recovers and she then goes on to describe how they were looking for her husband and found him in the morgue the next day. It is not only the difficulty of coping with the situation and the uncertainty, but in addition people were afraid to come forward. And then immediately the person leading the testimony asks about her deceased husband, but he asks two questions directly after one another. This was not uncommon, and often inhibited the elaboration of the narrative as it was not sure what was exactly asked of the witness. However, notice in this case how she chooses to answer the second question about her husband as a person and not the first one about his political involvement, and how that positively impacts elaboration and her narrative describing him as a person:

“ADV POTGIETER: Now was your husband involved in politics? What kind of person was he?

MS KING: He was a very happy person. He used to like life a lot, because I remember, he used to like listening to jazz. And he used to play the trumpet. And he was also a drama student at the Gwezi Centre so whenever there were plays and so on, with Mavis Taylor and them, they always used to go there. And afterwards they used to come to my house and have a cup of tea or whatever, you know. And there were always people coming in and out. He was a happy person.”

The person leading the testimony then just briefly acknowledges her more personal memories of her husband, and then goes back to the politics question:

“ADV POTGIETER: A sociable kind of person?

MS KING: Very... very.”

ADV POTGIETER: Would you call him a political activist or what? How would you describe him on that level?

MS KING: I don't really think that he belonged to any party as far as I know, but he was very aware. Because they used to sit around and discuss politics in my house." (King, Cape Town, April 23, 1996).

So her flowing narrative when presented with the opportunity to elaborate upon whom her husband was as a person is in fact itself a narrative cue or opening to the TRC to enable further elaboration, which is not picked up on, and not developed further. Instead the questioner moves back to the political aspect and her answer to that is straight and to the (factual) point.

#### **6.8.5. Elaborating upon your own story and that of the other, and being heard**

In the SA TRC proceedings there were at times and at certain venues a specific focus on certain major political events, or political movements, or apartheid structures, or communities, or even on a single event. In such instances multiple witnesses would testify in respect to that specific focus area. The hand grenade explosion where Izakiel Mokone was killed was such an event, where a series of testimonies and narratives through various elaborations tell the whole story. Yet, even as the different testimonies focus on the event of the hand grenade explosion that killed Izakiel, the narratives also describe the circumstances, facts, personal experiences and perspectives of those personally involved, and are in different ways illustrative of elaboration and of witnesses being heard in the SA TRC. These testimonies provide important insights. The witnesses are not only telling their own and the overall story, but also the stories of each other. This in turn impacts elaboration and witnesses being heard in these proceedings both individually and collectively, all of which take time and sufficient narrative space to

develop. Facts and narratives from one testimony are sometimes needed for elaboration of another and for the other witnesses to be heard; and the proceedings overall also provide some insights into the role of an audience in a witness being heard. I propose to next provide a brief overview of the events surrounding the hand grenade explosion and the death of Izakiel Mokone for background and context.

Protest marches were important mechanisms to resist apartheid. It turns out that Izakiel Mokone took part in a peaceful protest march, perhaps unbeknownst to his mother Ms. Mokone, on his way to school on that fateful morning. The purpose of the protest march was to hand over several memoranda (petitions) opposing apartheid actions to authorities. A member of the African National Congress Youth League<sup>12</sup> by name of Walter Smiles (“Smiles”) threw the hand grenade which killed Izakiel Mokone. The circumstances of how this happened and the ensuing consequences are clearly controversial in the community as can be seen from the audience reactions during the testimonies. In his testimony to the SA TRC Walter Smiles described how he was given the hand grenade by an ANC operative by name of Lawrence Mbatha who was the area commander for the armed wing of the ANC. It transpires that the intention was to kill the officials who were to receive the protest memoranda, but things went wrong as he was not trained in the use of hand grenades and inadvertently killed Izakiel Mokone, who was in fact a comrade. To complicate the whole matter, the police to their own ends and purposes would not believe (or perhaps more accurately, intentionally not believe) Walter

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<sup>12</sup> The ANC was the primary movement resisting apartheid and also won the first democratic elections which were held on April 27, 1994.

Smiles when he went to confess. Instead, the police had tortured, coerced and coached a witness by name of Thembinkosi Ngqele (“Thembinkosi”) to frame another ANC Youth League member by name of Sipho Mbaqa (“Sipho”), who ended up being falsely imprisoned, and was still in prison at the time of this testimony. In the present context of elaboration and being heard, I have fully reflected all three testimonies with extensive discussion illustrating multiple aspects in respect to elaboration and being heard (including significant audience participation), and this whole discussion is in the interests of volume set out in Appendix Two to this dissertation.

#### **6.8.6. Conclusion**

On some level one can say that every SA TRC testimony allowed for narrative elaboration just by having the opportunity to be heard in the first place, and then (usually) at least being able to state some personal and family particulars at the start of the testimony, even if pro forma. Moreover, the TRC as a fact-seeking quasi-judicial forum through its Commissioners asked questions and received answers, and then sometimes asked follow-up questions, or perhaps a new question on a different topic. The focus here under this fourth organizing principle is on investigating narrative elaboration which probably assisted the witness in being heard, also in their own stories. These own stories did not always fully dovetail with the story that the TRC was investigating pursuant to its mandate, but during the discussion in this section the role of many of the themes from the research frame discussed in the literature review, and also dynamics as they manifested in the testimonies, were incorporated and discussed in the context where they seem to assist the witness to be heard in her own story. Specific focus areas where narrative is

elaborated and where such elaboration seems to assist the witness in being heard, include positive narrative spaces which assist the witness to develop his story (even if struggling) and particularly his moral agency as in the case of Mr. Mralasi; empathy personally expressed; the potential positive role of elaborating personal details or experiences for a witness to be heard; also how group testimonies can positively impact the witness (and others in the group) to be heard and also how a single narrative was sometimes elaborated by different testimonies, even as those individual narratives themselves were elaborated. I now turn to the next and final “Chapter Seven: Conclusions.”

## CHAPTER SEVEN

### CONCLUSIONS

This final chapter is organized under three sub-headings, first “**7.1. Overview, innovations and contributions**” which also acts as an introduction to the Conclusions Chapter; followed by “**7.2. Reflections and conclusions**” which consists of reflections and conclusions organized around several sub-themes developed during the course of the analysis and discussion in this dissertation; and the third sub-heading under this “Conclusions” Chapter is “**7.3. Recommendations,**” which sets out selected recommendations and also concludes the final chapter.

#### **7.1. Overview, innovations and contributions**

The investigation in this dissertation was focused on what it may mean for a witness in the SA TRC to be heard, that is to say, how does the opportunity to be heard for that witness translate into actually being heard (or not?), and overall yielded four innovations and contributions, in addition to insights gained from the general analysis and discussion, some of which are discussed in this chapter.

The first innovation and contribution is in respect to the *methods and methodology* which is based on an integrated research frame with a critical narrative analytic approach (Cobb, 2013) at the foundation, and which is supplemented by different



traditions or perspectives which could contribute additional insights, concepts or elements important to a witness possibly being heard. These literatures include the procedural fairness approach (Freeman, 2006) or due process more generally, which is central to the SA TRC's framework; also, perspectives such as empathy, witnessing, witness silences and the role of an audience during a witness's testimony further enhanced the research frame, which were incorporated from what I in this dissertation described as the "voice" literature (Ross, 2003; Phelps, 2004; Hayner, 2001; Oliver, 2001). In addition, how a witness could *experience* the opportunity to be heard, sometimes even at the cost of a substantive outcome, yet further enhanced the research frame and is a perspective incorporated from the procedural justice approach (Thibaut & Walker, 1975; Lind & Tyler, 1988).

The second innovation and contribution in this dissertation is the specific use of *elaboration of narrative* as a focus for the research and organizing the discussion. During the initial review of the testimonies, supported by comments from the dissertation concept review meeting and greatly informed by the inductive research process, the concept of elaboration of narrative which also forms part of the critical narrative analytic approach emerged as a central concept for a witness possibly "being heard." Furthermore, elaboration as the main organizing principle also facilitated the insights which led to the third innovation in this dissertation through the inductive research process, namely the formulation of four narrative organizing principles which were used as the basis for the main analysis and discussion, as they manifest in the transcribed and selected testimonies of the SA TRC. These four iterations include the "*First organizing principle*: Narrative is

not elaborated, and seems not to assist the witness in the process of being heard;” also the “*Second organizing principle*: Narrative is not elaborated, but yet still seems to assist the witness in the process of being heard;” then the “*Third organizing principle*: Narrative is elaborated, but seems not to assist the witness in the process of being heard;” and then also the “*Fourth organizing principle*: Narrative is elaborated, and seems to assist the witness in the process of being heard.”

The fourth innovation and contribution in this dissertation was the finding that the approach of the SA TRC reminded one of the *logic model* utilized in the international development environment, in that the SA TRC were to a large extent perhaps focused on certain narrative “results,” or “outcomes” based on their mandate including finding facts, seeking truth and enabling reconciliation. The “stories” of the witnesses were also important of course, as I showed in the section on the SA TRC Act in the initial chapters above. Overall, elaboration of these stories was still framed from within a quasi-judicial frame, hence the connection to the logic model. This is especially so when considering that the “outputs,” “outcomes” and “impacts” which feature in the logic model are all in terms of that approach considered to be the *results* of the “inputs,” and the “inputs” at the TRC were most often questions related to “what happened.” From the perspective of this dissertation, adapting the logic model to broadly situate the perspectives, concepts and insights developed here within that logic model frame, and then juxta positioning the proceedings of the TRC on this logic model approach important insights were gained. For instance, a great emphasis was placed by the TRC on inputs and outputs, but perhaps less on the outcomes and very little on impacts (described as the “longer term effects, benefits

and changes for stakeholders”), and the underappreciation and lack of specific focus on the value of elaboration in terms of the TRC narrative processes in that context is apparent. I also believe that the adaptation of the logic model constitutes a contribution of this dissertation not only to better understanding elaboration and a witness being heard specifically in the SA TRC forum, but perhaps also in other judicial and quasi-judicial settings.

During the reading, rereading and analysis of the testimonies, certain additional perspectives and concepts which were not part of the initial broad framework emerged and which were seemingly important to assist a witness in being heard, or not. These are concepts such as the *narrative cues*, or *narrative openings* introduced by the witness and potentially valuable starting points for further elaboration, but which were very often not picked up on by the TRC. In addition, the TRC itself also introduced valuable narrative cues which were not further developed, such as in the cases of Henry Kwisomba and of Vusumusi Nene above; and also the *resistance* of the witness to being boxed in by what the TRC seemingly and primarily wanted her to focus on, as she was telling her story. So the broad research frame used as a guide was supplemented with these perspectives. In addition, certain of the initial concepts became more prominent whilst others were not referenced or further developed, which is not to say that the broader framework of elements drawn from the literatures is not relevant. I believe that the approach to analyzing narratives introduced by this broader frame is in itself a useful contribution to the conflict analysis and resolution field as it brings insights from different perspectives together in a more cohesive, but yet not structured way to analyze conflict narratives. The

most prominent perspectives which emerged from the analysis and discussion in this dissertation within the context of narrative elaboration and a witness possibly being heard are highlighted below.

## **7.2. Reflections and conclusions**

**7.2.1. *The research frame, elaboration and being heard:*** The discussion in this dissertation has shown that narrative elaboration is important and can manifest in different directions, but rather as an active and dynamic process which requires the participation of the witness and the listener, and even the perpetrator – if only through the SA TRC as standing in for the Other; also that the venue of the SA TRC as a quasi-judicial forum is a two edged sword as it provides both the opportunity for the witness to be heard but in its nature also has control over the process, and can therefore also act imperially and stifle witness narratives, in addition to being a participant in the narrative-creating process. Even so, it is hard to imagine a circumstance when one could categorically state that a witness was absolutely and no doubt “heard” based on analyzing transcripts of testimonies, without being at least somewhat presumptuous in that statement. However, during the course of the research in this dissertation it was possible to note how narratives developed (or not); also what aspects possibly contributed to that development (or not); further the direction of the development and what the dynamics were based on the testimonies and narratives. When reflecting overall (and more generally) upon the research frame, given that there is much detailed and specific discussion over the course of the dissertation within different contexts (including in this

Conclusions Chapter), I believe that an integrated illustrative example itself in narrative fashion may be helpful to show how a witness was in this case probably *not* being heard.

I next provide a condensed description of the testimony of Mr. Shabalala which was discussed under the first narrative organizing principle where narrative is *not* elaborated and also seems to *not* assist the witness in being heard. In the illustration below I will incorporate several of the perspectives from the research framework into the summary discussion in an integrated and narrative fashion. Recall that Mr. Shabalala was testifying in the context of the ongoing conflict between the ANC and the IFP, where there was an attack on churchgoers and several people were killed including his daughter, and his grandson was injured. The ensuing attack on the parishioners occurred during a night vigil in church. In the earlier part of his testimony Mr. Shabalala clearly keeps on steering away from involving the church and its parishioners in the IFP/ ANC conflict, and specifically positions the church as church, and the parishioners as parishioners belonging to that church, and not as members of one or the other political party. This not only shows positioning and repositioning in his narrative, but also how positioning can cast the net wide to include those not directly involved in developing that narrative, even institutions. It is further clear from his earlier testimony that being a loyal member of the church and also loyal to the other members is important for the development of his moral agency (and perhaps identity); and furthermore, that he is trying his best to develop a counternarrative to the one that the TRC is developing during the process of leading his testimony, away from the political dimension. The focus of the TRC, however, is from the perspective that the attack was done by IFP members on a church frequented by ANC

members and there is not much effort to integrate this perspective with the witness's positioning. He introduces several narrative cues to develop and elaborate his developing counternarrative during this process, which are not picked up on by the TRC. He is also actively resisting the main narrative and positioning as presented by the TRC. However, the TRC keeps returning to the IFP/ANC political conflict instead, which seems to be the narrative that the TRC wants to elaborate with their power over the process and seemingly based on their particular interest in the testimony. During this testimony process, the deceased daughter (and the grandson) of Mr. Shabalala as presumably key focus areas of his intended testimony just seem to disappear from this narrative, and are even misidentified on more than one occasion. This probably constituted another severely negative impact on his moral agency and must have negatively impacted the narrative spaces for this father and grandfather who had to keep explaining to the TRC who his deceased and injured children were. There is also the introduction of the prior witness statement as part of the procedural fairness quasi-judicial perspective and its impact on the developing narratives. During this whole process, given the dynamics here described, the elaboration of Mr. Shabalala's narrative is severely curtailed and he probably was not enabled to be heard in his own story, or at least to be fully heard during this process. Lastly, there is an apparent total absence of empathy, at least as reflected in the TRC narrative.

With this as a starting point showing how an integrated approach based on the research frame and inductive research process can provide insights on a witness probably being heard (or not), I now turn to sub-themes which by no means constitute an

exhaustive list. These sub-themes are drawn from the analysis and discussion in this dissertation to form conclusions and to reflect in more detail upon the main dissertation theme of a witness being heard, within the context of the research frame and elaboration of narrative.

**7.2.2. Narrative public spaces disconnect:** The SA TRC officials and TRC process directed much effort at creating positive narrative spaces, including through the opening ceremonies which included a prayer and perhaps singing; through the customary welcome extended by the Commissioners, also individuals supporting the witnesses before and during their testimony, and inviting the witness after the initial formalities (including after being sworn in), to “tell us your story,” in one form or another. These initial proceedings often would also include a Commissioner opening statement which in itself was focused on setting context and creating positive narrative spaces. It is not possible based on the testimonies and narratives to show causation between the type of narrative spaces and a witness “being heard,” but what is noticeable from the testimonies and examples discussed in this dissertation, especially within the context of elaboration and witnesses being heard, is that the actual subsequent process and interactions do not always support this initial positive start. I would term this conclusion rather as a “narrative public spaces disconnect” than assuming a witness is thus automatically not being heard. Just one example of this type of disconnect from the dissertation discussion is the following extract from a Commissioner opening statement and what actually subsequently follows in the testimony of Mrs. Moleleki:

“And we also know that it’s not easy for you to think back and to remember the pain and the horror of your own experience. But we hope that you will feel very free to share your

story with us. Before I ask my colleague Denzil Potgieter to lead you as you tell your stories, would you please stand for the taking of the oath.”

In addition to this invitation “to feel free to share your story” the Commissioner earlier stated that “we actually care about who you are and your story,” but these two statements setting an apparent positive narrative tone is not borne out in the subsequent testimony, where the only focus on the witness as a person is when the official leading the testimony asks the following at the beginning: “Just before we come to the actual incident, perhaps you can just tell us briefly who you are and where you come from - where do you live?” Nothing more follows about her as a person; there is no further elaboration, and nothing more is asked about her after that, only a focus on the “incident.” In this sense one can say that there was on occasion a disconnection between the narrative spaces (even where positive), and the lack of subsequent elaboration with the concomitant impact on witnesses possibly being heard.

### ***7.2.3. Elaboration, but often guided and impacted by the prior witness***

**statement:** The nature of the TRC questioning was most often focused on “what happened,” which reflects the reality of the fact-finding, quasi-judicial nature of the TRC. This process was guided by the prior witness statements and the challenge was to integrate *more* of the personal narrative of the witness into the frame and context already set by the prior witness statement, whilst not diminishing the primary function of the TRC to gain facts in respect to the human rights abuses under discussion at that particular time, but rather to enhance with a real opportunity for the witness to elaborate.

