

## SPECIFIC INCOMPLETENESS ELICITED COMPLEMENTARY ACTION: UNEXPECTED LEGACY OF THE SOUTH AFRICAN TRC

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**ABSTRACT** The South African Truth and Reconciliation Commission (TRC),<sup>(1)</sup> which has long been a leading reference case in transitional justice (TJ), has recently become a focus again in research into post-TJ social change. While its beginnings mainly focus on practical questions of success or failure for each TJ case, TJ studies have moved to more local-oriented topics, such as politics, perceptions, and reactions by local actors. This paper sets its analytical direction in this vein, starting to review the TRC in probing the conflictive motivations and actions of political stakeholders during the TRC's active period. Being affected by such local politics, the TRC could not achieve what it held as official objectives. Incompleteness in the TRC's outcomes has naturally been criticised by observers, yet after the end of the official programme, the incompleteness would turn into a catalyst for new movements by civil society actors. We incorporate the concept of propagation of movement repertoire from social movement theory to understand the unexpected legacy of the TRC and draw the current social actions that spontaneously suture the incompleteness of the TRC's activities.

**Key Words:** Incompleteness; Transitional justice; Truth and Reconciliation Commission; Memory politics; Propagation of movement repertoire.

### INTRODUCTION

Twenty years ago, one of the authors had been serving on the Truth and Reconciliation Commission (TRC) of South Africa as an officer for Investigation Unit. Another had just begun his fieldwork on the TRC in Cape Town. After completion of his mission, the investigating officer published *Jakaranda Time* (Khoisan, 2001), sketching ethnographic episodes about his investigation, particularly of the hard-nosed former apartheid authority. The other author submitted his dissertation in 2003 on the sociological analysis of social reconciliation of South African transition. The authors then thought that they published what they could analyse on the TRC, while not having known how the impact of the TRC would appear in the future.

Authorized by the TRC Act (Promotion of National Unity and Reconciliation Act, No. 34 of 1995), the TRC collected testimony from 22,000 people, received the 7,100 applications for amnesty, and held 365 public hearings<sup>(1)</sup> in five years beginning 1996. The commission published the final volume of the official report in 2003. Since then, the TRC has become one of the leading cases of transitional justice (TJ) programmes, cited repeatedly when any

new TJ project was planned in any country.

While many practitioners, as well as students in university courses, have dealt with the South African TRC as if it were a textbook positive example—‘it contributed toward national reconciliation through victim healing’—critical analyses on it have been accumulating from many scholars (Carranza, 2008; Doxtader & Villa-Vicencio, 2004; Graybill, 2002; Mamdani, 2009; van der Merwe, 2003; Nuttall & Coetzee, 1998; Pigou, 2002; Posel, 2002; van der Merwe & Chapman, 2008; Wilson, 2001). However, as a possible policy option in a post-conflict or democratising country, the TRC seems to have served as a typical *template* for other cases, although critiques have always warned that the TRC posing as a one-size-fits-all manual would not be productive.

Both authors have thus watched South African social change since their former work was completed, wondering if they could catch a visible sign of the TRC’s legacy, with a mixed memory of expectation and disappointment at the time of TRC activities; yet the sign has recently appeared in an unforeseeable manner.

In the meantime, the TRC has been a focus again in the framework of TJ studies, in light of post-TJ influence. Kesselring (2017) argues about the memory politics in the post-TRC South Africa, inquiring about overt and covert relationships between civil society activities and the TRC. As such, the agenda-setting with the TRC would not simply be outdated in a current context, when re-contextualising it under the viewpoint of the legacy of the TJ in a post-TJ phase. The TRC has come to the forefront of TJ studies on this point.

When considering diverse social responses to any policy, one needs to expand his/her view over the influence of the policy even in a form which was unexpected. Such unexpected form can take up a guise that becomes visible gradually in the course of changing social circumstances after the end of the policy. Put differently, we are invited to take another avenue of thinking beyond a simple success/failure debate.

For that purpose, this article adopts the following basic questions as a starting point: what social groups projected what framework to the TRC during its active period, rather than sticking to an authentic one: what did the TRC achieve in responding to its official objective? Put another way, we will explore the primary responsive pattern of the local political stakeholders to the TRC, particularly on how they perceived the human-rights-inclined truth-seeking with other motivations to be reflected for their own purposes. As we refer to the past comparative cases such as in Serbia, Cambodia, and Sierra Leone on this issue, local strategic perception of TJ principle has been one of major topics in the recent landscape of this research area. Many scholars have increasingly realised that TJ’s idealistic objectives are often ill-matched to the social circumstances and the need to recognise transitional status with more focus on local politics.