However, the prior witness statements sometimes acted rather as a limitation on elaboration as it was used as a basis for interrupting and even subtly reprimanding the



witness, as was pointed out in context. As a conclusion it can therefore be said that instead of using the prior statement as a baseline and then enabling elaboration, the prior statement was on occasion used rather as a limiting factor on elaboration, and probably on the witness being heard or being more fully heard, which is so even when allowing for the practical constraints such as time limitations on the TRC.

I'll conclude this sub-section with an example where a TRC official's (narrative limiting) reference to the prior statement was combined with additional limitations on the narrative spaces. Recall for instance the example of Mr. Manjati, where the initial invitation by the TRC official is limited by the prior statement but also by "tell us briefly:" "Tell us briefly what happened to you, as we have your statement." This example also ties in with the discussion which follows next on "Tell us briefly," to which I now proceed.

**7.2.4. "Tell us briefly:"** The realities of time and other constraints in the TRC necessitated the testimony and narrative processes to be managed, but it would not be unfair to say that the word "briefly" was used abundantly and even routinely in these testimonies, often in a contradictory sense. Recall the following example:

"I'm going to ask you to be quite brief but at the same time it is your story and we want you to tell it in your own way. From time to time we'll be asking different Commissioners to assist in the telling of those stories but nothing more than that. On this occasion I will be doing that on your behalf." (Mabija, start of the proceedings at Kimberley, June 10, 1996).

The tension is quite clear, between "I'm going to ask you to be quite brief," directly followed by "but at the same time it is your story and we want you to tell it in

your own way.” The preceding can be seen as a manifestation of the larger tension between a witness being encouraged to tell her story, and the TRC simultaneously signaling some constraint and/or limitation in respect to her narrative space. Some version of “tell us your story” became a type of default phrase, as did “briefly,” with the reality often in both cases that the witness would not just tell “briefly” but at times would be quite expansive and that her “story” actually would be elaborated, or at times *not* elaborated in the case where she was invited to tell her story, which illustrates the inherent tension.

To illustrate the conclusion that this limiting phrase “briefly” became somewhat of a stock phrase with confusing intent, consider the following two examples. In the testimony of Mrs. Tau she is first invited to tell “briefly” about her son, but even before she answers the question is immediately followed up with more specific questions: “We’d like to know more about him, and we want to keep good memories of him, all of us. Just tell us briefly about how old he was at the time, what was he doing? Was he a member of the political organisation, or not?” The discussion continues then more in an apparent attempt to gain information than find out about her son. In fact, during the course of her testimony she is no less than three times invited to speak “briefly” without any basis or indication of why the TRC officials needed to say this. Another example was where the person who leads the testimony requests Mrs. Luthuli to “Just tell us briefly, and stick to your story to what happened. Just give us a brief history as what happened to you,” where “briefly” and “brief” appears in one sentence, during the initial invitation. This is also an example of where the eventual testimony of Mrs. Luthuli then actually

becomes quite extensive; showing again how “briefly” sometimes became just an unpredictable stock phrase, even where used twice in one sentence initially.

**7.2.5. *The struggle over positions: Positioning and repositioning:*** Positioning and repositioning of witnesses feature prominently in these testimonies and narratives, as do their possible impact on witnesses possibly being heard. Recall the example again of Mrs. Tau, where she (with minimal opportunity to elaborate) at least manages to position herself as strong and coping, but is then quite radically repositioned by the Commissioner as not coping and traumatized. The Commissioner then concludes the proceedings without Mrs. Tau receiving any further opportunity to speak or elaborate, and she is thus left repositioned, and perhaps not heard. Furthermore, this occurs in spite of the initial promise and apparent favorable public narrative spaces at the start of her proceedings, that she will be able to tell her story with the support of the TRC.

An interesting area where positioning, elaboration, and a witness (probably) being heard intersected was in respect to elaboration of personal details or experiences. Given the particular dynamic, this topic was discussed in the context of the fourth organizing principle, where narrative is elaborated and seems to assist the witness in the process of being heard. Recall the example of Mrs. Joan Mantombi King who testified in respect to the death of her husband, Henry Kwisomba who was killed by migrant workers and the police, who were conspiring together and who were attacking the community for political reasons. She was not there when this happened but had to look for his body amidst confusion and an absence of information as people were afraid to come forward, and eventually found his remains in a police morgue. She was struggling emotionally to relate

all this and broke down several times during her testimony even just stating the names of her children for the record, until she is asked about her deceased husband by way of two questions directly after one another. She chooses to answer the second question about her husband as a person and not the first one about his political involvement, and it was pointed out how that positively impacts elaboration and her personal narrative of him.

In this case the TRC focus seems to be that Mrs. King's husband was a political activist and the reason for him being killed. This focus is not by happenstance, it is again based on the prior statement, which is an integral part of these TRC proceedings. In fact, a witness could not testify unless she had made a statement. This reminds one of the "police order" (Cobb 2013, p. 127) as discussed in the literature review, which also relates to the state of identification, which is "taking up an existing identity... reproducing, through their speech, the Self that is known to themselves and to Others within a discourse... and already possible within the existing order (ibid, p.128). It can be seen how Mrs. King is struggling with the TRC over this "authorized" position of her husband as a political activist, whilst she wishes to position him differently, namely as an engaged, interesting and happy person – in short as a human being. However, the fact that the TRC keeps on returning to him being a political activist is how he was framed and positioned in the prior statement, and importantly that being the reason why he was killed, and which the TRC wants to get on record.

#### ***7.2.6. Narrative cues or narrative openings not picked up on, and not developed.***

An important aspect which emerged in the context of narrative not being elaborated, and

which then also seemingly did not assist a witness in being heard, are narrative cues which produced potential narrative openings and which were then not followed up on by the TRC. I provide a few short examples next to illustrate how narrative cues were present in different ways in the testimonies that were discussed. The first is in respect to a missed opportunity for the elaboration of *personal details*, or one could even say the humanity of a person under discussion. Recall the example of Mrs. Sionzana's deceased daughter who had a community library named after her, and even though there is a cursory reference to this with no follow-up at all, the circumstances clearly presented a narrative opening for elaboration which was not developed.

Narrative cues could also be introduced in the context of witness expressing their *feelings or emotions* which were then not picked up on, and not elaborated. Staying with the example of Mrs. Sionzana's testimony, where she is asked if she has anything else to say and then she says that "I am very hurt about my child because she would have been helping me today" which not only conveys her feelings concerning her daughter's death but also introduces a practical dimension, neither of which is followed up on.

Next, the witness could also introduce cues in respect to her *experience* which are then not picked up on. Just one example of many from the dissertation discussion was in the testimony of Mrs. Calata. Even though her testimony from the perspective of the TRC was clearly focused on her high profile husband who was part of the "Cradock Four" and who was murdered by the police, she herself suffered much and was continually harassed by the authorities. One incident related to her being arrested for wearing a T-shirt with

“Free Mandela” printed on it, which indicated her own resistance and was an important narrative cue for possible elaboration about her own story and the troubles she had to endure whilst waiting for her case to be heard, but is never picked up on, nor elaborated.

Narrative cues could also be introduced in the context of *factual elaboration* which may have been important to the witness, or at least the possibility for factual elaboration which was then not pursued. For instance, the TRC regularly would acknowledge and follow up on any legal proceedings which emerged as part of the testimony and which were conducted at the time of the human rights abuses, or in respect to the human rights abuses. The TRC would typically undertake to further investigate and to gain more information, also to report back to the witness. However, this did not happen in this case as could be seen from Mrs. Sionzana’s testimony where she relates several aspects about legal proceedings concerning her daughter’s death and are clearly concerned, and states that they are “still waiting” This narrative cue important to the witness is not followed up on, even though the TRC had the resources to investigate and one can say that she probably was not heard in this respect. In addition, the TRC itself also introduced valuable narrative cues which were not further developed, such as in the cases of Henry Kwisomba and Vusumusi Nene discussed above.

**7.2.7. Witness resistance:** It happened that in the context of narrative cues or openings not picked up on by the TRC, that the witness would not only introduce a narrative cue which potentially produced a narrative opening for elaboration, but would then more actively resist the apparent situation that she is not being “allowed” to

elaborate on something important to her. One could say that the witness resisted a narrow focus on the apparent area that the TRC was concentrating on at the time, presumably based on her prior statement. From the perspective of the TRC of course that *was* the witness's story, as it was her prior statement. Two examples include the testimony of Mrs. Calata who weaved her own compelling and moving story subtly in between the story of her famous husband and his group known as the "Cradock Four," where they were murdered by the police and their body parts spread over a large area. I argued there that she was also probably very much heard, even though there was no or little elaboration of her own story, due to the circumstances and nature of the telling, and the compelling nature of her story, through a subtle form of resistance. However, witness resistance could also be more obvious, more pressing and persistent, where from the context it appeared that the witness would return to the theme important to her in a less subtle fashion. Compare the example of Ms. Nomakula Evelyn Zweni who experienced much oppression and humiliation living under apartheid over many years. She verbalizes this hatred of apartheid several times, and returns to the theme in spite of the TRC providing no acknowledgment or opportunity for elaboration. The fact that she returned to the theme of hating apartheid several times means that she was in a way "allowed" to do that, but it was not specifically acknowledged nor referenced, in spite of her obvious need to express her feelings on that. It is significant when these instances are seen as a group, to gain an appreciation for the overall persistence and context:

"I can still remember what they said to me. Because at that time I was still - I hated apartheid with all my heart."

“I said God please I am asking you, I am asking you God, we are tired of apartheid, after that I left, I simply left.”

“They came to me, they asked me - they asked me what are you doing here. I said you are trying to destroy apartheid, that’s what I said to him. I said we are tired, we are simply fed up. We are simply fed up to have the boers on our shoulders. We are tired of the yolk on our shoulders. They didn’t ask, they didn’t ask they just simply beat us up.”

“While he was beating me, I would him tell him these things, you - I live in this country. Your - you will take your apartheid with you and - away to - from South Africa.”

“Our husbands would go and spend the money in those bars and come back with nothing to us. When I talk about apartheid, I feel like crying, I feel like screaming.”

I don’t want apartheid at all. You will be beaten up - you would be beaten up in your land by the boers. People who came from abroad [intervention]”

“I am grateful that yes this reconciliation must happen. But there is one thing I will never forgive and that’s apartheid, apartheid I don’t even want to see it anywhere I go.”

**7.2.8. Empathy, but from different perspectives:** The testimonies presented abundant examples of empathy being expressed, but following on the discussion of Shuman (2005) and the research frame developed in this dissertation, not all empathy expressed could be seen as potentially helpful for a witness to be heard. The empathy expressed in the testimonies discussed presented instances of both potentially “good” and “bad” empathy as I termed them, only for descriptive purposes. Recall Shuman’s distinction between empathy that attempts to understand “across differences in experience” and empathy that potentially “destabilizes meaning from the personal to the allegorical” potentially indicates that the former could have a more constructive role in a witness possibly being heard than the latter empathy would. Furthermore, I also argued following on Cobb (2013) that if empathy in the SA TRC testimonies is seen only from the perspective of an intrapsychic phenomenon where it is largely based on what the



listener's emotion and feelings determine and not part of an ethics of actual discursive and narrative praxis (instead of just feelings or emotion in the listener, even though important), it could also be problematic. The reason for this is that in order to enable narrative complexity and evolution in the narratives, and to change the direction in order to "create the context for speaking and being heard, having one's narrative affirmative elaborated by Others" (Cobb, 2013, p. 253-4) empathy needs to be part of a narrative praxis and not just emotions and feelings.

When turning to the testimonies, the problematic use of empathy when seen from within the above context is very evident, especially where the potentially destabilizing use is not at all contextualized with the very personal experience of the witness. Examples include the testimony of Mrs. Memela where the Commissioner says to her that "...but there are many other people who are also probably doing the same thing as you are doing...", or where the Chairperson says to Mrs. Mpande that "Mothers paid, indeed, the highest price, because in most of the cases they did not even know what their sons were doing and they had to be confronted by dead bodies which they had to collect and bury like you did to Makwenkwe...", thereby potentially negatively impact the witnesses being heard.

On the other hand, compare the example of where the context suggests that there is a real act of attempting to understand the others, with no regard to possible differences across, time, space or experience. For instance, Mrs. Khantse Nikelo's son disappeared after being arrested by the police, and from her testimony it could be seen

that this affected her deeply. In her case, empathy was expressed in a way that was directed at her personally, and not utilized in the allegorical sense, for instance:

“COMMISSIONER: Mama, how has this affected you and your family, the loss of your son? I mean physically, mentally, emotionally how has this affected you?

MRS NIKELO: I am not able to forget him. Maybe he is still alive.

COMMISSIONER: Take your time, Mama, take your time. We understand your pain. How is your health?”

It is noticeable that “good” empathy was particularly applicable in the context of the *fourth organizing principle*, where narrative is elaborated and seems to assist the witness in the process of being heard; and that “bad” empathy was particularly applicable in the context of the *third organizing principle*, where narrative is elaborated but seems not to assist the witness in the process of being heard.

**7.2.9. The SA TRC as participant and witness:** The activities and responsibilities of the SA TRC were executed and implemented by and through its officials, but through these officials the TRC also participated in the proceedings and in that sense the TRC was not a passive bystander, but even an active participant. This participation of the TRC created the potential for the TRC (as participant) to witness and recognize the witnesses and their narratives. But by the same token, the TRC as participant was also potentially in competition with the witnesses for the narrative spaces and more, whilst also having control over the process (Lukes, 1974). It may even be that the SA TRC as participant also struggled to “be heard” regarding its importance as an institution, and its narratives of seeking truth, of forgiveness, of gaining facts, and of reconciliation and by choosing to

do so often within a religious frame; furthermore, given the pressures of time constraints (and more), the TRC then making procedural and narrative choices that on occasion favored the TRC at the narrative “cost” of the witness would not be unexpected.

Compare the example of the Commissioner opening narrative that dedicates 2.5 lines out of 99 to the witnesses and the remainder largely to the SA TRC. Recall also the example from Mrs. Tau’s testimony above, where in conclusion of her testimony the Commissioner says the following about the TRC: “And I believe that is what is exciting about the Truth Commission, that all those cases which favour the perpetrators, there is an attempt that the victims should get a fair trial on what happened before.” However, during her testimony Mrs. Tau actually struggled to tell her story, and the proceedings did not really reflect the favorable TRC outcome as framed by the Commissioner.

In the preceding sense, the only participant who had continuity to be heard overall was the TRC itself; and then, having the ability to build a continuous and ongoing narrative including through the publication of the TRC Reports, it may be that in that sense the SA TRC was the only witness in (and to) these proceedings that had its story the most fully told, and who perhaps was the most heard.

If it is then true that the TRC was an active participant to the process, and if it had power over the process as it did, another way of looking at how that may possibly have impacted witnesses being heard is within the context of a “false consciousness,” but different from the procedural justice perspective of false consciousness discussed above. Recall that in the procedural justice frame the possible false consciousness is based on the substantive (or outcome) justice aspects of a witness’s request to the SA TRC not even

being acknowledged and then the *experience* of testifying (i.e. the procedural justice dimension), has to substitute as the only outcome and thereby raised the specter of a possible false consciousness. But the additional perspective of a possible false consciousness pertains to the power imbalance over the process between the TRC and the witness, which is highly relevant in the context of the TRC. In this respect, “participation without redistribution of power is an empty and frustrating process for the powerless. It allows the power holders to claim that all sides were considered, but makes it possible for only some of those sides to benefit. It maintains the status quo” (Cobb 2013, p. 145). There are definite instances in the dissertation discussion where it would be legitimate to ask if the TRC was prepared to share the power over the process with the participant (for instance during key and unnecessary interruptions), leading to a probable lack of redistribution of power, and thereby maintaining the status quo.

***7.2.10. Development of the witness’s moral agency, counternarratives and an aesthetic ethics, both during the testimony and over time:*** I would submit that one of the most important indications of a witness possibly being heard in these testimonies and narratives is not only the immediate “results” of answers to TRC questions from the perspective of the TRC, but looking closely at what basis is being developed in the narratives for the particular witness’s’ opportunity to be heard before the TRC to be enabled and for narratives to develop in the context of the witness’s moral agency, developing counternarratives and launching an aesthetic ethics. By “develop” I mean that the narrative process probably needed additional elaboration rather than just asking and answering the first question. Furthermore, by “develop” I also mean both during the

course of that opportunity before the TRC, and possibly also to have a longer term (narrative) effect. The question is if the TRC officials were consistently (or maybe sufficiently or at all) aware of that perspective. This proposed awareness need not negatively have impacted the important immediate goals of the TRC, whether that is the collection of facts; or to reveal truth however defined; or to foster reconciliation or whatever the goals may be. In terms of the logic model adaptation based on the realities of the TRC processes, at least as it is developed in this dissertation, the enabling of the witness's development of moral agency, counternarratives and aesthetic ethics probably would be more favorably (narratively) enabled during the later stages of the logic model development. That would mean not only focusing on the more immediate "input" and "output" stages, which usually pertained to the foundational TRC questions and the witness answers, but also to further elaborate the narratives, further to the *outcomes* stage and in practice that would mean not only the immediate witness answer to a TRC question but what subsequently and narratively then "happens" next to that answer; and also the *impact* stage which is described as "long term effects, benefits and changes for stakeholders." In practice and again within the logic model adaptation developed in this dissertation given the realities of the TRC approach, it is apparent that the development of moral agency, counternarratives and an aesthetic ethic has the potential to also develop more over time beyond the testimony before the TRC, if the TRC narrative processes also maintain a focus to that end. Very importantly, this is not to say that the witness could not develop her moral agency, counternarratives or an aesthetic ethics under any of the circumstances that she found there (or established through her resistance for instance),

this is merely to say that what happened there at the TRC also had longer term implications, and the question is if the TRC was sufficiently aware of the need to also enable these longer term implications. Another one of the longer term impacts of the proceedings before the TRC was implementing its reconciliation mandate which was clearly not intended to be limited to the lifespan of the TRC. Therefore, the interaction between the longer term reconciliation mandate and “impact,” also the longer term narrative impacts and further the possible positive impact on the underlying conflict dynamic as discussed herein, is apparent. These goals need not be mutually exclusive and actually could be synergistic.

An example of where rebuilding of the witness’s moral agency is positively impacted can be seen in the discussion of the testimony of Sipho Mbaqa which is extensively discussed in Appendix 2. First, his moral agency is more immediately and positively impacted in several respects, including by not blaming the judges who sentenced him to imprisonment for something he did not do; he also does not blame his former comrade who fabricated evidence against him, and he does not fall into victimhood; furthermore his moral agency is probably and more immediately positively impacted by the spontaneous reaction of the audience when the person (Walter Smiles) who actually threw the hand grenade which killed Izakiel Mokone, and the reason why Sipho was wrongly imprisoned, confessed in his own subsequent testimony.

A very good example of where moral agency builds over time and where a witness seemingly chose to positively develop his moral agency is the case of Mr.

Mralasi. Perhaps it would be more correct to say that he chose to *continue* developing his moral agency before the TRC, as this process started many years ago when he had the opportunity and initial intent to kill the man who wrongly caused him much pain and suffering, and then chose not to go ahead with that action which he describes later in his testimony. Recall how positively he approached his testimony from the beginning, and how during his well elaborated and detailed testimony he fully claimed and indeed insisted on his opportunity to be heard, and refused to fall into victimhood or exaggerate the beatings he was given by the police, and continually included others and their role and suffering in his narrative making his story not only about him.

**7.2.11. *The tension between being heard in respect to procedure, and being heard in respect to outcomes (or substance):*** A witness telling her story as invited by the TRC routinely included substantive requests, either initiated by the witness herself, or usually towards the end of the testimony initiated by the TRC, asking what the TRC can do for the witness, or some similar invitation. There are different examples discussed in this dissertation of both where the witness initiated the request, and where the TRC does. Likewise, there are also examples of where the substantive request is addressed by the TRC and where it is not. However, as part of the reflection on this subtheme concerning the tension between procedural and substantive fairness and the witness being heard, I want to reference the example of Mrs. Zweni discussed above as it is so striking. Her testimony and the way it developed towards the end thereof, illustrates the tension in respect to this subtheme in different respects.

Recall that she is asked by the Commissioner essentially how she experienced her opportunity to be heard. She answers that “I feel like that I have vented everything from myself.” The Commissioner later asks a question seemingly as an invitation to the witness for yet further elaboration, and even though the invitation is not directly related to what the TRC can do for her the witness seizes the opportunity to introduce a substantive request:

“MS GOBODO-MADIKIZELA: Thank you mamma, thank you very much. Mamma is there anything else that you would like to add?”

“MS ZWENI: Please help me with something because I will - my - I lost my house, I am just nothing now. I would like it if you can just help me with something, I don’t know, you will - you will see what to do yourselves.”

Now she reveals her material need (and her state of moral agency “I am just nothing now”), none of which is addressed during the rest of the proceedings. It appears thus that her positive replies in respect to her opportunity to be heard experience, and also in respect to reconciliation, were well received but her substantive request totally ignored.

As it was pointed out in the discussion above, the experience of procedural justice as intense as it was has not lessened the demand for substantive (outcomes) justice for which one can argue these witnesses were not “heard” and maybe even created a type of false consciousness.

**7.2.12. *Witness silences and the audience:*** The important roles that witness silences and audience participation could potentially play in a witness being heard were alluded to in the literature review, but also qualified by the reality that as the transcribed testimonies were the source material, the role of silence and audience participation could



only be developed to the extent that these aspects were discerned from the testimonies. The most obvious signal of a witness silence was when the TRC questioner would say “take your time” or something similar to the witness. The fact that the silence was thus recognized by the TRC officials is not just recognition that the witness is emotionally struggling and to allow her time to recover, but also potentially a form of recognition and witnessing of the witness’s natality, and a sign that she is being heard – at least in that respect, and at that moment. When reflecting upon the witness silences and audience reactions (and also in turn the reaction of the TRC officials to the witness silences and the audience reactions), I would again like to highlight only a couple of observations.

First, it should be said that on occasion the audience dynamics were not conducive to supporting or enabling the witness narratives, where as a practical matter it was just noisy, as in this example from Sipho Mbaqa’s testimony:

“MS SOOKA: Could we ask that you move in quietly and as quickly as possible because you are interfering with the witnesses ability to give his testimony clearly. Could we have silence please.”

Second, the above example should be distinguished from the situations where audience participation was curtailed even under circumstances where it appeared that the audience participation positively impacted the narrative spaces. Just further down in Sipho’s testimony he reiterates how the state witness who fabricated testimony against him lied (“maybe ten times”) about witnessing Sipho throw the hand grenade, whilst it would have been impossible for him to see this. The audience apparently becomes animated upon hearing this injustice, and the Presiding Commissioner admonishes the audience with “Order please.” However, it must have been important for the community

at that time listening to this testimony and that the truth finally emerged after all this time, which later culminated in the out loud cheering when Smiles confessed to having thrown the grenade in his subsequent testimony. It was pointed out in the discussion above that even though Sipho told this story before in a court of law and was not believed then, that now (even without the TRC making a formal determination the way the court had to do), he is probably closer to “being heard.” This is also an indication of the role of a sympathetic audience in the process of a witness being heard in a TRC forum.

Third, one of the most poignant examples in these TRC testimonies of audience participation which positively impacted a witness being heard and where the TRC does not curtail the participation, is in the case of Mrs. Calata. Recall that she testified about the death of her husband, and the communal singing which follows her own breaking down indicates a deep sense of empathy expressed by the audience.

**7.2.13. *The SA TRC standing in for the Other:*** The potential role of the TRC to be standing in for the Other, as Sanders (2007) has postulated, was also discussed above and I argued that this potential was underdeveloped in the actual SA TRC proceedings. As the basis for this I argued that this approach could perhaps have assisted the witnesses to be heard in respect to developing moral agency, counternarratives and developing an aesthetic ethics.

Recall the testimony of Mr. Vusumuzi Ntuli which yielded a potential cue or narrative opening to further explore the development of his own moral agency, in the context of recognizing the moral agency of the Other. The witness expressed an ongoing

and intense hatred of certain policemen who tortured him. He still encounters them in the community, and they continue to mock him. The TRC Commissioner then asks a question which inclines towards the TRC adopting the role of the Other, and the witness replies as follows:

“COMMISSIONER: If you are saying you haven't forgiven and you still feel this hatred, is there anything that a person can do to make you better?

MR NTULI: What they did was terrible bad. I think the only thing that will make me relief is that if I can see them in prison, or if they can come here before the Commission and tell why they did what they did, and who sent them to do what they did. I want them as people who are working for the community, so that people can trust them tomorrow they must come before the Truth and Reconciliation Commission.” (Ntuli, Newcastle, September 10, 1996.)

See how the witness is actually here prepared to confront the Other, and more importantly seems to suggest that he sees them as beings with (at least potential) moral agency, in spite of what they have done to him in the past. By appearing before the TRC, they can possibly be “people who are working for the community, so that people can trust them tomorrow...” meaning that there is room for rehabilitation, and therefore this a strong narrative cue to perhaps have been elaborated, in order to potentially explore the witness’s own development of moral agency in respect to recognizing the moral agency of the Other. But there was no follow-up and no further elaboration of that answer.

There is also the important matter of reconciliation in the context of the TRC standing in for the Other, and the TRC’s mandate in this regard. What I mean by this is that reconciliation necessarily and by implication has to include the Other, otherwise there can be no concept of reconciliation. If the Other is not present, one is reminded of

Sanders's (2007) argument that the TRC acted as a national conflict clearinghouse and stood in for the Other. Furthermore, within the critical narrative frame in order to launch an aesthetic ethic, "construction of the Self by Other is as important to voice and to speaking and being heard, as construction of Self alone, to speak and be heard" (Cobb, 2013, p. 233-4). That is why I ask as another conclusion, extrapolating from Sanders, if the TRC could not have done more to develop that role to stand in for the Other?

**7.2.14. Potential influence of the SA TRC witnesses "being heard" on the underlying systemic conflict dynamic:** This aspect was not a primary focus of this dissertation research, but in closing of this section I want to pose a question which is extrapolated from the research conducted in and for this dissertation. The SA TRC proceedings commenced only some two years after the first democratic elections in South Africa were conducted, with the political transformation barely started and the social and economic transformations also at their infancy. The focus of these SA TRC testimonies was on revealing human rights abuses within a frame of seeking truth and reconciliation, but the witnesses who testified had essentially lived all of their lives under the apartheid system and those cumulative experiences (sometimes over decades) comprise of much more than just the individual human rights abuses revealed in the testimony. The systemic or structural human rights abuses which were experienced just by living under apartheid and which were broadly experienced and which defined people's lives daily, but which did not reach the individual human rights abuse threshold as it were, perhaps did not receive all the focus that they merited in these testimonies.

Does a situation where narrative is elaborated as discussed in this dissertation, and where a witness is consequently (perhaps) closer to being heard, have any potential influence on positively moderating the underlying systemic conflict, where the narratives and the witnesses are being heard (or at least listened to) by a broader audience in that society? Again, this question is posed within the context of the barely commenced transition into a post-apartheid society, with the realities of nearly five decades of apartheid experience still very much present in the lives of the listeners.

The question could also be asked differently, namely if these personal stories could have been told and encouraged more, even though elaborating the personal stories may not necessarily have pertained to the human rights abuses in question directly. There was a lot of resentment and a sense of injustice still prevalent which was not aired. Recall for example of the “reluctant witness” discussed in the context of Mr. Motlale’s testimony, where he specifically says he is surprised that the testimony is only about Mr. Kwisomba, as everybody in the township suffered. Or, recall the witness resistance expressed in the testimony of Mrs. Zweni, where she specifically mentioned several times how she hated and resisted apartheid, without being given specific opportunity to elaborate on that. Or, the rent boycott situation in the testimony of Mr. Shabalala where the situation appeared to not have been seen as human rights abuses by the TRC, and how quickly the TRC then concludes that testimony. By sharing those personal stories more deliberately, and by sharing more of the common and personal every day stories, a broader narrative may have developed through airing of more general, everyday shared experiences. This could conceivably have addressed a sense of justice and identification

outside of just being a “victim” as defined in the SA TRC Act in a more deliberate way, even though the audience was well aware of the general life under apartheid.

The main point to consider here is that the opportunity for narrative elaboration which was generally underutilized in the context of possibly assisting a witness in her process of being heard as argued in this dissertation, could also perhaps if it had been more fully developed, have contributed to the process of lessening the underlying and latent conflict the post-apartheid system, and in that way also promoted reconciliation.

### **7.3. Recommendations**

***7.3.1. Aligning TRC policy objectives and policy implementation challenges with witnesses “being heard” (Recommendation #1):*** The research in this dissertation focuses on the narratives and interactions at a micro level as reflected in the SA TRC transcribed testimonies, and not on the broader macro policy considerations in respect to apartheid and more, as explained in Chapter Three above. The research is also not intended to provide recommendations in respect to policy development more generally, as it is an instrumental case study focusing specifically on witnesses “being heard.” However, a number of important policy considerations which were present during the political transition in South Africa were encapsulated in the SA TRC Act, which in its very nature consisted of political and policy compromises. To this extent, there were important policy elements present which impacted the research. I acknowledged during the course of the discussion that the TRC experienced legitimate and very real challenges to balance the policy objectives as set out in the SA TRC Act (including seeking truth and reconciliation) with the practical challenges of time constraints (and more) which

impacted the elaboration of witness narratives. I also argued that an increased (if not equal) emphasis on elaboration and the enabling of witnesses to possibly be heard need not have been mutually exclusive with pursuing the policy considerations as set out in the SA TRC Act. I also provided examples of this possibility in the discussion under the “Fourth organizing principle: Narrative is elaborated, and seems to assist the witness in the process of being heard” above.

Even so, a question arises: What aspects could be helpful for other policy makers to consider when balancing this tension between the macro policy and micro narrative elaboration considerations, based on this dissertation research? The question could be asked differently, namely how to enable narrative elaboration by witnesses even in the case where a TRC (or other transitional justice mechanism) is set up to investigate only dominant policy considerations, and is not also intended to focus on the individual narratives, impacts and experiences? The response to this question necessarily has to be of limited scope as this was an instrumental case study, but a recommendation to partially address this concern can be suggested as follows, based on the research:

First, as part of the policy framework, policymakers should make a very conscious effort to reflect upon the extent to which there could or should be an opportunity to be heard (or “voice” more generally), for victim and survivor witnesses, and also for perpetrators. This is not to suggest a micro-management in the enabling policy and legal framework, but there should be clear guidance to the subsequent implementers, witnesses, and audience of what the expectations are in respect to witnesses being heard. The preceding was pertinent in the SA TRC Act, *which as part of*

*the policy considerations*, mandated that the SA TRC be “victim centered” and based on several provisions also to provide a concerted opportunity for the victim witnesses to be heard (see the discussion in Chapter Two above). It is also this broad imperative in the SA TRC Act for witnesses to be heard which enabled my critique in respect to victim narrative elaboration (or the lack thereof), as this was an explicit part of the policy and practical mandate of the SA TRC.

Second, that policy makers, implementers, witnesses and the wider audience are all aware that even where “being heard” is part of the policy implementation framework, or even a strong part of it, that this is still no guarantee that narratives will be elaborated, or that an effort will be made for witnesses to be heard. The fact is that the inherent tension will remain and has to be actively managed, with the actual and active participation of all the parties.

Third, even where the opportunity to be heard or being heard are *not* an explicit part of a more limited policy framework, that the insights developed during the course of this research can still be useful for both policy makers and implementers, and in this respect the second recommendation below is of particular interest. Narrative elaboration within a broader narrative frame can still assist to facilitate an improved understanding of the narrative public spaces, or the positioning and repositioning of witnesses, or narrative openings, cues and witness resistance (say) in the narratives. Incorporating the insights gained from the research could enable an improved narrative dynamic for witnesses to possibly be heard, and could thereby also support the process of attaining policy goals.



### ***7.3.2. A more deliberate orientation towards narrative for TRC officials***

(Recommendation #2): The TRC officials frequently invited a witness to “tell her story” as noted above, but a number of challenges in respect to the narrative processes which developed (or not) in the SA TRC proceedings were highlighted in this dissertation discussion. Whether one would refer to this recommended activity as training; or capacity building; or preparation; or perhaps the orientation of TRC officials towards narrative, it would be very helpful to the overall TRC narrative processes if the TRC officials are knowledgeable of, and have more of an orientation towards, narrative and narrative theory as part of their overall approach.

The circumstances leading up to the establishment of a TRC or similar body usually in a transitional or post conflict setting with the inevitable political and many other practical challenges present, may not have a high priority to orienting the potential TRC officials towards narrative theory and narrative awareness. Perhaps approaching the orientation of TRC officials from a similar integrated approach to that adopted in this dissertation will allow for the procedural fairness aspects (which are central to the TRC process) not to be diminished, but also for the other perspectives discussed in the research frame and elsewhere in this dissertation, to be included. In addition, a specific focus can be placed on *all* of the fourteen specific sub-themes discussed in the “Reflections” section above. For instance, it may be very valuable for TRC officials to gain insights in respect to aspects such as *narrative public spaces disconnects* and reflect upon the apparent disconnections that exist between the narrative public spaces initially established by the TRC, and what actually transpires later in the testimonies; or in respect

to elaboration, but often guided and impacted by the prior witness statement, likewise the struggle over positions: positioning and repositioning in the narratives, and other aspects such as narrative cues or narrative openings not picked up on, and not developed, and the other aspects as set out in the fourteen topics discussed in the reflections and conclusions section above.

It may also be helpful to approach training from both a shorter and longer term perspective. Some foundational aspects which emerge from this research as based on the literature review and the testimonies discussions could be imparted in a very short period, and could constitute so-called “quick wins” which may make a difference to witnesses being heard. Moreover, even a heightened awareness in respect to the development and elaboration of witness narratives and the dynamics, for instance being more aware of recognizing important narrative cues or recognizing any narrative resistance that the witness may display, would be helpful.