Adopting an approach which examines diverse external actors outside a TJ entity, also including subversive ones, is significant because the frequent lingering conflict during and after the implementation of the TJ programme has often been rooted in the context in which the TJ project was established and executed. Based on that viewpoint, this article then introduces the indirect influences of the TRC’s work on other movements, searching for a perspective which allows us to

grasp a linkage between the TJ programme and the post-TJ social action. Such an influence is indirect and informal—at least, unplanned in the TRC’s roadmap—and is rather well captured with an expression of spontaneous divergence by each initiative. Although many locals and observers have expected positive outcomes at the initial stage, many criticisms of the TRC’s unfinished business have been added (Bell & Ntsebeza, 2003).<sup>(2)</sup> The critical arena of contestation has been the victims and survivors of apartheid era abuses seeking information on what the TRC uncovered, for the purpose of pursuing rights abuses not provided amnesty or who did not apply for amnesty for apartheid era crimes. However, in incorporating the term *propagation of repertoires*, this paper argues that such a linkage between the TJ programme and the post-TJ social action would be traced in a consistent manner. The latter half of this article thus aims to suggest a theoretical understanding of a TJ initiative which may include positive actions that diverge from the TRC’s incomplete official activities.

## RE-CONTEXTUALISING THE SOUTH AFRICAN CASE IN THE CURRENT TJ STUDIES

### I. From Assessing an Achievement of a Goal to Recognition of Diverse Politics

Scholarly evaluation of the TRC has tended to be negative. The patterns of criticism have ranged from the limitation of TRC’s mandate (Carranza, 2008; Mamdani, 2009) and not developing close relationships with these local NGOs (van der Merwe, 2003: 110–112; van der Merwe & Chapman, 2008) to passive acceptance or indifference of local people. The former includes that the victims of police violence in terms of pass laws were eliminated from the victim category. The latter reminds us of the general withdrawal of Indian people from the process (Truth and Reconciliation Commission, 1998: 168). Simply put, those criticisms have pointed to what the TRC could not include even though it was expected to reach the issue and the people (Abe, 2014).

On the other hand, the following section will pay more attention to the people who positively tried to engage in the process. The focus on those who sometimes have their own strategic agendas to the TJ scenario has been one of the contentious issues in the field. We will follow this trend briefly.

In particular, the politicians in a transitional society have often been observed to be fluid figures, who attempt to affect the process with their own political motivations, which are different from TJ’s official objective.

For instance, Sierra Leonean politicians were assessed as trying to control their political hegemony against rivals through the process of internationalised hybrid tribunals, which have been chosen in Sierra Leone’s post-conflict phase. According to Gerhard Anders, despite Chief Prosecutor Crane’s rousing statements that ‘we mean business’ and ‘no one is above the law,’ the Special Court—which contains the term ‘Extraordinary’ in its name—and the TRC ‘were, in fact, not extraordinary from the perspective of political and military leaders who were doing business as usual, trying to outmanoeuvre their rivals in spite of grand

announcements of a new beginning' (Anders, 2014: 525, 527). He used the expression 'business as usual' to represent a strategy 'to convert their military strength into political and economic capital after the end of the war' (Anders, 2014: 540). The use of the expression is apt, as this case also demonstrates the strategic utilisation of TJ, or TJ discourse, by local political elites facing pressure to accept an internationalised TJ initiative.

Similarly, the Cambodian government appealed to the UN in 1997 to establish an international tribunal to try the former Khmer Rouge (KR) cadres. However, it swiftly changed its stance in 1998 when some of the KR leaders surrendered because the need to utilise foreign resources and devices to affect the domestic politics diminished. Rejecting the UN's request to settle in an international court, it even withdrew from a negotiation with the UN task force on the institutional form of the hybrid tribunals.