The question is how to balance on the one hand the procedural fairness quasi-judicial realities with on the other hand the necessary narrative perspectives. It is not the purpose of this dissertation discussion to diminish the potential value of the law and legal processes to provide “voice” to victim or survivor witnesses. I already reference the reality (and irony) in a few places in the dissertation that whatever critique there may be in respect to the narrative processes before the TRC, the voice provided to the victim witnesses would not have existed in the first place, if it were not for the formalistic SA TRC Act and the quasi-judicial SA TRC itself. This also goes for other more formalistic legal or judicial proceedings. A good example of where the formalistic legal system (and

legal practices inside those proceedings) provided “voice” to the survivors of systemic sexual violence, and who may not otherwise have had that opportunity for voice and to be heard, occurred under the state of Guatemala and is described in Burt (2019) in her article “Gender Justice in Post-Conflict Guatemala: The Sepur Zarco Sexual Violence and Sexual Slavery Trial.” Legal processes were utilized and then essentially flipped by placing the focus on the witness survivors and not on the perpetrator defendants as could perhaps have been expected, and thereby the witnesses were enabled to have voice, and to be heard. Ultimately, the question can be asked if the TRC (or another legal forum) could from a narrative perspective be more aware, active and nuanced, thereby mitigating the TRC’s quasi-judicial impact on the narratives of the witnesses and thereby have an active focus on the elaboration of witness narratives, and perhaps also better enable the witnesses to be heard whilst not diminishing any of the other important goals of a TRC (or that other legal forum).<sup>13</sup>

**7.3.3. *Potential areas for future research* (Recommendation #3):** I next highlight some possible areas based on the discussion in this dissertation which may have potential for further research, either independently or possibly being useful in a supplemental manner in other ongoing research projects. These recommendations could potentially be useful for practitioners, academics and other researchers also outside of studies primarily focused on proceedings before TRC’s or similar institutions:

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<sup>13</sup> In this sense “voice” for victim or survivor witnesses before the SA TRC or a similar forum could also possibly tie in with the extensive “access to justice” literature which although outside the scope of this dissertation discussion, is perhaps another area where further research can be conducted.

First, I would recommend that all four the innovations developed in this dissertation be considered for further research. These include *elaboration of narrative* as a powerful principle or even a mechanism for developing narratives, which even though occurring as a natural part of the narrative process usually without much awareness or focus on the concept specifically, the research in this dissertation showed that the concept may be underappreciated and even underemphasized, and could manifest in unexpected ways; another innovation is the *logic model* approach as adapted for the research frame and as developed in this dissertation, which could be a useful way for researchers to think about how elaboration and “being heard” may be related, and not only in a quasi-judicial environment. Moreover, the logic model approach allows for elaboration and being heard to be situated within different timeframes with different shorter and longer term effects, whilst couching the narrative process and concepts within that model.<sup>14</sup> In addition, I postulated earlier that this broader application of the logic model approach could have implications for other conflict resolution processes, especially where such processes are institutionalized or at least formalized. By “institutionalized” or “formalized” I do not only mean formal institutions such as for instance the proceedings before the International Criminal Court, but perhaps also in respect to more traditional conflict resolution processes such as those embedded in what have become known as “customary justice systems”; yet another innovation are the *four narrative organizing principles* which were developed and which could be useful for other researchers to include in their

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<sup>14</sup> The conflict systems mapping approach may be a further interesting area for researchers to possibly consider in the context of this logic model approach and is only referenced here in a footnote, as it falls outside of the scope of this dissertation discussion.

narrative research approach or even in their research methodology when analyzing testimonies and other narratives, and which are enunciated in detail in the dissertation analysis and discussion; another innovation is the *expansive broad research frame* developed in this dissertation which was not fully canvassed or developed during the course of the research due to its extent and comprehensiveness (given the different literatures which were incorporated), and therefore much potential remains which can be explored as part of an integrated research frame approach.

Second, the other area for possible further consideration is in respect to *perpetrator testimonies*. The perpetrator narratives have a high potential for interesting and important insights as part of an investigation within the research paradigm developed in this dissertation, particularly in respect to the development of the perpetrators' moral agency. For instance, Cobb (2013) discusses the testimony of Jeffery Benzien before the SA TRC where Benzien is seeking amnesty and during his testimony is acting out how he tortured victims. He expresses no remorse, and Prof. Cobb points out that:

“rather than presume that he was inhuman and incapable of these feelings, it is possible that the context was one in which he was not invited to account for his actions, to explore his feelings...; he does not engage in any reflective judgments...The absence of any reflective judgments on his part is more a reflection *on the speaking context and the nature of the questions that were asked of him*” (own italics *ibid*, p.137).

Prof. Cobb further notes that the questions were mostly factual; that there was no invitation for reflective judgments, and no questions were asked that focused on his moral code (a few are suggested). Contrary to the situation described, it is argued that during transitional justice proceedings *speaking contexts* should be created in which

“perpetrators can engage in reflection and generate reflective judgments or new moral frameworks for assessing their own actions” (ibid, p.137). This example is just one perspective from the literature to illustrate the potential for investigating the SA TRC (and other similar) perpetrator testimonies within the research frame developed in this dissertation.

## APPENDIX 1

**Table 1: SA TRC Testimonies and Opening Statements in the Order Referenced**

Witness Name	Place of Testimony	Date of Testimony
Laura Tau	Welkom	October 10, 1996
SA TRC Chairperson opening statement	George	June 18, 1996
Mcebisi Manjati	Grahamstown	April 7, 1997
R.G. Luthuli	Durban	August 29, 1996
Thandi Memela	Durban	August 29, 1996
Betty Laliwe Lowape	Bloemfontein	July 3, 1996
Edith Vangile Mpande	Grahamstown	April 7, 1997
Sidwell Rammutla	Pietersburg	July 18, 1996
Yvonne Khutwane	Worcester	June 24, 1996
Lucas Baba Sikwepere	Cape Town	April 25, 1996
Mr. Molehe	Bloemfontein	July 2, 1996
Father Shange	Newcastle	Sept. 10, 1996
Sylvia Vuizwa Moleleki	Cape Town	10 June 1996
SA TRC Commissioner opening statement	Worcester	June 24, 1996
SA TRC Commissioner opening statement	Kimberley	June 10, 1996
SA TRC Commissioner opening statement	Bloemfontein	July 2, 1996
Phakamile Harry Mabija	Kimberley	June 10, 1996
Nomonde Calata	East London	April 16, 1996
Sindiswa Mkhonto	East London	April 16, 1996
Nombuyiselo Mhlawuli	East London	April 16, 1996
Engelina Sionzana	Karoo	October 9, 1996
Musongelwa Alpheus Shabalala	Mooi River	May, 28, 1997
Thokozile Elke Ndlovu	Moorivier	May, 28, 1997
Noah M. Nkosi	Middelburg	June 4, 1997
Henry Kwisomba	Cape Town	April 23, 1996
Vusumuzi Ntuli	Newcastle	September 10, 1996

Witness Name	Place of Testimony	Date of Testimony
Vusumuzi Nene	Newcastle	September 10, 1996
Abdulhay Jassat	Johannesburg	May 2, 1996
Mlandeli Guntu	Port Elizabeth	May 21, 1996
Maruoini A. Machete	Louis Trichardt	April 9, 1997
Michael Bolofo	Johannesburg	May 3, 1996
Zibuyusile Msane	Empangeni	November 4, 1996
Solomon Majoro Setene	Ladybrand	June 26, 1997
David Mnyazana	Newcastle	September 10, 1996
Bonginkosi Dlamini	Newcastle	September 10, 1996
Nomakula Evelyn Zweni	Cape Town	April 22, 1996
Nomasonto J. Kgalema	Witbank	June 5, 1997
Eleanor Mahlangu	Moutse	December 3, 1996
David Motlale	Cape Town	April 23, 1996
Alwinus Mralasi	Beaufort West	August 12, 1996
Khantse Nikelo	Welkom	October 10, 1996
Doris Madela	Newcastle	September 10, 1996
Joan Mantombi King	Cape Town	April 23, 1996
Izakiel Mokone	Kimberley	June 11, 1996
Moses Mbaqa	Kimberley	June 11, 1996
Thembinkosi Steven Ngqele	Kimberley	June 11, 1996
Walter Smiles	Kimberley	June 11, 1996
Vusumizi Ntuli	Newcastle	September 10, 1996



## **APPENDIX 2**

### **6.8.5. SUPPLEMENTAL DISCUSSION: Elaborating upon your own story and that of the other, and being heard**

As mentioned in the main body of the dissertation under sub-section 6.8.5, this Appendix 2 sets out a full discussion of the three testimonies in the context of Sipho Mbaqa, Thembinkosi Ngqele, and Walter Smiles.

In the SA TRC proceedings there were at times and at certain venues a specific focus on certain major political events, or political movements, or apartheid structures, or communities, or even on a single event. In such instances multiple witnesses would testify in respect to that specific focus area. The hand grenade explosion where Izakiel Mokone was killed and which was discussed above, was such an event where a series of testimonies and narratives through various elaborations tell the whole story. Yet, even as the different testimonies focus on the event of the hand grenade explosion that killed Izakiel, the narratives also describe the circumstances, facts, personal experiences and perspectives of those personally involved, and are in different ways illustrative of elaboration and of witnesses being heard in the SA TRC. These testimonies provide important insights. The witnesses are not only telling their own and the overall story, but also the stories of each other. This in turn impacts elaboration and witnesses being heard in these proceedings both individually and collectively, all of which take time and

sufficient narrative space to develop. Facts and narratives from one testimony are sometimes needed for elaboration of another and for the other witnesses to be heard; and the proceedings overall also provide some insights into the role of an audience in a witness being heard. I propose to next provide a brief overview of the events surrounding the hand grenade explosion and the death of Izakiel Mokone for background and context, and then to discuss three related testimonies in some detail.

Protest marches were important mechanisms to resist apartheid. It turns out that Izakiel Mokone took part in a peaceful protest march, perhaps unbeknownst to his mother Ms. Mokone whose testimony is described above, on his way to school on that fateful morning. The purpose of the protest march was to hand over several memoranda (petitions) opposing apartheid actions to authorities. A member of the African National Congress Youth League<sup>15</sup> by name of Walter Smiles (“Smiles”) threw the hand grenade which killed Izakiel Mokone. The circumstances of how this happened and the ensuing consequences are clearly controversial in the community as can be seen from the audience reactions during the testimony. In his testimony to the TRC Walter Smiles described how he was given the hand grenade by an ANC operative by name of Lawrence Mbatha who was the area commander for the armed wing of the ANC. It transpires that the intention was to kill the officials who were to receive the protest memoranda, but things went wrong as he was not trained in the use of hand grenades and inadvertently killed Izakiel Mokone, who was in fact a comrade. To complicate the whole

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<sup>15</sup> The ANC was the primary movement resisting apartheid and also won the first democratic elections which were held on April 27, 1994.

matter, the police to their own ends and purposes would not believe (or perhaps more accurately, intentionally not believe) Walter Smiles when he went to confess. Instead, the police had tortured, coerced and coached a witness by name of Thembinkosi Ngqele (“Thembinkosi”) to frame another ANC Youth League member by name of Siphon Mbaqa (“Siphon”), who ended up being falsely imprisoned. In the present context of elaboration and being heard, I now discuss the testimonies first of Siphon who was at the time still in prison after the false accusation; then the testimony of Thembinkosi who falsely testified against Siphon, and lastly Smiles who actually threw the hand grenade which killed Izakiel. Even as each witness testifies and is telling his story and is being heard in different respects, the story of the falsely imprisoned Siphon is being told overall, and in that sense it can be said that he is being heard as will be seen.

Siphon testified on June 11, 1996, and at the time was still in prison after having been falsely imprisoned as mentioned. It is important for the discussion on rebuilding moral agency, and positioning of the “other” which follows below, to show how his testimony started. He was standing next to another witness named Nkosinathi whose testimony will not be discussed here, but who was also a witness in the hearing. See how Siphon is sworn in, then asked twice if he can hear, and then after that is still asked to identify himself (out of the two witnesses) by the Questioner, but in a somewhat strange and very specific way: “Good afternoon, I will start with Siphon. Who is Siphon?” He seems to take this in his stride and simply answers “It’s me” but one wonders how he experienced this after being falsely imprisoned as if he was of little consequence, and finally having an opportunity to tell his own story, and then experiencing this initial

introduction. This stands in stark contrast as will be seen in his later narrative how he positions the Other, refusing to apportion blame and fall into victimhood, and how his own approach probably positively impacted the rebuilding of his moral agency, and him being heard. I start with the first testimony, that of **Sipho Moses Mbaqa**:

“MS SOOKA: Would Sipho Moses Mbaqa first stand please - can you hear me now?

MR MBAQA: I can hear you.

MS SOOKA: Okay, we’d like to welcome both of you here, we are very happy that you have taken the trouble to come and give your testimony. As is usual in these cases we will ask you first to take the oath and then we will hand you over to Commissioner Ntsebeza on my left hand side who will assist you with your testimony.”

Even though this is the reasonably “standard” start to a testimony with the welcome and the swearing in of the witness (given the quasi-judicial nature of the SA TRC), there is some irony present here, in that Sipho is at the time of this testimony in prison having been wrongly convicted, so welcoming him with “having taken the trouble to come and give your testimony” somehow does not convey this reality or his personal situation, and thus supports the sense that often this welcome was more a pro forma than specific. The proceedings continue:

“ADV POTGIETER: Sipho, will you please stand first so that you can take the oath?

SIPHO MOSES MBAQA Duly sworn states

ADV POTGIETER: Thank you very much, you can be seated.

MS SOOKA: Are you able to hear?

MR MBAQA: Yes.

MS SOOKA: Are you sure - okay Commissioner Ntsebeza will now assist you to lead your evidence.

ADV NTSEBEZA: Good afternoon, I will start by speaking to Siphos. Who is Siphos?"

In terms of narrative spaces and "being heard" as I mentioned in the introduction, it is useful to recap the proceedings so far. Note that Siphos above is being identified and addressed specifically, and then acknowledges and identifies himself, ironically given the theme of this dissertation, by stating "I can hear you." This is his first opportunity to speak. Next he is called upon and he actually stands up to take the oath, which is his second opportunity to speak. And then, after he is seated, he is again asked if he can hear, and answers in the affirmative which is his third time to speak in these proceedings, and then still he is asked, "Who is Siphos." This somehow implies that even though he has already spoken three times, he seems not to have been heard so far in respect to who he is. At the same time he is falsely imprisoned, and during his prior criminal trial as will be seen he had great difficulty to be heard in respect to the truth, where the witness in the next testimony below falsely testified against him. It seems like this is not a favorable start to setting narrative public spaces for his testimony, but this changes during the course of his testimony. Siphos answers:

"MR MBAQA: It's me.

ADV NTSEBEZA: Thank you - let's start by asking you to give us a background about yourself. Where were you born, your upbringing and did you attend any school - if so where and were you ever employed, if so where were you employed. I would like you to take only three minutes to give us the details in connection with your background and then we will start to get into the core of the matter. Are you going to speak Xhosa?"

Following upon the start above, the witness hears he has three minutes to say who Siphso actually is. This reflects the tension between the practical time and other limitations set by the quasi-judicial nature of the TRC and the need to develop witness narratives. Note later as the process develops, through his compelling and articulate narrative, how the narrative spaces expand and how Siphso ends up elaborating his narrative and I would argue was also rebuilding moral agency, and was being heard. This is especially so when considering the closing comment by the Commissioner which will be discussed at the end:

“MR MBAQA: No I am going to speak English.

ADV NTSEBEZA: Oh! okay - you can go.”

The TRC Questioner sounds surprised, what was he expecting? But again, note how Siphso’s eloquence in telling his story expands the narrative spaces and how it allows him to elaborate. The testimony continues:

“MR MBAQA: Yes I am Siphso Moses Mbaqa.”

Note how he now starts his testimony by stating his full name, as if he is confirming and validating who he is and is also positioning his narrative away from the earlier “Who is Siphso?” He then also describes his family, and seems to start the process of reclaiming his moral agency. His testimony continues:

“I come from a family of five brothers - I come from a family of five brothers and one sister and I am the third one. I was born here in Kimberley - I grew up here and I went to school here like everybody and throughout the turbulent years as everybody knows that

we never really had a proper schooling although we would talk about schooling because of boycotts year in and year out. So and I went up to Matric (Comment: “Matric” is the final year of high school) - I went up to Matric and after that I didn’t do anything. I then began to work for the ANC Youth League from 19 - in fact much earlier I started to work for the - proper I started to work for the South African Youth Congress earlier, in fact I had been - I started to work for the South African Youth Congress but then I started to work for the ANC Youth League sometime in 1992.”

These facts show not only political activism but also that he would have been on the radar of the apartheid authorities, which may partially explain the effort to convict and imprison him, even by way of falsifying evidence and an untruthful witness. The proceedings continue:

“MS SOOKA: Could we ask that you move in quietly and as quickly as possible because you are interfering with the witnesses ability to give his testimony clearly. Could we have silence please.”

This is focused on the audience to not be noisy which may of course impact the proceedings and the narrative public spaces, but it is noticeable that there appears to have been active and continual audience participation during these proceedings, which recurs several places in the testimony and narratives, as will be seen:

“ADV NTSEBEZA: Ja just before we go on are you comfortable with English or would you wish to speak in another language?”

This is the second time that the preferred language for delivering the testimony is raised. The witness has chosen English the first time, and what message is being sent by

asking again, especially after the start to these proceedings which already seemed to devalue the witness's natality somewhat? The proceedings continue:

“MR MBAQA: No - no I am very comfortable.

ADV NTSEBEZA: Oh! ja - okay - I would like a witness to testify in a language he is best able to give his testimony - if you comfortable it seems okay.

MR MBAQA: Yes.

ADV NTSEBEZA: So you were still saying that you were working for the ANC Youth League.

MR MBAQA: Yes and - but now then I had been in the Youth Leaguer for - for many years despite that - even before the ANC was un-banned I was a Youth League until those times when the ANC was un-banned I was there all the time until of course I was arrested for this murder and convicted.”