Reluctantly following the Cambodian government's unilateral action to set the law on the tribunals, the UN agreed to the launch of the Extraordinary Chambers in the Court of Cambodia (ECCC) in 2006. However, throughout the 11-years of operation with overt or covert governmental intervention, as of April 2017, the ECCC has just delivered one final judgement. Leading legal scholars on the ECCC reached the point where they charged that the ECCC was a flawed institution which had 'damaged the UN's reputation' (Ciociari & Heindel, 2014).

In the same vein but with more spectacular guise, Serbian politicians' strategic move in the negotiation with the International Criminal Tribunal for the former Yugoslavia (ICTY) showed a more dazzling example of political manoeuvring of judiciary. Consider the case of Slobodan Milošević<sup>(3)</sup> who was charged by the ICTY with war crimes. At first, Serbian Prime Minister Zoran Đinđić justified Milošević's arrest and extradition with highly pragmatic expressions such as an 'entrance ticket to the democratic world,' taking the position that 'refusal to extradite Milošević would lead to the suspension of financial aid, which would bring the country to the brink of economic collapse, complicate the repayment of foreign debt, and prevent Serbia's membership in international financial institutions' (Subotić, 2009: 47). The Serbian government thus followed a policy of dualism: cooperation with the ICTY on one hand for pragmatic purposes, while distancing itself from justice norms in its local communications. Justice was not a transcendent ideal but just a convenient or expedient political choice to advance a secular agenda. The Serbian government later invented the term 'voluntary surrenders' to enhance this dualism.

The situation actually became quite farcical, even though international society had to formally accept Serbia's compliance:

Another member of the group of four generals, Vladimir Lazarević, had an even more VIP send-off. After deciding to surrender, Lazarević was met by the patriarch of the Serbian Orthodox Church and Prime Minister Koštunica, who both praised Lazarević's heroic decision. Koštunica went so far as to say that "the general acted in line with a long-standing tradition of the Serbian army, namely, that our officers fight for the interests of the people and country until the bitter end" (Subotić, 2009: 50).

TJ programmes have thus been accepted as a source of politics despite maintaining a surface appearance under the banner of justice and human rights. Further, the generation of a new type of local politics can even be recognised as a usual influence of TJ implementation. This is obviously the framework to understand a TJ programme beyond the success-or-failure debate. Rather, it realises tension and strategy overtly and covertly, working in and outside the routine of official programme.

Yet, partly because of the symbolic figure of the South African TRC in an international context and its novelty to the framework of post-conflict policy, an understanding that the TRC could be a juncture of local political strategy, which was 'business as usual,' has not been typical in past literature (Boraine, 2001; Gibson, 2004; Hayner, 2001). The next section will deal with this issue through the eyes of former TRC investigation officer. Various actors to the TRC have not just complained about the process, but have attempted to manoeuvre and affect its orientation. Such manoeuvre and engagement would bring various unexpected tasks to the TRC, taking it to the point at which unfinished business remains in terms of its official ideal/objective, such as national reconciliation, victim healing and thorough fact-finding. These actors will be traced in three categories, namely, the primary partners in the negotiations process, the transitional take-over or change-management group, and dissenter groups.

## II. South African *Compromiso Historico*, the Primary Partners in the Negotiations Process

The TRC had primarily been planned and implemented by a school of thought that maintained the TRC was a necessary process to get past the biggest stumbling block, the apartheid state and all its lethal instruments, which prevented the democratic forces from access to power and a paradigm shift in social relations. This school held the view that the only way across the impasse was negotiations, through which a blood bath could be avoided and through which horse-trading of interests could be managed, allowing a transition to a more democratic and representative state that would broadly be able to deliver a better life to the majority of South Africans.

Proponents of this school included the authors of the South African *Compromiso Historico*,<sup>(4)</sup> the primary partners in the negotiations process. This group was represented by people such as Nelson Mandela, Dullah Omar and Kader Asmal of the African National Congress (ANC), the majority of captains of industry, and, to a certain degree, prominent Afrikaner leaders on the final watch of the apartheid state such as F.W. De Klerk.

This scenario made it possible for the ANC majority government to ascend to power through the ballot box, for a world-renowned Constitution and Bill of Rights to be authored and codified into law, and for significant social, economic, and political transformations to be effected. Whereas people in South Africa could have inherited a desert, with a destroyed economic and industrial infrastructure and a massive body count of innocents in an escalated war, for the constituents of this group, South Africa was able to make the dramatic shift to democracy

relatively peacefully. Furthermore, this school presented the view that the TRC, as a critical handmaiden of this process, provided the most effective change instrument by serving as a neutral platform through which the excesses and gross abuses of human rights that characterised the militarised political conflict of the last three decades prior to democracy could be ventilated.

One can reflect several roots of this reconciliation policy going back to the points such as the convention for a democratic South Africa (CODESA)'s concern about 'how to deal with the past in a way that would break the cycles of violence, bring about social cohesion, and restore peace' (Gobodo-Madikizela 2003: 148) and the Multi-Party Negotiating Process that convened in 1993 after the former's end and resulted in creation of the post-amble of interim constitution in 1993, which said: 'The pursuit of national unity, the well-being of all South African citizens and peace require reconciliation between the people of South Africa and the reconstruction of society (...) In order to advance such reconciliation and reconstruction, amnesty shall be granted in respects of acts, omissions and offences associated with political objectives and committed in the course of the conflicts of the past.' Erik Doxtader emphasises the contentious situation until the last moment of implementation over the TRC's design, mandate and power, recalling 'the fact that individuals and organisations from all sides of the political spectrum voiced serious objections to the draft legislation' (Doxtader, 2009: 256–257).

Yet it served as a counterpoint to the call for retribution and revenge and to the serious demand for convening Nuremberg-type trials. Its foundational mandate, laid out in the Promotion of National Unity and Reconciliation Act 34 of 1995, provided, the constituents of this group argued, a dignified space through which a national victim narrative could be recorded and appropriate mechanisms for perpetrator declarations set up, and the necessary vehicle through which a reparations process could be enacted. Through this process, this school had propagated the impression that the transition from apartheid to democracy was a success, that the most disturbing excesses of the past were captured in a comprehensive national record, that victims were able to bring their pain and scars to the nation's attention, that perpetrators were called to provide answers for the abuses they committed, that several legitimately received amnesties for their disclosure, and that victims received compensation for the abuses they suffered. This group, for the most part, insisted that there had been a significant accounting to history; that the narrative of excesses and wrong-doing had been captured for posterity; and that the time had come to move on, leave the past in the past—or in the museums and history books through an adequate social device—build the country, and enjoy the fruits of democracy.

The primary players articulating the case for a TRC as a way forward in dealing with the histories that preceded the post-apartheid democratic state were Nelson Mandela and F.W. De Klerk. In his submission to the TRC De Klerk argued:

Throughout the negotiations that resulted in the 1993 Constitution it was the understanding amongst the parties that amnesty will be provided for in



legislation in line with agreements that had been reached during the process of negotiations. Those agreements and understandings secured the negotiated constitutional settlement that resulted in the peaceful transformation that we have experienced over the last number of years ... Lasting solutions to complex problems can be found only through peaceful means, through compromise and through the accommodation of the reasonable interests and concerns of others.<sup>(5)</sup>

Nelson Mandela's position, on why the TRC process was conceived and brought into existence is best reflected when he received the first TRC report in October 1998. Pertinently, in this statement, Mandela refers to a pact that had been developed prior to the advent of democracy:

Out of that negotiation process emerged a pact to uncover the truth, the better to build a bright future ... It will be difficult for the victims of gross violations of human rights to accept the philosophical account of the trade-off between punitive justice and a peaceful transition ... Consequently, the Report that today becomes the property of our nation should be a call to all of us to celebrate and to strengthen what we have done as a nation as we leave our terrible past behind us forever.<sup>(6)</sup>

Their scenarios of political transition were well illustrated in the following comments. 'The Truth and Reconciliation Commission should be the final cathartic dam-burst, unleashing tides of reconstruction' (Asmal et al., 1996: 208). The chief negotiator of the National Party (NP) during the transitional period, Roelf Meyer, who had managed the whites' position in negotiations with the former ANC secretary-general, Cyril Ramaphosa, addressed this stance in a remarkably clear manner: 'We had moved away from apartheid. We, who were responsible for apartheid, are now saying that we want to leave that wrong behind. We are saying that we are sorry. We are also saying, however, that we are now determined to rectify what went wrong (Roelf Meyer, Debates of Parliament (Hansard), 5th Session- 9th Parliament, 17 December 1993. col. 152296-7).' The idea was that the TRC as a political ritual (Bozzoli, 1998; Ross, 1997) suited the scenario and political action of this group.