Here, and very early on in his testimony, the witness introduces the fact that he was convicted, and there is no acknowledgment of that by the TRC. Much later in the testimony, the TRC Questioner says that it is “common cause” that Sipho was in prison, showing that everyone there knew this, but from a narrative perspective ignoring this important cue now should be noted. See also how he frames this statement even though it is clear later that he was wrongly charged and convicted – he does not frame it for instance as “*wrongly* convicted” or perhaps “*falsely* convicted, or “*unjustly* convicted” or any of the myriad ways he could have protested his innocence. In the present framing, he does not in any way diminish the Other; neither in terms of the witness who testified against him; nor the police who orchestrated his prosecution; and nor the judicial system that convicted him on the evidence as presented. Based on the process as these three testimonies unfolded, it appears as if this approach assisted him in rebuilding his moral



agency, expanding the narrative spaces for him to be heard, and actually being heard. The proceedings continue:

“ADV NTSEBEZA: Right, let’s now come to the 25<sup>th</sup> of May 1993, which is - which I think you will never forget in your life.”

This date was already after the unbanning of the ANC, but before the first democratic general election on April 27, 1994, where social unrest across South Africa actually increased in some respects. The testimony continues:

“MR MBAQA: No certainly not.

ADV NTSEBEZA: Ja, can you just tell us briefly the events of that day as you recall them before we get on to what happened to you thereafter.”

Even after the TRC Questioner himself just acknowledged that this was a seminal day for the witness, and as the witness just confirmed this in his response; and even as the witness earlier stated that he has been convicted, the narrative spaces are constricted by the TRC with a “tell us *briefly* the events of that day.” However, as will be seen from his actual testimony, the witness resists this “briefly” instruction, and tells his compelling story and in the process and in his narrative can be seen to be rebuilding his moral agency, and it can be seen how his testimony probably moves from “input” to “output” to “outcome” and even starting the process of “impact” in terms of the logic model depicted in fig. 1 above. The testimony continues:

“MR MBAQA: Ja on that day - the 25<sup>th</sup> May 1993 - we - we had a march. We had organised the march in reaction to it - to events that had taken place a week or two or even three weeks earlier at the University of Bophuthatswana as it was referred to then,

Where the police had assaulted students there because during that time that region, it used to be part of our region. Therefore in my responsibility end of Tape 2, Side B ... sort of areas as well.

So when the students were assaulted there on that day, one of whom is a fairly prominent person by the name of Soliboka, he was there involved also there - he was assaulted on that day.

So we organised that march on that day to the Bop Consulate here in Kimberley to actually protest what had happened to those students on that particular day. And that, that was the purpose of that march among the other things.”

The narrative is unfolding and setting the context for the protest march which was *inter alia* as a result of police assaults, and the “Bop Consulate” is short for the Bophuthatswana Consulate, which was one of the so called “independent homelands” declared under apartheid policies. The proceedings continue:

“ADV NTSEBEZA: Yes, if you will just carry on and relate events of that day, so there was this march it was progressing, what happened.”

It appears that the witness in fact stopped (or hesitated) in his testimony almost showing reluctance and had to be encouraged by the TRC Questioner to continue, which turns out to be important for the development of his narrative, and for being heard. As will be seen next when the witness continues, he mentions the “Commander of MK” which refers to the armed wing of the ANC in the Xhosa language, namely “Umkhonto we Sizwe,” which means “Spear of the Nation.” This is significant, because the witness is introducing the fact that there was some military action planned, and then note how oblique his narrative becomes as it revolves around the hand grenade which was later thrown by the third witness below (Walter Smiles), and which killed Ms. Mokone’s son,

discussed above. This witness (Sipho) had the grenade in his possession but did not want to use it, so it appears that he had initial difficulty to relate these events and that may be the reason why he had to be encouraged to continue the testimony. He seemingly does not even want to name the object, initially referring to the hand grenade as “an agreement he (i.e. the Commander of MK) had left with me.” His testimony continues, and see how he is slowly developing his narrative:

“MR MBAQA: Okay, on - on the morning of that day we prepared you know the memoranda’s. It was me, and the Chairperson of the ANC Youth League and I think two other officials who were there and we were preparing those memoranda’s to hand over. And we did that, that morning.

So while we were about to leave, then came Lawrence - Lawrence then - Lawrence was then the Commander of MK in the region. He then came there in the office and he came to see me - to inquire about an agreement he had left with me. I then told him no - it is here you can - you can he can have it. He then say to me no, because you can see I have - don’t have anywhere to put it, I have these tight pants. Can you make me a favour and come with it to the township and then I will take it there and go and put it away.”

It can be seen during this whole part of his narrative, how he elaborates around the theme of the hand grenade, and his unwillingness to engage with it; and his eagerness to get rid of it, and then actually getting rid of it. He continues to build his narrative:

“So because I wanted to get this thing away from me it was his anyway and I was anxious to get it away from me because he had left it with me about three - four weeks ago and I had been pestering him to come and take this thing of his.

So he then came back [indistinct] to come and take it, so I made him the favour and I took that thing and I of course placed it beside my bag and I left with the Chairperson of the ANC Youth League and another chap of the Kimberley Civic Association, they call him Vernon Patrick and another comrade of the civic also is Lionel Jacobs and Mafu Davids who was the publicity secretary of the ANC Youth League during that time.

But then when Lawrence came and we had these discussions about this grenade of his, these other people of course they were not aware of what we were actually talking about. So even when I put this grenade in my bag and I left with it in Lionel's car they did not know I had something like that."

This is not only to describe that he had a hand grenade in his bag, but also that no one else had knowledge of this. He is accepting responsibility to the extent that he was involved which will assist him in rebuilding his moral agency, but also as a practical matter he is making sure no one else is incriminated. He continues his testimony:

"So we then went out - we drove with the car - with Lionel's car it was a white Skyline. We then drove to - to the township to where the said march was supposed to commence, to start from. But then unfortunately we were a little - we were a little bit too late so we instead found the march had moved from where it was supposed to start.

We met the march along the way - then we came there we stopped and then we joined the march at that point and Lawrence was also there by then. So I then went up to him and he said no obviously you can't give me that thing here in public. Could you just carry it when we come in town I'll take it and then I'll put it away by the office or in his car, that was what he said. But then it made sense also to me that I could not give him that type of thing in public.

We then joined the march and this grenade was still in my bag and it did happen that when we reached the town somewhere in town here, he did come to me and said well bring me - bring me this thing - he took it [intervention]"

This is obviously a key part of the narrative that he is developing, where he is getting rid of the hand grenade, as he is in prison for having thrown the hand grenade. So at this stage he is interrupted by the TRC Questioner with a clarifying question, exactly at the point where he describes the hand-over of the grenade:

"ADV NTSEBEZA: Just to clarify something there. When you say when you were in town, was it in the process of the march.

MR MBAQA: Yes certainly it was in the process.

ADV NTSEBEZA: When he said just let me have that thing.

MR MBAQA: Yes that correct, that's right.

ADV NTSEBEZA: Okay, and Lawrence - Lawrence who - do you know who - his other name?

MR MBAQA: Yes, it's Lawrence Mbatha.

ADV NTSEBEZA: Mbatha.

MR MBAQA: Yes.

ADV NTSEBEZA: Okay."

So this then turns out to be a very important and perhaps a life-changing part of his narrative for the witness, as the TRC is officially establishing by way of elaboration in a very factual manner, that Lawrence Mbatha took the hand grenade from Sipho. This also changes the positioning of the witness in his narrative, to that of the one who did not have the hand grenade and therefore could not have thrown it, and therefore did not kill someone, and therefore is falsely imprisoned. For the witness this is a clear sign that he is starting to be heard, and also another indication that the TRC through fact-finding had the ability to elaborate narrative in a way that the witness could be heard. The testimony continues:

"MR MBAQA: Well he then took it away together with the bag, then we proceeded with the march and I forgot about it. We then got to the Bop Consulate, in front of the Bop Consulate and then people came there and then the memoranda's were handed over.

But then I was standing at the back because I was also doubling up maintain some kind of order there. So I was at the back - so in the process of me walking around there then this chap came up to me - you know Smiles Walters then came up to me. He then opened his

jacket like this but then I saw what I thought was a grenade. I won't say it was a grenade but I think it was from what I - I saw."

This further elaborates on the narrative that Sipho is building, namely that he was not the one with the hand grenade. Not only did he earlier hand it over, but now he also confirms that he saw it on Walter Smiles. The witness continues:

"But then I didn't take him seriously, I just left him there I was disgusted and I - I left him there because I thought what he was doing you know rather stupid and that type of thing. So I just left him alone and I joined the other guys who were also standing there at the back. It was Mafu Davids and another - another comrade I knew him only as Quire and a few other comrades, we were about six or seven - we were standing together there observing the proceedings from the back."

He is further building on his narrative of not being involved with the hand grenade, and is in fact now actively distancing himself from this. He states that he thought what Smiles was doing was "rather stupid" and it also left him "disgusted." However, bear in mind that the witness himself also held the grenade earlier, so in his narrative he is distinguishing his earlier holding with that of Smiles now, even though he did not "take him seriously" the implication and narrative positioning is clear, that Smiles had a different intent in holding the grenade that the witness himself did earlier. He continues:

"But then at some point just after the memoranda's were handed over - when the people were about to leave the place - at that point I was now walking to the front - I was walking to John Block - there Chairperson of the Youth League, because I was - I was going to collect the memoranda's that had been signed.

ADV NTSEBEZA: Who was going to be given these memoranda?

MR MBAQA: Is the Bop Consulate.

ADV NTSEBEZA: And was Mangope there, as well. (Comment: “Mangope” refers to Lucas Mangope, the leader of the “independent homeland” of Bophuthatswana, which was created under apartheid policies and legislation.)

MR MBAQA: He was obviously not there - his Consul was there.

ADV NTSEBEZA: Only the Consul.

MR MBAQA: Yes.

ADV NTSEBEZA: All right.

MR MBAQA: And after they had handed over those three or four memoranda's, just when the people were about to move so I was walking towards John Block when I - you know I just saw what I thought was something like you know tear gas smoke and everybody just running away. I didn't know what was going on there at that stage, but I did see something like thick smoke what I thought was thick smoke and everyone running.

Well I thought at that stage that it was tear gas so I also ran away. But I - I just ran a short distance and what possibly happened you know it just occurred to me, at that point as to what possibly happened.”

This is another seminal moment in the witness narrative, as he is referring to the possible explosion of the hand grenade, but again he cannot spell it out by name. Even in the next two paragraphs where he describes the scene he found, he does not mention the hand grenade specifically. He continues:

“So I then went back you know and - but when I went back I could not hear you know what - what people were saying, my eyes - my ears I beg your pardon, were sort of you know that sensation you have if you had been swimming - that sensation - so I could not properly what people were saying it was just like you know - and I saw people lying there - I saw some of our own people were there. Some comrades I cannot recall who they were, but they were there - and others were saying, call the ambulance and so on and I ran again to the ANC office.

And then I found Mafu Davids and the others they were there and some other people who had been slightly injured, who had managed to - because the ANC office was not far

from that scene. So some people who were slightly injured they were already there and I found that they had already of course called the ambulance and so on and you know it was just sirens - police sirens and everything.

We then took some of these people to the hospital with Mafu Davids and I don't recall who else - and we came to the hospital, there at the hospital I met Lawrence, because when that happened I thought the grenade that was with me - so has been used here, so I - that's what I thought at that point, because I [intervention]"

Now only does the witness mention the hand grenade by name, and narratively makes the connection between the explosion and the same hand grenade that he held earlier, and he is seemingly struggling, but as he is about to elaborate what seems to be his moral dilemma ("because I..."), he is interrupted again with a follow-up question:

"ADV NTSEBEZA: At that stage did you think of the grenade that you had been shown under the jacket?"

This is an important framing by the TRC Questioner, because first it is premised on the witness having seen the hand grenade "under the jacket" and thereby providing a confirmed framing and positioning of the witness as not being the one who threw the grenade, and which also strengthens the sense that the witness is being heard; and second this is not purely a factual question, but actually is a narrative opening for the witness to build on his moral agency. The witness is asked at what stage he *thought* about the grenade, and this allows him to return to his earlier narrative about first running away which also seems in that earlier narrative to have bothered him, which he now qualifies by "when I could – as soon as I recovered" and then on how he turned around and went to the scene to help:



“MR MBAQA: I was thinking about it exactly I in fact after the blast I said I ran away, I stopped you know when I could - as soon as I recovered - it occurred to me what possibly could have happened, because I did see that guy with that thing. So I went back too - just to confirm you know what I was already suspecting and I could - I found that no, this was actually a kind of explosion.

ADV NTSEBEZA: Who did you go and confirm with, with Mbatha or the person who had shown you [intervention]”

The TRC Questioner is now focusing directly on how the witness found out, or rather how he confirmed his suspicion, that the hand grenade which exploded was the same hand grenade that he had held earlier. So this is a very factual question, seeking a very factual response in the form of a person’s name. Note the response, and how the witness now interrupts the TRC Questioner instead, rather than the other way around as was the case up to now. This interruption *by the witness* shows how important this aspect is to him, and perhaps goes to his moral dilemma of having been complicit. He then builds a whole narrative of how the link was actually never confirmed to him, and how Lawrence told him to stay out of this, and how he was later arrested by the police. What is remarkable is the extent of his elaboration without any interruption by the TRC. It reminds one of how the tone and narrative spaces have changed from the tone at the beginning, when he was asked to “speak briefly.” See how he starts off the next section by “as I said to you” insisting to be heard. He also (for the third time) returns to how he turned back after initially running away and adds yet another layer of explanation (if not justification) to that aspect. It seems throughout his long answer next that he is finding ways to rebuild his moral agency and to position his own lack of knowledge and passive role in these events, bearing in mind that he has already spent two and a half years in

prison as a result of the explosion and death, as will be seen later. He answers as follows, and I will only introduce limited comment as it is important for the reader to absorb how he is finally allowed to just tell his story, and also the extent and development of this narrative which contributed greatly to the witness being heard. This again shows how the TRC could enable these narratives in addition to collecting facts; and even more noticeable in this case, as all of this follows on a TRC question asking only about the specific identity of a person:

“MR MBAQA: No, as I said to you when this thing occurred I thought it was tear gas and I ran away, but then it occurred you know I just suspected it - it just - my brain just you know - when this happened I just became confused I didn't hear - I didn't even hear the noise you know, a bang or something - I just saw something what looked like thick smoke and people running helter skelter and so on.

So I ran away as well but then that happened and I came back and as I said, we when to the hospital. When we came to the hospital I asked Lawrence about what had happened. I asked him you know, I said do you know about what just happened here, he said to me no he doesn't know what happened. But then I must just keep out of this that's what he said to me.

But I said to him, how can you say so, my eyes are closed now I cannot even hear well, he said you probably took the impact of that but as I am saying to you, you just keep out of - out of this but I don't know what - what happened, that's what he said to me.

I then let him alone but obviously I had a suspicion in any way but I didn't see Smiles at that time, I didn't see him - I only saw him the next morning when I went to the office. I then left the ANC office to go to our office - I was with Mafu Davids on that morning when Smiles then came running up and said you know he did this and that he was sorry.

I didn't say anything at that point - I didn't say anything we just kept on walking away. I don't know if Mafu Davids heard him, but I never spoke - I never said anything - we never discussed anything because at that point I thought well here comes trouble and something I did not know about and so on. This thing was with me at some stage and so on - that's what I thought.

So that day passed and the following day I don't know, I think it was about four days - four - five days I went away and I came back again and when I came back I was told

Lawrence had been arrested and Tembikosi and Millicent, well when that happened I thought well maybe these people will clear this up and maybe they know -particularly Lawrence, that's what I thought.

But still I didn't discuss this with anyone - still I didn't talk with anyone about this - this matter. I - I obviously wanted to be - to be you know on the safe side because there was already a lot of police activity at that stage. And I went away again after the following week, when I returned I was then arrested at the Kimberley airport, when I returned from Johannesburg. I was arrested by the police and they then told me they were taking me into detention as a suspect in this incident of the 25<sup>th</sup> 1993.

They took me to Transvaal - Transvaal Road police station where I met some - some officers I do not know but it is very senior officers. They then told me that they were taking - okay they then told me that they were taking me - they then told me that they were taking me into detention I don't know but it was some of those pieces of security legislation. I think it was - they said something first and I don't recall it - something under Public - Public Order or something ja but eventually they told me they are taking me in under Section 29 of the Internal Security Act. They then told me I cannot see a lawyer I cannot see anybody, I can only see them.

They then took me to the District Surgeon - after that they took me back to Transvaal Road police station to - to the same people, from there they took me to Barkly West, I then slept there and then the following day begun the interrogation sessions.

They interrogated me then every day saying my bag was with - they asked me what I did with my bag you know. At that stage I didn't want to co-operate with them, I didn't say - I didn't say anything, so that was that situation then me not wanting to anything - them saying all sorts of things and I wasn't saying anything so that became an process of every day - every day - every day - that was the situation.

Then after some days I can't remember I had no longer have a recollection of days as to what happened there - as to which - on which day what specifically happened. But one day they came to me and said look we know that you - you had a grenade in the bag we also know that you were there at the march with a grenade and at some point during the march you went out of the march and you took the grenade out of your bag and you placed it inside your pocket and you gave your bag to Lawrence and your marched up to the Bop Consulate. When you reached the Bop Consulate you gave your bag to - I mean you stood there at the back with - with Nkosinathi.