Yet we also need to remember that some prominent leaders in this category would later change the tone of their presentation on the TRC, or have used these positive expressions with a strategic twist. Desmond Tutu, the TRC chairperson, once said that South Africans would accomplish reconciliation, but later changed his orbit: 'It is crucial to underscore that it was meant to promote not to achieve those worthwhile objectives' (Tutu, 1999: 126). Mandela was more strategic from the beginning. In the middle of political negotiations in 1993, he noted that 'South Africans should never forget the crimes committed in their name. We, however, know that we must forgive.'<sup>(7)</sup> '[K]eeping negotiations on track' (Doxtader, 2009: 206) with such a double-message, he and his colleagues had implemented the scenario of *Compromiso Historico* at the stage of political transition. On the surface, the scenario can be read as a peace pact among the then political elites,

which was, however, invisible in the contentious public arena.

Yet the stance of this school needs to be accepted more cautiously. For instance, take a look at Mandela's speech at the publication ceremony of the TRC report in October 1998: 'Many of us will have reservations about aspects of what is contained in these five volumes. All are free to make comment on it and indeed we invite you to do so. ... The Commission was not required to muster a definitive and comprehensive history of the past three decades.'<sup>(8)</sup> What does this message mean in essence? How should we accept its meaning? Is it an indirect expression designed to cover or explain away undesirable outcomes? Although the message with double-meaning has long been criticised as a realisation of insufficient policy on urgent matters such as social disparity and redistribution of social and economic resources, it would also serve as underground water for future propagation of ideas on truth and reconciliation by another entity than the TRC, as we will see in the following section.

### III. The Transitional Take-over or Change-Management Group

Then there is another group, which can broadly be characterised as the transitional take-over or change-management group. The change-management technocrats were the ones responsible for the day-to-day management of the affairs and functions of the transitional state, and as such were duty-bound to uphold the law, while simultaneously using the bureaucracy to stonewall the objectives laid out by the TRC Act.

This group, while not actively manifesting its position publicly during and after the TRC, coalesced as a defensive bodyguard against any attempt to demonstrate the role, for instance, of intelligence operatives who were liberation movement leaders, while simultaneously being paid agents of the apartheid government. This group included Thabo Mbeki, then Deputy President, and Trevor Manuel, then Finance Minister, as well as prominent political, military, and business leaders from among the primary protagonists in the political conflict. For instance, the remarkable reaction by Mbeki to the ideal of TRC was well-illustrated in his parliamentary speech in May 1998 on reconciliation and nation-building: 'A major component of the issue of reconciliation and nation-building is defined by and derives from the material conditions in our society which have divided our country into two nations, the one black and the other white. We therefore make bold to say that South Africa is a country of two nations.'<sup>(9)</sup> Obviously, it was the statement made during the work of the TRC and did not hide any nuance of criticism to the commission's work. Against the politics of compromise by the elder ANC cadres, which resonated with the TRC's reconciliatory orientation as well as the post-apartheid racial policy of the rainbow nation, the Mbeki government was characterised by 'a return to race,' which dealt with 'economic inequality rooted in past racial practices' (Harris, 2004: 3).

This group, which weighted economic issues more heavily than a symbolic and ideal racial relationship, was also responsible for ensuring a relatively efficient and peaceful handover of the levers of power, that the agreements from the negotiations table were implemented, and that the turbulence associated with a change



of guard was minimised or effectively managed. Yet a critical component of this group's work entailed facilitating trade liberalisation, privatisation, and transnational demands of monopoly capital, all of them were deployed outside the TRC arena. Although Mbeki's two nations speech' (Harris, 2004: 3), the retrospective probe into this group's economic policy indicated it favoured the business giants:

By 1996, a neoliberal macro-economic policy was formally adopted. From 1998 to 2001, the ANC government granted permission to South Africa's biggest companies—Anglo American, DeBeers, Old Mutual, South African Breweries, Didata, Investec—to move their financial headquarters and primary stock market listings to London (Bond, 2010: 2–3).

Besides ascendant President Thabo Mbeki and Manuel, this group contained a strong contingent of present and former cabinet ministers associated with security and intelligence functions. It also included much of the new and old command and control of the security instruments of the state and also specific strata of emerging and establishment capital.