And then at some stage after the memoranda's had to be over, you then gave him the grenade to - to launch it. That's what they said to me, but I didn't speak much to them, what I just said to them - I said to them look that story of yours you won't find a market anywhere for it. It won't be bought anywhere where you go, because I knew there was no such person like Thembikosi - I beg your pardon Nkosinathi that day.

But I said to them look - that's what I said - I am using the words I exactly told them - I said you won't find a market anywhere for that story. Well I think they thought I was lying when - when I say that.

And as days go on, I realised that these people were becoming you know serious with their story and it was at that point then - then I decided that you must remember - as I said earlier, when this thing happened - nobody said to me I - I must not accept Lawrence, nobody placed me under pressure to say you know I must not speak about what I saw.

I took it out of my own you know not to speak - so when I realised these people - this police are becoming so serious about this matter of Nkosinathi - I then decided to tell them the truth. I told them the truth - I told them what the whole situation and that situation they have it in their files. If they produce their files they will find that I told them exactly what happened."

After being in detention and having no access to legal assistance under the security legislation, and after extensive interrogation, and having lost all track of time, the witness testifies that he told police the truth as they were "becoming so serious about this matter of Nkosinathi." Nkosinathi is the other witness referenced above but whose testimony is not discussed here in detail. It is relevant though that Nkosinathi appeared to have collaborated with the police and that he may even have accepted a bribe (even though there was also pressure applied upon him), and that the police produced him as a "surprise witness"<sup>16</sup> along with the testimony of Thembinkosi (whose testimony is indeed discussed next in detail) to falsely testify against Sipho, and to have him convicted. Sipho continues his testimony:

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<sup>16</sup> Nkosinathi Nkhola stated in his TRC testimony that "I had to witness against the people who didn't do anything against anybody....." but then also admitted that "... (the police) said they were going to protect me and give me an amount of R10, 000....," and he also stated that the police knew "... I am fond of money and I might be influenced and tempted by the money. So they used it to use me against my people." (Nkhola, Kimberley, June 11, 1996).

“It seems to me they didn’t believe me, at that stage I realised that these people, they were just - they wanted me to confirm their story which was not true. And the story that is the truth that I tell them - they don’t believe it.

I then decided to go on a hunger strike. I went on a hunger strike for about ten days and at some stage I went to the hospital and they were coming repeatedly to visit me you know just to get me to confirm the story - they wanting me to confirm this story of Nkosingithi.

So I realised that this was now a lost case - there was nothing I could talk with this people anymore, because they don’t believe the truth, they believe something that I did not know they take it there. After some days then came to me and said look if you stop this hunger strike we are going to charge you and so on - I said no, that’s okay and then I stopped. Then they sent a Major - no it’s a senior officer, I don’t know is it Nieuwoudt or Mostert - one of the two. He then confirmed it to me - I then stopped the hunger strike. They then charged me - really they did so, they charged me.

And then at that stage they told me no, now you’ve got access to legal representatives and so on and of course during that time also there was this Magistrate who used to come and - who use to come and ask you know for - for what - what complaints we - we had and so on and I did not - I did not speak anything with him you know. I didn’t talk anything with him.

So after that the police then decided to charge us and they did so and - well I thought they were joking but they really brought the charge sheets and I could see that Nkosingithi’s name on this thing. We did also at that stage I did receive a lawyer, I was visited by an attorney Gullah Makawaray and then they charged us - I don’t recall what the date was, but they took us to court.

It was the first time I then met Nkosingithi, I then I asked him how do you get involved in this matter and then he told me a long story of how you know the police were pressurizing him and so on - otherwise I will leave that to him, he will talk about it.”

The witness just describes the pressure “and so on” as if it were the normal course of events. Everyone there from the community and the TRC understood exactly what he meant. He does not portray himself as a victim, and is also not accusing the person who contributed to his own innocent incarceration in order to strengthen his own moral authority. “Let him speak for himself”. But he is also crafting a compelling narrative as

he resisted up to the point where he saw the trade-off was not worth it, but then told them the whole story. See above in his testimony where he says “this is a lost case,” and also then stopped his hunger strike when the police said they will charge him. He also says in the next paragraph that he told Nkosinathi that he understands, in that process also again assisting in rebuilding his moral agency and expanding upon his own narrative spaces to be heard. He continues his testimony:

“But I then said to him no I understand - I understand and I believe you that you, you are innocent and you don’t know this matter. We appeared in court and were then taken to prison. All right we appeared un-represented that morning because advocate Gullah Makawaray arrived late, but then he did meet us afterwards. We were then taken - we were then taken to the prison, and then we then waited and so on but I then received a visit from the Chairperson of the ANC Youth League. It was then - he was the first person I ever spoke - it was the first time I spoke - I ever spoke about this matter. I then told him actually well this is what happened and he then took it up I think with the - with the leadership and so on.

And I was further interrogated or questioned by some - by some of the people from the Security Department of the ANC on - on this matter. And then ultimately then we were put on - we were put on trial. But then at that stage I was told and of course we were represented then by Advocate Denzil Potgieter.”

Note that this is a well known and well regarded legal practitioner in South Africa who actually ended up being one of the TRC Commissioners, and moreover was involved in these very proceedings. The witness narrative continues:

“Then at that stage just before the trial begun I was told that Smiles had - had agreed to come forward and to own up to what he had - he had done. But apparently the police initially agreed that okay if he signs an affidavit and do all sorts of things they will - they will then you know arrest him instead. But I don’t know what happened and the police apparently changed their mind. That is what I was - I was told and instead insisted that we call Smiles as a witness.”

This part of his narrative introduces Walter Smiles who came forward as the actual perpetrator, but one can see that it did not suit the police's purposes for some reason to charge the real perpetrator Walter Smiles. Perhaps they saw an opportunity to target Sipho, the present witness, who was active in the resistance movement. Also, note how the witness is just relating his story and building his narrative, without any incrimination. He then continues:

"We then decided no you know we could not do this thing because what was happening during that same period the police were busy wanting to drag other people into this matter, saying all sorts of things and intimidating people saying before they see us - they must obviously expect - exploiting the ignorance of people of well - before they see us they must first ask permission from them.

Of course that practice was stopped by the prison people who said that is nonsense, it is not necessary to us - permission from police. Because at time as I said because of this intimidation of the police many of my old comrades had actually abandoned me. Even those chaps who were with me you know who possibly could - who possibly could say what the police were saying, it is not true you know. Even they had fled."

What he experienced as his comrades abandonment of him seems to have very negatively impacted his moral agency. His life was built around the resistance movement, even being employed there. It could be that he is crafting his narrative for his comrades to have the same understanding in respect to his own situation, where he told the police the truth under pressure which may be still held against him. His testimony continues:

"It's only recently that these guys have appeared I think in the absence of that threat, that they have come forward and said but you know we never believed what the police said you know because the activities were so serious this one other comrade of us, in fact he left political activity altogether and they knew what the police were saying, were lying - he knew - he know that. But because of their activities - their threats of arresting people and doing those sort of things."

This is an important paragraph in his narrative in respect to building a counternarrative against his shunning by his comrades. Again, this links up to his understanding of his comrades turning against him, due to pressure from the police. Being accepted back seems to be important to rebuilding his moral agency, which is another reason why the audience participation is important – see for instance in Smiles’s testimony below when the audience claps out loud when he admits guilt, which may be an important step in rebuilding this witness’s (and Smiles’s’) moral agency and him being heard. His testimony continues:

“We were then put on trial - with that obviously cooked evidence. We then battled with that evidence, but they seemingly had enough resources to bring in all sorts of false witnesses to the extent that they brought in even our own comrade, and then our comrade then [intervention]

He is now interrupted for the first time after this extensive opportunity to elaborate which contributed greatly to him being heard. It is as if the whole momentum and emphasis have changed to support the narrative elaboration of the witness. He frames the criminal trial as a battle with the false and “cooked” evidence, indicating there was still some kind of faith that if they could overcome the false evidence, that justice could prevail. It is very illuminating how the TRC Questioner returns to this aspect later, which seems to confirm that the TRC picked up on this narrative cue. The proceedings continue:

“ADV NTSEBEZA: Who is that comrade?

MR MBAQA: He is here he’ll be testifying he said - here he is sitting.



ADV NTSEBEZA: Thembikosi.

MR MBAQA: Yes - you know being I knew as a comrade and I trusted very much and so on - but he came that day and he was this State witness, obviously saying something that was not true because at least I had an - I had an idea. But he was saying something completely wrong and he stood by it.

We tried under all ways to break him, under interrogation, but the guy behaved as if he was trained you know to - in fact he surprised me because he was a chap I knew - you know - with all respect it's a chap I knew he is you know the feeble type of people I understand him - maybe not a good thing to say, but just a good chap, but that day he was a changed person. He was virtually a professional of some kind because he was really telling lies and which were not there."

The witness is saying in a nice way that Thembikosi whose testimony will be discussed next, is a weak ("feeble") person but immediately catches this, and restates the witness to be a good person, just somewhat changed by the circumstances and everything that happened. Again, he does not rely on vilifying this comrade who is effectively the "Other" (or could be) in this narrative, in order to build a counternarrative and to rebuild his moral agency. This must not have been easy for the witness to do, bearing in mind that he was in prison even as he was testifying here due to Thembikosi's evidence, and he continues as follows:

"And I had no doubt in my mind that this chap was saying something he rehearsed for a very long time because he just was not making mistakes. It is difficult for a young chap of his age to say you know something like that without making mistakes and only makes mistakes when really cornered.

ADV NTSEBEZA: Now when you - I suppose when you said you tried everything to break him with your interrogation you meant cross-examination.

MR MBAQA: Cross-examination that's what I mean.

ADV NTSEBEZA: Oh!

MR MBAQA: That's exactly what I meant.

ADV NTSEBEZA: All right and this advocate Potgieter is he the one who is now Commissioner.

MR MBAQA: Yes - yes that's so - well, Thembokosi never broke. He never changed his story - he stood by his story to the end.

ADV NTSEBEZA: What was his story [indistinct]"

This is an important question for elaboration and for being heard. Thembokosi is going to testify next, and he is listening, so what happens next will have a big impact on the narrative spaces for both witnesses. Thembokosi is the Other who testified against Sipho, how will Sipho relate his understanding of Thembokosi's testimony to come? What will Sipho's narrative do to contribute to his own and Thembokosi's rebuilding of moral agency? This also shows how important well placed open ended questions can be for elaborating narrative in TRC proceedings. But this also shows how important facts are, especially if woven in with the personal narratives of the witness. One need not focus exclusively on one at the cost of the other. Sipho responds as follows:

"MR MBAQA: Okay - that's it - what Thembokosi is saying is on the morning when I arrived there in the Skyline as I said earlier when we met the march along the way. He says he saw a barge (i.e. "bulge") or something in this bag that I was carrying. He says he was wondering what that was but he didn't take me seriously.

He then says somewhere along the march - along the process of the march - because there is somewhere we stopped and waited for some other people who came from another direction to join the march. He says at that stage I apparently left the march and I took the grenade out of my bag and then I placed it inside my pocket. And then he didn't see me then from there. Then he only saw me at the Trust Bank again - Trust Bank Building again where the Bop Consulate is housed.

He said he only saw me there because he was standing in front he apparently saw me standing with Nkosinathi at the back and then he apparently saw me giving Nkosinathi a grenade. But then he was asked how could he have seen - when he was asked how could he have seen me giving Nkosinathi a grenade if we were standing at the back, obviously with a lot of people in front of us, he then said no he did not see - he actually did not see me giving Nkosinathi a grenade. He saw our shoulders moving.

But then he was showed our height that there is no way he could have seen Nkosinathi's shoulder he must have seen my shoulder and probably Nkosinathi's hair because he had an afro then - well, he then said, well, that's what I saw when he was asked, but how could you have seen that, he just said no that's what I saw - that's what I saw - he said that about several times - probably ten times. We dropped him there and then as it was clear that he was not going to change his story.

MS SOOKA: Order please.”

Note the audience participation, and the sense that the truth will emerge after all this time, which culminates in the out loud cheering when Smiles confesses to having thrown the grenade below in his testimony. One can say that this is an indication that even though Sipho told this story before in a court of law and was not believed then, that now (even without the TRC making a formal determination the way the court had to do), he is probably closer to “being heard.” This is also an indication of the role of a sympathetic audience in the process of a witness being heard in a TRC forum. The proceedings continue:

“ADV NTSEBEZA: Didn't you at that stage - I don't know perhaps about - subsequent you might have, didn't you at that stage feel that he must have been acting under pressure? He was not the person whom you knew - that something must have brought him to that state.”

Here is a good example of the TRC acting for the “Other,” even if in a low-key fashion, perhaps at least partially illustrating what Sanders (2007) meant as discussed

above. From the perspective of starting the process of launching an aesthetic ethics, by the TRC asking this question the witness is forced to confront the humanity of the Other, and how he then next in his narrative constructs the Other (who is listening) will greatly assist in rebuilding both the moral agency of that Other, and of himself. He responds as follows:

“MR MBAQA: I had no doubt about it - no I had no doubt about that, I knew that this man is acting, he is busy with a story which he doesn't know probably. Unless he can say something different I am convinced he doesn't know a thing about the events of that day. Unless he knows what I do not know of course - we leave that for him.”

Again, there is no accusation – let him tell us what he really knows. The witness will not let his own narrative be sidetracked or framed by what Thembikosi said or did at the criminal trial in the past, bearing in mind that is what put him in prison. This interchange may also partially explain an apparent animosity (or at least distance) by the TRC towards Thembikosi at the start of his evidence as will be seen below. Even so, as also will be seen, note the change of tone at the end of Thembikosi's evidence, where the Commissioner says (almost surprised) that there was more going on than people knew about. The proceedings continue:

“ADV NTSEBEZA: Now it is common cause that you now serve twelve years imprisonment.

MR MBAQA: Yes.

ADV NTSEBEZA: As a consequence thereof - now how much of that time have you served already.

MR MBAQA: I have served probably two – two

ADV NTSEBEZA: Two years.

MR MBAQA: Two and a half - two and a half years - yes should be.

ADV NTSEBEZA: Ja - now I just want to ask you how - how you feel.”

Here is another open ended question to assist elaboration, following upon the extensive elaboration above, moreover in respect to the witness’s feelings, which was not always common practice at the TRC. This is again a sign of how the narrative spaces have changed as will be seen during the last part of this testimony where great effort is made for the witness to be able to tell his story:

“MR MBAQA: Honestly speaking, I cannot say - I cannot say how I feel. I don’t know, I cannot say how I feel, I know I feel something but I cannot say how I feel, I cannot tell you how I feel. But maybe I can just say to you I feel bad, but I don’t know honestly is that the way I really feel. I don’t know - I don’t have a better word to describe- I can’t describe how I feel really, I can’t.”

This may be a form of silence, as he does not seem to have the words to describe how he feels. Note the dichotomy between “*honestly speaking*” followed directly by “I cannot *say*.” This form of silence itself probably contributes to the witness being heard, and then the Questioner continues with a question regarding the judicial system, indicating that this testimony has now turned into a type of dialogue which must also have assisted the witness in the process of restoring his moral agency:

“ADV NTSEBEZA: Do you have any views about the judicial system.

MR MBAQA: I certainly have.

ADV NTSEBEZA: The legal system especially insofar as you feel, even though you can’t describe it, I don’t want to put words in your mouth.”

So here is an opportunity for even more elaboration, and perhaps the false incarceration is the reason for elaborating on the judicial and legal system, but this is an interesting turn. Testimony was usually focused on facts and personal stories to the extent that circumstances permitted. Why this elaboration on the legal and judicial system where the witness does not exactly seem reluctant, but see how the answers become stilted. Is it that the witness narrative was so compelling that the TRC wants to make sure this witness is fully heard? It could also be that the TRC Questioner is picking up on the earlier narrative cue of the witness when he spoke about the “cooked evidence.” The witness responds:

“MR MBAQA: Yes.

ADV NTSEBEZA: What is your view and attitude of and about the judicial system after what you have gone through.

MR MBAQA: Well you know - well you know and I would probably give a very political response - because I[intervention]

ADV NTSEBEZA: You can give any response you want to.”

This interruption by the TRC Questions seems to confirm that the TRC is going out of its way to make sure that this witness is being heard. Also, this shows the value of the TRC proceedings, even within the context of being a quasi-judicial forum, as he is invited to give any response he wants to about the criminal justice system. This is not the type of question that will be asked or probably tolerated in a court of law trial where

stricter conventions apply in respect to witnesses providing opinions and also so-called hearsay-evidence. The witness continues:

“MR MBAQA: That’s good - you know from the past as I said to you I had been a youth leader for - for many years in - in this area. But then obviously I had an understanding of the politics in South Africa. So in some sense you know I had - like many - probably many of activist of our time we had that - that suspicion of the system.

The system that looked at the police - the judiciary even the parliament and everything, obviously we had that suspicion and that little disrespect for those institutions you know. And when this happened, I always knew you know when these things happened for - to other people, but when the police did this and it really happened - it was happening to me - you know I could really feel that well here was - it was the first time I came close to seeing you know how the police can manipulate the system and so on.”