There are numerous examples of how this group used its proximity and physical access to the instruments and levers of power to hamstring the work of the TRC, including preventing or intervening in raids to access documents, as also the release of the necessary funds required for the TRC to execute its mandate under the Act, then, very specifically, ensuring that the military hierarchy of the former apartheid government, as also the command structures of the ANC, be insulated, through legal and political manoeuvres from intensive investigation and scrutiny or from prosecution. There was a confluence of actions from various elements in this group, but most dramatically from the Mbeki government, which sought, on the eve of its release, to interdict the release of the TRC final report, in opposing the TRC's 'misrepresentation' on the ANC in gross human rights violations during the fight against apartheid.<sup>(10)</sup> Prior to its release on 29 October 1998, the TRC Final Report was the subject of two court challenges in the Cape High Court. The first came from former President F.W. de Klerk; the second, filed by the ANC, came just hours before the report was scheduled to go public. Ruling in favour of de Klerk, the court forced the commission to blank out a section implicating the former president as 'an accessory after the fact' in two bombings. In the case of the ANC, Justice W.J. Thring ruled against the application, which requested that the report's release be put on hold until the party and the TRC could meet to discuss the findings.

This group, including Department of Justice (DOJ), National Intelligence Agency (NIA), and National Archives,<sup>(11)</sup> also served as the gatekeeper of information during the TRC process. This group was behind the *enmasse* movement of the entire TRC archive to a special section of the national archives, which resides within the mandate of and is supervised by the Department of Justice. David Forbes, the filmmaker who produced the award-winning film on the Cradock 4, the South African History Archives, TRC victims organisation Khulumani and numerous have had to approach the court to access TRC records. The issue that clearly arises is whether the department of Justice, which was given custody of

the TRC files, was the most appropriate institution to take control of the files that were moved to a special section of the national archives. Further, the problems were compounded because the department of justice then built a relationship with the intelligence services who were roped in to classify the files. In the process numerous critical parts of documents were redacted.<sup>(12)</sup> The narrative of numerous challenges on what happened to 46 boxes of sensitive TRC documents<sup>(13)</sup> has also revealed a type of siege mentality around free and unhindered access to this trove of information about a nation's *rendezvous with evil*.

#### IV. Dissenter Groups

The third group consisted of those who did not participate in the TRC process or sought through legal and political challenges to interdict the TRC Founding Act. This group was represented by, among others, the family of the late Steve Biko, the family of Jeanette Schoon,<sup>(14)</sup> and the Azanian Peoples Organisation (AZAPO), which were all engaged in unsuccessful attempts to hold back the TRC transitional justice project. Their contentions and concerns as laid out in their arguments before court would only be justified and backed with evidence later. The victim compensation determination, the non-prosecution of perpetrators denied amnesty, and the lack of political will to enforce a more thorough-going process are clear indications that their challenges may have been justified. Although the member of the former security police confessed their covert actions to Steve Biko, Biko's family objected to giving amnesty to the perpetrators, opining that the TRC was a vehicle for political expediency and had robbed them of their right to justice,<sup>(15)</sup> and brought this issue to the Constitutional Court. This group largely revealed a deep scepticism that the TRC project would open a process for meaningful review of the period of abuse and have significant change-making impact.

This category also included 'securocrats,' who were the functionaries and on-the-ground perpetrators during the 34 years of rights abuses in the conflict that the TRC had to investigate,<sup>(16)</sup> report on, issue reparations for, make findings on, and recommendations about. The term 'securocrats' means such units of the former apartheid government as the State Security Council, the Intelligence Coordinating Committee (abbreviated as 'KIK' in Afrikaans), the Civil Cooperation Bureau (CCB), the Counter Revolutionary Intelligence Task Team, the Security Police, *Vlakplaas* (C-Section),<sup>(17)</sup> the Special Forces, Military Intelligence, the National Intelligence Service (NIS), the Directorate Covert Collections (DCC), and Joint Operational Centres (JOCs). Many of these securocrats simply evaded the process, refused to apply for amnesty, laid low, faded from sight, or did everything in their power not to cooperate with the TRC.

For instance, when the investigative unit of the TRC went to the Youngsfield military base with a warrant to search for seizure and interrogation on the issue of violent snipers who had patrolled the townships with police and the murders of activists during the 1980s, the first reaction of those military officers who had no interest in as well as information on the TRC work was just surprise. Then, they obviously attempted to close any door of the structure to the commission, with no feasibility to cooperate with it.