As a target of such action, the results must have had an enormous impact on his moral agency and his natality – if people can do that to you, then what does it mean for you as a human being, and for your humanity? That is why these proceedings, the additional elaboration and being heard are so important to this witness, especially as two of the other key players are part of these proceedings. The first one is Thembikosi who falsified evidence and who is also listening, and who will testify next; and the second one who will follow Thembikosi is Walter Smiles, who actually threw the hand grenade. The witness continues:

“I don’t want to make comments on - on the Court or - or on the Judges, I’ll refrain from commenting on, that I will say after that I was completely disillusioned with the system - you know particularly because the person who had done this - never denied that he did this. He never denied that - he took him away - they refused to take him - and all sorts of things. They pursued - they pursued a story which was not - which was not true. You know that’s - that’s the way I [intervention]”

Even now the witness is not prepared to lay all the blame on the Judges; it is as if he senses that falling into victimhood will not help him rebuild his moral agency. Again he is claiming his legitimacy and will not be defined in terms of the others' judgment upon him and does not want to judge the Other. This must also have had an impact on the audience. In addition, the witness response may also have been a cue and opportunity for the TRC to adopt the role of the Other. The proceedings continue:

“ADV NTSEBEZA: Who had refused to accept the evidence - the Attorney General?

MR MBAQA: Pardon?”

Again, here is even more opportunity for elaboration provided, even to the point where the witness seems surprised at a rather technical question about the Prosecution Authority. However, as I mention above, this witness is falsely incarcerated even as he speaks here, and perhaps this is the reason for elaborating on the judicial and legal system to this extent. The proceedings continue:

“ADV NTSEBEZA: Was it the Attorney General or the State Prosecutor who had refused to accept the evidence of Smiles - what do you know?

MR MBAQA: Well apparently it is the police but then I reckon it was on the advice of the Attorney General, I mean you know that - that the case is the case of the Attorney General so he might have said no. He advised them, he is their lawyer - he is a state lawyer, so I take it they had their advice from the Attorney General. If - that is my assumption, it could have been the other way. It could have been their own initiative to refuse to accept that evidence.”

This shows the witness's discomfort, but he tries to answer. During this process he displays a thoughtful, sophisticated and careful approach, which all and all probably



assisted him in this case to elaborate and be heard. He is also (still) not prepared to lay all the blame on others, in this case the Attorney General and the prosecutors. Even so, following a less than favorable start to his testimony, Sipho's story and his opportunity to be heard seemed to have moved from input to output to outcome, and maybe even started to have a positive effect at impact level. His testimony then concludes as follows, and where the TRC Questioner started these proceedings with "Who is Sipho," he ends with a simple "Thank you Sipho":

"ADV NTSEBEZA: Thank you Sipho. I think I should take the evidence of Nkosinathi before I ask other Commissioners to put other questions to you." (Mbaqa, Kimberley, June 11, 1996)

To maintain the continuity of Sipho's story overall, I now turn to the second witness in this trilogy being that of **Thembinkosi Steven Ngqele**, who turned State's witness and falsified testimony against Sipho as was intimated in his testimony above:

"MS SOOKA: Could we call Thembinkosi Ngqele to the stand please. Thembinkosi, do you want to put on the earphones? Can you hear me - you are going to give your evidence in Xhosa, is that correct?

MR NGQELE: Yes, that's correct.

MS SOOKA: Could you stand up please so that Mr Potgieter can administer the Oath?

THEMBINKOSI STEVEN NGQELE Duly sworn states

ADV POTGIETER: Thank you very much - you may be seated.

MS SOOKA: We would like to thank you for coming to give evidence to the others. I want you to relax and the evidence that you are going to give, give that without any hesitation, so that the mission of this Commission could carry on, so that you and Sipho and the others can reconcile and that would be only possible if you speak here.

The thing that is going to help us a lot is the fact that you should try to tell us all the truths that we didn't hear on that day when there was a court hearing. Do we understand each other?"

This is the witness who gave false testimony against Sipho. The framing here is important and also impacts the narrative spaces. The Commissioner frames the testimony in the context of the TRC's reconciliation mandate, and moreover, that the only way reconciliation can happen is to speak in this forum ("...so that you and Sipho and the others can reconcile and that would be only possible if you speak here."). She is also careful not to say to his face that he lied, which may have negatively impacted the narrative spaces, so he has to speak "all the truths we did not hear" at Sipho's trial. However, she makes sure that her message is understood, and that she was indeed heard by the witness: "Do we understand each other" in the sense of no more lies, and he does exactly, as can be seen from his reply:

"MR NGQELE: Yes.

MS SOOKA: I would like you to tell us where you were born, give us your background and before you give us details about what happened because we want you to tell us what happened on this day of the march, but we would like you to give us background.

MR NGQELE: I am Thembinkosi Steven Ngqele and I was born here in Kimberley. I attended school here at the Masesa Lower Primary School and then I went to Zengisa Higher Primary. I worked at Serelitso where I started Std 6 - I started Std 6 in Serelitso.

ADV NTSEBEZA: I'm sorry the interpreter cannot interpret.

MR NGQELE: I was taken by the police at home.

ADV NTSEBEZA: Please come back on the day when we want to talk about - we want to we want to know what really happened during that time and then you can go on and state how were you arrested and what happened when you were arrested."

It seems that the part of the TRC proceedings about giving personal background gives way to an urgency to get to the events of what “really happened” (i.e. not the version you gave to the court in the prior criminal proceedings). Is there a kind of impatience with the (false) witness here? See how the attitude softens after his testimony, which will be discussed below in context. Even though the narrative spaces which have been set seem to be directed at getting to the truth about Sipho’s false incarceration, see how this witness (Thembikosi) ends up telling and elaborating extensively on his side of the story as well, and indeed tells his story. He develops his narrative and weaves it through the facts. Also, even at the beginning of his testimony the TRC knew that he had been in custody for six months, yet there is no focus on him or his own moral agency, even though this changes towards the end. Thembikosi develops a type of resistance theme in respect to his narrative, and if he only did what the TRC guided (instructed?) him to do, he would not have been heard to a full extent. He developed his own narrative in between supporting Sipho’s story, to also start the process of rebuilding his own moral agency, and he also started the process of developing a counternarrative, from being a stooge to a victim, broadly speaking. The witness continues his testimony:

“MR NGQELE: It was on the 21<sup>st</sup> and we were coming from school - there was a march where we were going to the Bophuthatswana offices from school. We were coming from school. We warned the people at the Arena. We met a crowd - we were coming out from school at Serelitso School - the part that we played - we were marshals, most of us we were belonging to the Youth League - we marched to town.

During that period there was memoranda which were handed over to the Consul. Three of them were handed to the Consul. When I was looking down I saw a grenade going past my feet and I mentioned that I saw the grenade. So many people were injured during this

incident and the others were taken to the offices. We helped with the transportation of some of the people and one of my friends was killed in the bombing.”

The witness is at this stage avoiding the fact that he specifically (wrongly) identified Sipho as the person throwing the hand grenade in his court testimony, and also reframing and starting to build a counternarrative that he was also helping, and also a victim, in that a friend was killed in the explosion. Later in his testimony he will elaborate, and note his reframing of how he was a victim through the way the police handled and threatened him, and thus became a state witness providing false testimony against Sipho. The counternarrative he is building is effective, and he blends the facts and his own story very well, until the Commissioner at the conclusion adopts a much more empathetic and understanding tone and indeed narrative, as will be seen below. He continues with his testimony:

“Thereafter we went to the location - we stayed for a short period. On the 1<sup>st</sup> and the 2<sup>nd</sup> day - on the 3<sup>rd</sup> of June the police came in to my place. It was very early in the morning. I think it was 2 am. They surrounded the house - when they knocked at the door my mother opened and they stated that they wanted to search the house - they also stated that I threw a grenade during the march and amongst the marchers.”

The witness then testifies how he was in custody, interrogated, and served with papers which indicated that he was detained under security legislation, and generally harassed and assaulted. Part of his testimony includes where they showed him a place where they threw one of his friends out of a window to his death, and how they were going to do the same with him. He then refers several times to a statement that they

wanted him to sign, but he kept on refusing. I omit part of his testimony, and he then continues:

“They read it (i.e. the statement) through again and then they insisted that I should agree and admit that I know what is written there but I still refused. At the end through the intimidation and when they were trying to show me how they are going to throw me out of the window, I was afraid. At the end I signed because I feared for my life.”

This is his second reference to the window, and he is further developing his narrative and also developing a counternarrative that he acted under duress and fearing for his life, which caused him to sign the form. His testimony continues:

“They said then they are going to release me but at the end didn’t - there were extensions of the ten day detention but I had visitors - the mother - my mother was the only visitor but they didn’t give her what was really happening about me. Then they told me that I would be going to court and I was supposed to state everything that was signed there and then they said I must say what I have signed for. Rossouw came to fetch me, he was the Captain and on my way to the court he stated, he drilled me to say what I was supposed to say in court. It was a hell of a indoctrination. In court when I tried to state what happened, he tried to prohibit me from doing so.”

He is focusing on the psychological pressure applied, and note below how he describes everything in great detail to build his counternarrative. By saying they not only “coached” but also “indoctrinated” him, he depicts a certain lack of control. His testimony continues:

“ADV NTSEBEZA: I can’t understand - there is something I would like you to repeat. Do you say Rossouw - what did - he is going to say?”

The TRC Questioner seems not to be expecting this turn. Is he somewhat reluctant to see this witness (at this stage) as anything other than the “bad guy”? This seems to

change as the witness elaborates and develops his own counternarrative, as can be seen from the testimony below – even within a type of resistance frame, as will be seen.

“MR NGQELE: He said he is going to kill me.

MS SOOKA: [indistinct]

MR NGQELE: Yes, because it was my first experience to be arrested so I believed anything that the police said to me and also I didn’t have a lawyer so I knew that anything could happen to me.

ADV NTSEBEZA: Did you stay six months there?

MR NGQELE: Yes, I did.

ADV NTSEBEZA: Just tell us about the day when you were in court - the day when you were in court.”

When the witness states that he spent six months in custody which is potentially a narrative opening for elaborating his experiences there, instead there is a return by the TRC Questioner to the court proceedings, “Just tell us...” The testimony continues with a rather unexpected reply from the witness:

“MR NGQELE: Which day?”

This reply follows upon the TRC Questioner expressly having referenced the day in question twice, as follows: “about the day when you were in court - the day when you were in court. Yet the question is asked specifically again:

“ADV NTSEBEZA: The day you was in court.

This is now the third time in a row the TRC Questioner refers directly to the specific day of the court proceedings, and yet the witness responds as follows:

“MR NGQELE: Do you mean the day before I did go to the court now?”

The witness does not seem ready to go to the day of his testimony at the prior criminal trial yet, before he has filled in some details and elaborated his counternarrative. A type of resistance and maneuvering is present. The reaction of the TRC Questioner is interesting, as he just says “Yes,” and it looks like he senses that the witness is insisting on telling a different (or maybe an additional) story to the immediate response required, and he seems to let it go. This is an important claiming of the opportunity to be heard and narrative space by the witness, and see what aspect he now introduces to further develop his positioning and counternarrative:

“ADV NTSEBEZA: Yes.

MR NGQELE: Yes before I went to court they showed me a photograph and they stated how Mabija fell through the window, they pushed him so they said if I want to go - to be released then I must work with them. So I feared what was going to happen to me because I had no lawyer and I knew that I would stay for a long time in jail.”

This is now the third time he introduces the window threat, and every time he built upon his previous narrative. He is now very clear about the pressure and fear he was under. This elaboration is very important for his positioning (or perhaps repositioning), and for how he wants to frame the circumstances leading up to his testimony against Sipho before he has to testify about that. The next question picks up on this:

“ADV NTSEBEZA: And then when you realised that you were alone you felt that you should sign?”

The witness seems to be successful in this repositioning and reframing, and indeed expanding upon the counternarrative he is building, because the Questioner is now asking him follow-up questions based on his elaboration, thereby inviting more elaboration. He answers as follows:

“MR NGQELE: Yes, I did because I was in solitary confinement, even Lawrence I didn’t see him, they just said Lawrence was arrested and he was released because he told the truth.

ADV NTSEBEZA: It is why Sipho said that really you could not just state what you said before without the pressure. In other words whilst you give evidence now, you used your statement because you knew that if you say something different you would be in for a high jump.”

And now the Questioner is actually restating this witnesses’ testimony, and is supporting his narrative by cross-referencing Sipho’s empathetic response earlier. This shows that he is increasingly being heard, and that his repositioning and counternarrative is effective. Compare the direction in which the narrative spaces for this witness’s testimony is developing with what happened before, and the change in the approach since he was asked to “just tell us about the day that you were in court” above. That is also why this series of testimonies are discussed together and in context under this section of the fourth organizing principle, where narrative is elaborated which also appears to assist the witness in being heard. Not only is the previous witness Sipho’s narrative elaborated as will be seen below, but in a very skillful way the witness first elaborated his own, and



seems himself to be heard which was not the case at the beginning of his testimony. He answers as follows:

“MR NGQELE: Yes, it is because I was fearing for my life so I had to abide by their expectations that is why I am apologizing now to the people.”

He now actively includes the audience and is addressing them directly, in order to extend an apology. This seems to be vital for him in the process of restoring his moral agency. So the giving of his testimony and particularly the elaboration of his personal narrative of coercion by the police, leads to a situation where he feels that the narrative spaces have developed sufficiently for him to be able to address the people directly, and to apologize. He specifically builds up to the point where he was in fear of losing his life as part of his counternarrative, before he extends the apology. However, he is also not (directly) apologizing to Sipho and perhaps having the understanding of the audience first could assist in that process. The proceedings continue, and the next question supports his re-positioning and counternarrative even more:

“ADV NTSEBEZA: Just tell me how (old) are you?

MR NGQELE: I am 21 years old.

ADV NTSEBEZA: How old were you then?

MR NGQELE: I was - I was 17 - I was 18 years when I was already in cells.”

This is important for framing and positioning – the witness is now being seen not only as a 21 year old man but in fact a 17-18 year old youth when this happened – a difference in how he is seen (and heard) by the TRC and the audience. The witness is also

Careful to state explicitly that he was already in custody (“in cells”) at that time, as the question was not specific what was meant by the “then” in “how old were you then?” The testimony then turns to Sipho:

“ADV NTSEBEZA: Did you meet Sipho already before this day?

MR NGQELE: No I have never met them.

ADV NTSEBEZA: Is it the first time that you see them?

MR NGQELE: Yes, it is.

ADV NTSEBEZA: Ever since you met them after the court proceedings.”

There seems to be some confusion but the TRC Questioner is just setting up to return to the topic of reconciliation which was introduced at the start of this testimony, which continues thus:

“MR NGQELE: Yes, and after these court proceedings I was told by Kampala that Van der Kolf wanted to see me but before they took me there I went to the intelligence of the ANC organisation and then this one said yes, they will come and assist me but they never came back to me. Terror said they will come again to get some statement from me, but this never happened.

ADV NTSEBEZA: If what you say to the Commission can assist these people who are detained to be released would you like that to happen? What you said today - do you expect it to assist the detained people to be released.”

Now the issue is more clearly stated, and it concerns (for purposes of this discussion) the release of Sipho. See how the witness returns first to how he was pressured by the police, and how that caused him to do what he “didn’t intend to do” making sure that any subsequent narrative is within this particular frame:

“MR NGQELE: Yes, I think so because you know the boers pressurised me to do what I didn’t intend to do.

“ADV NTSEBEZA: Okay, except - just tell me what - what did the police do to you when you were arrested?”

And again, perhaps sensing that by supporting this witness narrative he could assist the process of reconciliation, the TRC Questioner supports this framing and counternarrative. The witness responds as now could be expected:

“MR NGQELE: Mostly they used to send some boers to me and the boers would just slap me on the back and kick me.

ADV NTSEBEZA: So when they showed you this Mabija, what did they do?

MR NGQELE: They took me and showed me through the window, - the commander of - that unfortunately what befell one of my comrades, when he was in Bloemfontein he was shot while I was back in Bophuthatswana to report to my Commanders. Then the other one was arrested.

ADV NTSEBEZA: What would you like the Commission to do for you?”

Here comes a specific invitation to request possibly even additional substantive justice, or is the expectation now settled that the witness request will be for the release of Sipho and another comrade? The witness then responds, again as can now be expected, but with a twist:

“MR NGQELE: I would like the Commission to really attend to the fact that the two people detained should be released so that they can forgive me - I would also like them to bring the police who did all this - should appear before all of us in public so that they can be seen by everyone.”

This is an interesting framing, as the witness is not asking for the unconditional release of Sipho, but he appears to link the release with forgiveness towards him (“should be released so that they can forgive me.”) However, this does show the importance for restoring his moral agency, to have “they” which probably include the community (represented by the audience who heard his narrative, and Sipho), to forgive him. In terms of the logic model, this can be seen as a potential outcome (forgiveness) of the output (his testimony), which may even have a long term “impact,” namely the process of restoring or building his moral agency and reconciliation. And this also seems to be as a result of his elaboration, even somewhat against the initial tone and the incentives, and shows that he was probably heard within the framework as suggested in this dissertation. This also shows the distance between having the *opportunity* to be heard and actually *being* heard, again within the present framework. In a usual court of law he would not have had the opportunity to elaborate to this extent, nor to ignore questions; and he would not have had the opportunity to give hearsay evidence, and he would not have been able to involve the audience to the extent that he did in his narratives. This also shows the value of having a framework to perhaps better understand the nature of “being heard” in these proceedings, which includes the various approaches from the different literatures and other insights as developed in this dissertation. The proceedings then conclude:

“ADV NTSEBEZA: Thank you madam Chair.

MS SOOKA: Denzil - could we have some quite please.”

Here again one can see the active audience participation; the truth is emerging, and perhaps there is an anticipation that justice will be done, and this audience participation indicates that this witness is probably being heard, and also Sipho who is also hearing this. So the question asking him what he wants was really important here, as it seems to be that elaboration which caused this request by the witness, and also the audience reaction. Note also that the request is not just pro-forma, he stresses the fact that he would like “the Commission to *really* attend” to the lot of the detained persons and for present purposes more specifically Sipho – both in respect to their release, and also in respect to his anticipated forgiveness. The proceedings continue:

“ADV POTGIETER: Can I just go back to the incident - did I understand you correctly. All that you saw was this grenade that came past your feet, is that what you saw?”

Now bear in mind that this is the advocate who defended Sipho at his criminal trial, and no doubt has a lot of questions of this witness:

“MR NGQELE: Yes it is so.

ADV POTGIETER: Did you see where the grenade was coming from?

MR NGQELE: No I didn’t - I just saw it going past - it was rolling past and I just said grenade.

ADV POTGIETER: So would it be correct to say you don’t know who threw that hand grenade.”

This was the key issue at the trial, where the witness would not budge and multiple times just kept on saying that he actually saw, as Sipho testified. So this is justice at last, even for the legal representative who must have been professionally (and

maybe personally) very frustrated over this lie told by the witness which caused his client Siphso to be unfairly imprisoned. This reply again shows the importance of facts where relevant to be part of the elaboration, and also to be part of being heard. This also reiterates that the personal narrative and elaboration thereof, can coexist and supplement the facts, and vice versa. The witness answers simply but importantly, because thus Siphso too is being heard:

“MR NGQELE: No, I don’t.

MS SOOKA: Thembinkosi I want to thank you for coming here today, I know that it is not easy and none of us here in this room can judge you because all of us don’t know what we would have done if we had been in your shoes. We know that the pressure upon you at the time by the police who were in charge of these matters, was very-very great and yes, the fear that you might end up like your comrade must have been very-very real for you.”

See the change in tone from the beginning of the testimony, recall the Commissioner’s “do we understand each other?” The witness story through being elaborated of how he turned state’s witness, even seem to have surprised the TRC, and then one can see how the tone changes to become more empathetic. The closing narrative continues:

“We are very grateful that you’ve come forward to give your evidence and we hope that through the evidence which you have given and Mr Smiles, that we are able to set in motion the freeing of two people who are innocent and who have already wasted two years of their lives in prison. In a way, four lives have been destroyed because all four of you have been carrying around guilt and fears of terror - your whole lives have been ruined and you are very-very young men indeed.”

So ultimately this witness seems to have been heard within the elaboration of his narrative and even his counternarrative – and that is why this series of testimonies are discussed together and in context under this fourth organizing principle, where narrative is being elaborated and where the witness is probably heard, as it shows also how the overall elaborating of each other’s narratives are positively impacting each of them being heard. The closing narrative then concludes:

“This is the sad price that our country has had to pay that so many young people’s lives have been wasted. We thank you for coming forward - thank you.” (Ngqele, Kimberley, June 11, 1996)

Following on the discussion of the first two testimonies above, I now turn to the third testimony of this group as part of the overall narrative of Sipho and him being heard, namely that of **Walter Smiles** who actually threw the hand grenade:

“MS SOOKA: Could we now call Walter Smiles to the stand please? Could we have quiet in the hall please.”

The tension and excitement in the audience has been building up throughout the previous testimonies given the number of admonishments from the Commissioner to the audience, and then again right at the beginning of this testimony. This illustrates the narrative spaces being impacted, and the importance of audience participation which reaches an important moment later in the testimony. The Commissioner continues:

“Walter, thank you for coming here today to give your evidence, we are very pleased to see you here. Is there any reason for the glasses?”

These appear to be sunglasses, as she says in the next paragraph “we want to see your face properly.” It appears to be more supportive of the narrative spaces to ask rather than to admonish him, as one can imagine would have been the case if this were a judicial rather than quasi-judicial forum. Is he trying to hide something being the one who threw the hand grenade and walking free whilst Sipho is in prison? There is definitely a dynamic here, and another impact on Smiles’s narrative space. The proceedings continue:

“MR SMILES: No - no there is no reason - there is no problem - I’ll take them off.

MS SOOKA: Thank you very much, we would like to see your face properly. Mr. Potgieter will administer the oath.

ADV POTGIETER: Will you please stand.

WALTER SMILES Duly sworn states

ADV POTGIETER: Thank you very much, you may sit.”

This is very respectful, and given the atmosphere created to far, especially the twice said “we want to see your face properly” creates an open and welcoming tone. This is confirmed below when the Commissioner makes an effort to reassure the witness that he is not on trial. The proceedings continue:

“MS SOOKA: As we usually do, we will now ask a commissioner [indistinct]

ADV NTSEBEZA: Mr Smiles as you heard earlier, my Afrikaans is not that good, I will put my questions in English and it will be interpreted into Afrikaans and you can tell your story.

Mr Smiles I think firstly I would like to welcome you again and I would like you to understand and realise that you are not on trial here. That our duty and our purpose in the Commission is to lay bare the truth and hopefully in laying bare the truth people will be



able to reconcile it - one with another and also to be able to forgive one to the other, do you understand that?"

The TRC Questioner is framing this in terms of the mission of the SA TRC, but the audience participation and the preceding testimonies have set up a bigger expectation than "just" telling the truth, but perhaps literally that the truth shall set you free, in this case (literally) Sipho. What is also noticeable (and perhaps significant) is that the TRC Questioner qualifies the link between truth and reconciliation as not automatic, but by seeking the truth, then "hopefully" that would assist reconciliation. This is a more nuanced view than what was sometimes expressed in these testimonies by the TRC, but he again returns to the truth theme next, in very strong terms. Given the importance of that for the incarcerated Sipho, this is not surprising:

"MR SMILES: Yes.

ADV NTSEBEZA: So I would like you to feel very free and even in your remorse and in your contrition you should still feel free that today is an opportunity for you to get this load off your chest and this load off your shoulders."

This is now a much stronger framing, and strongly links the truth, remorse and contrition, and sets the TRC up as a type of confessional, or maybe even a "confessional performance" (Payne 2008, p.15), to "get this load off your chest and this load off your shoulders." This introduction or perhaps rather opening narrative then continues:

"Now, first of all I just want you to tell us who you are, very briefly."

Again, the TRC Questioner is seemingly eager to get to the facts and the events rather than finding out more about the person, namely in respect to who you are, tell us “very briefly” The proceedings continue:

“MR SMILES: Yes I am [indistinct]

ADV NTSEBEZA: Ja who you are - where you are now and before you come to the events that have led to this hearing.”

So the TRC Questioner actually does extend the invitation again but interestingly the witness also seems to be eager to get to the events, and starts next with that. Perhaps this indicates an urgency to relate what happened, especially as people are in prison (and he is free); and the audience has already indicated that they are very much involved; and also, bear in mind that this witness was not believed for whatever reason by the police during Sipho’s criminal trial, so he too may thus be eager to finally tell what happened in an official forum. He then proceeds and it will be seen that his narrative gradually develops:

“MR SMILES: What happened was the following.

ADV NTSEBEZA: Jy kan maar in Afrikaans praat. (Note: “You can speak in Afrikaans” in the sense that “if you want to”).

MNR SMILES: Okay ek sal in Afrikaans praat. (Note: “Okay, I’ll speak Afrikaans”).

I am Walter Smiles, I am a member of the ANC Youth League and the ANC from when we started in Marshall Street and our structure was sound and I was with MK and everything was fine.

What actually happened on this particular day - there was a march - a COSAS march and I knew nothing about this march and it started in Arena. I sat on the wall at the four-way

stop in the township and we went back to Arena and that's where I saw where the march came from.

And then we got into the cars and we drove off and everything was still fine. And we went all the way to town and when we arrived here I wasn't told what the whole cause of the trouble was when I got into the car - that was never explained to me. What then happened is that the Major asked me, this is Lawrence Mbatha that I am referring to, the Commander of the Northern Cape."

It may be recalled that Lawrence Mbatha is the person on whose behalf Sipho held the grenade, and also to whom he returned the grenade at the protest march under discussion. The witness continues:

"We went up and he then took me to the OK Centre at the four-way, it's a four-way stop and there were lots of people because there were lots of people and it was time to go home and we got off there.

When I got out of the car there I wasn't informed of any grenade or anything - I was just given a piece of paper, a wrapped up piece of paper and there was a grenade inside - there was a grenade inside the paper.

MS SOOKA: [indistinct] not be able to hear his evidence and he will not be able to tell his story confidently if we make such a noise. Could we please ask you to keep quiet so that he can tell his story in peace please."

The audience involvement and excitement is seemingly building further and it appears that there is an expectation that something is about to happen. The audience is probably animated as a result of his admission that he took possession of the grenade, and therefore the process is getting closer to revealing the truth. They probably knew for at least the last two years about him being the guilty party when others were imprisoned and him being free, a situation of which the witness was probably also aware, so this audience

involvement probably had a crucial impact on the narrative spaces. The witness continues:

“MR SMILES: Everything was okay with the grenade - I accepted the grenade because I’m a member of MK, I am a member of ANC Youth League, I couldn’t resist it if anyone wanted information or Military, I took it as a command.”

This is an important positioning (or perhaps repositioning) which the witness now explicitly states. He is in all probability at the moment positioned as the person who is free whilst innocent people are imprisoned; or perhaps even that he killed a child from the community, but he alluded to this new positioning above and now explicitly repositions himself as a soldier who acted under orders. But he also elaborates upon this, as he has to include the death of a community member in this positioning of being a soldier under orders, and then frames the catastrophe of killing a member of the community as inexperience, and couples that with intense remorse which he still experiences. He elaborates more, to the point where he seems to be struggling, and is then encouraged to “...take your time”:

“Then I eventually found that I was already connected with the case. But you see I have no experience of this type of thing and when we went up it was all right and when we got there the petitions were handed over, the first petition, the second petition and the third petition - when it was time to hand over the third petition, then there was a sign that I must throw this grenade. And he laid down at the same time, so when I threw it I was weak I had had no experience of this type of thing and then I threw the grenade and then I felt very sad for the harm that I caused and I heard somebody had died and I felt very bad. My heart was very-very sore.

ADV NTSEBEZA: Take your time Mr Smiles. What happened then thereafter when - after you realised that somebody had died and it was one of your people, not the target at which you had aimed your hand grenade at. What did you do, did you go back to Lawrence?”

It is clear from the above that the witness is emotionally impacted – “take your time,” but his narrative is also building and he is emphasizing next that he had a lot of emotion and remorse which he could not share, and he also twice reemphasizes his inexperience, in order to further build on his repositioning, and on his counternarrative:

“MR SMILES: I went down - there is a place there and I met him there.

ADV NTSEBEZA: And what happened then?”

This is again an indication that factual elaboration within the TRC quasi-judicial frame can be important to assist a witness in being heard. Here is a good example, where a short and focused follow-up question allows for important elaboration. The witness responds:

“MR SMILES: What happened as I went to the ANC office, I wanted to tell my story and I still felt very-very bad for what had happened - for the death that I had caused. I went to the funeral a week later. Sipho also found me there, I couldn’t say anything, I couldn’t do anything because the deceased’s family were also there and they were also very hurt. It was not my intention to do this, if I had had experience nobody would have been hurt. That experience I only gained later in the camps and when I learned about various kinds of arms and ammunition. And what I feel is that I would like to apologise for the deceased’s family and people in general because it was not my intention to cause harm. I wouldn’t have - I wouldn’t have done it if I had had more experience because I should have known that I was risking my life but what about the other people?”

He shows contrition, and also builds on his narrative of inexperience and asks for forgiveness. The TRC Questioner next assists him in the rebuilding of his moral agency, by asking why the police did not accept this story, which shows that there is acceptance that he indeed approached the police and tried to do the right thing:

“ADV NTSEBEZA: Do you know why the police did not accept your story that you were the person who threw the grenade, do you have any idea?”

There is a kind of irony here in the context of “being heard.” The police *not accepting* his story and *not hearing* his story may be two different things. If one looks at this from the perspective of the logic model, there was an input and output at the police station, in terms of him telling his story and the police response, but the “outcome” was that the police fully understood, that is to say fully “heard” him but chose to do nothing (i.e. different from “not believing” or even “not accepting” his story as the Questioner suggests. The “impact” of that was that innocent people went to prison. Now again, in the TRC proceedings, and staying with the logic model approach, there is again an input and an output in the form of a question and an answer, but the “outcome” is the TRC hearing (and *believing*) his answer, and the impact may well be that the innocently imprisoned will be set free. But in terms of both these examples, the witness was heard, at least at the “outcome” level. Or seen in a different way, by the narrative process moving to at least the “outcome” level, the witness probably stood a better chance of being heard. The witness continues:

“MR SMILES: Well, when we got to the police they said I am only confusing the issue and they said it was Lawrence and myself and I think it was the attorney Isaacs. We were talking and they chased me away. They said no we don’t need you Smiles, you are just confusing the issue, go away. I think this thing has affected me very badly, the more I try and forget about it, the more it affects me.

ADV NTSEBEZA: If it was possible for the Commission to do something for you what would you like us to do?”

Again as with the previous witness, given the preceding narrative build-up; and the framings; also the positioning and repositioning in the narrative; and the developing and expanding narrative spaces, this invitation to possibly request substantive justice is really a cue for him to ask for the release of the incarcerated Sipho and colleague, which he does. But then he also explicitly mentions indemnity, as he knows that now having been heard (and believed), that he is vulnerable to potential prosecution. The witness then answers as follows and as expected. This is how far the narrative spaces have developed, that the expected answer is clear to all even before he provides it; but also by the same token from his developing repositioning and counternarrative perspective, it is of crucial importance that he actually and explicitly does provide that answer:

“MR SMILES: What I would like the Commission to do for me is I would like to apply for indemnity and I would like the people who are in prison to be released because it is not their offence, they weren’t responsible.”

So this request is for a form of substantive justice, by asking for indemnity and for release of those who were convicted. This forms part of his opportunity to be heard before this forum, but is not just confined to the procedural justice aspect of these proceedings, but also includes a substantive justice component. Note the reaction from the audience:

AUDIENCE IS CLAPPING THEIR HANDS

This is a key moment for this witness to be heard, and also importantly for Sipho to be heard. The audience participation is portrayed in capital letters in the transcript, and

in this case one can argue that the truth and facts actually move “being heard” to the “outcome” and “impact” levels described in fig. 1 above, and also shows the value of the TRC. The community must have known the truth since Smiles went to the Police to confess, but speaking and hearing it before the TRC really has a different impact which is shown here. However, the Commissioner reacts as follows:

“MS SOOKA: Please could we refrain from doing that please.”

Compare this reaction to the situation above where Mrs. Calata was testifying and where the audience active response to her silence was allowed, and contributed to elaborating her narrative spaces. Would it have made much difference to the TRC dignity (or to any other consideration) in this case, for the audience to be allowed to positively acknowledge the importance of the moment, and not to have been admonished? Without allowing the proceedings to be hijacked and disrespected by the audience, the narrative spaces could have been expanded even for purposes of reconciliation and also probably even further for the witness (and Sipho) to be heard, and for the necessary rebuilding of his (and Sipho’s ) moral agency as will be seen next:

“MR SMILES: I would also like to apologise to the deceased’s family - they didn’t know me beforehand - before this incident. I know I caused them great pain but I am also suffering. Everybody is hurt by a death, it’s very painful - that’s all I would like to say.”

The witness is now utilizing the expanded narrative spaces to apologize in different ways. He perhaps now feels the support of the audience and again apologizes to



the family. He then brings an end to his elaboration himself, by stating that is all he has to say. The TRC responds in two ways and closes the proceedings:

“ADV NTSEBEZA: Thank you very much Mr Smiles, I have no further questions.”

This is a respectful end to the questioning, and indeed the request about “all I would like to say” is honored by stopping his questions. Next the Commissioner clarifies a couple of practical aspects which I do not reflect, and then follows up with the closing narrative:

“MS SOOKA: Thank you very much. I think you have been very brave to have come and told your story before all of these people. There is a process by which you can apply for Amnesty - we have an Amnesty Committee who can facilitate that you complete such a form. We are also very grateful for the fact that if you come forward it might well be possible for the other two persons who are sitting in jail unjustly for them to be freed if new evidence is taken into account.”

This is at the least the “outcome” in terms of the logic model, following upon the input and output of the questions and answers. The (elaborate) elaboration can in itself also be seen as an outcome, with the possible amnesty and the release of the other (innocent) prisoners an *impact* resulting from the witness being heard. The closing narrative continues:

“We are struck by the fact that you have come forward even though emotionally it must have taken an enormous amount of courage and we hope that the networks that are available in the Kimberley area will at least be able to assist you with counselling so that you can begin to talk more about the emotional turmoil that you are feeling. Thank you for coming forward.” (Smiles, Kimberley, June 11, 1996)

Following on the discussion in respect to empathy above, this is a good example of “good” empathy, where the Commissioner is not pretending to know but trying to *understand* and *acknowledge* the witness, on the level of individual experience and not by destabilizing the entitlement and meaning from the personal to the allegorical (Shuman, 2005). Also from a procedural and substantive justice perspective, by stating what the TRC can and cannot do, there is a clear distinction and no possibility of a type of false consciousness developing that this opportunity to be heard will lead to outcomes that are not possible, real or even truthful.

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