Colonel Langley and Colonel Gouws were seriously opposed to what we were doing ... One Major Genis flew into an office that I was in the middle of searching and demanded that this operation come to an immediate halt. 'Here is the warrant,' I said to her. 'If you have any problems go and speak to the magistrate.' 'You cannot just come in here and search a military base whenever you feel like it! ... I will have to speak to the general. And I can tell you, you won't be allowed to search any further.' ... In a rage the major informed me that the names of informers are classified because 'these people may still be working.' But that's exactly why we need them. (Khoisan, 2001: 27).

In its messy conflict between the TRC investigative unit and the military officers, the negotiation between the top cadres of the TRC and the South African National Defence Force was held, and the agreement was that 'all requests for military documents, personnel records, interviews with military people or searches of military installations, would be filtered through a specifically appointed person' (Khoisan, 2001: 28), which was no doubt disappointing to the investigators and was accepted as 'one of [TRC's] worst mistakes' (Khoisan, 2001: 28).

The typical perceptions of these personnel was expressed by the former managing director of the CCB, Colonel Joe Verster, in a TRC public hearing in 1998, even after three years of the commission's operation. Although the CCB had been targeted by several investigation commissions prior to the TRC, the fact that it operated under the banner of the Special Forces section of the South African Defence Force was not revealed. When Verster appeared before the commission, he boldly stated his distrust of it, representing the securocrats:

This morning I came here and what happened afterwards is that there is no equality here, there is no democracy, there is no truth. There is no truth while my white skin is providing the facts ... There are thousands of people who feel exactly the same way as I do, that is the current view of moderate people who have never seen any signs of real negotiations which have addressed the needs of soldiers and people who acted in covert way in the past ... I want you to understand very, very clearly that I am totally opposed to what has just happened here (Section 29 hearing, 18 August 1997).

This was the statement uttered one year before the TRC official report was published, and it can still be observable that the mentality of these people did not change from that in the old regime or, rather, they hardened their stance against the ongoing reconciliatory politics. While their stance was almost one of resignation, or retirement from the official process, once they were in a stage, they turned to be aggressive open critiques.

## V. Beyond Recognising Politics around the Official Truth-seeking Project

What do these *politics on truth* demonstrate? How can we identify the incom-

pleteness of the official project that resulted partly from each politics? Although the TRC was organised around highly ideal objectives, it had entailed negative inputs from various social groups from the preparatory stage to the end of the mandate period, including the ones aggressively attempting to change the ambit of ‘how reconciliation is realised in public.’

Firstly, the primary writer of the scenario of political transition, the school of *Compromiso Historico*, could not sufficiently respond to the people’s eagerness for justice. The former head of the research unit of the TRC introduced the notion of restorative justice in explaining the possible perspective of the TRC towards victims’ needs (Villa-Vicencio, 2003). However, the notion of restorative justice remained too far outside the scope of direct inquiry by many victims to achieve any chance for legal justice. That closing-the-book-scenario had to finish its active period without showing a further path to deal with unfinished business on justice. Secondly, the engagement by the people called ‘transitional take-over or change-management group’ that was purported to change the track of the truth appeared through the TRC process even in the course of activities. Simply put, they willingly participated in the process but with a different (or opposing) motive from the official one. The TRC, or TJ in general, has been pressured to acquire as many participants as possible to establish its legitimacy in society, but the participants were not always tamed to the official calling, affecting the outcomes of the process in an unexpected manner. Thirdly, the group which overtly opposed the TRC’s direction has sought to narrow the range of the truth as much as possible. Thus, the result of official truth-seeking reflects the politics on truth-making, or *memory politics* (Manning, 2014: 38).

## EXTERNAL BUT SUPPLEMENTARY ACTORS TO THE TRC: THINKING OF THE POST-TRC PHASE

The TRC had worked in such local politics, reacting to these dissident voices. Yet, partly because of the structural restriction of the resources as well as the uneven reactions, it could not achieve the public goal that enhanced the people’s expectations at the beginning. Thus, the critiques have indicated points to be accomplished in light of the officially announced objectives. The greater the expectation of goal attainment, the deeper the resulting despondency when the goal is not attained. David Chidester (1999) claimed that the ideal of national reconciliation had been transformed into a nationalistic discourse that might exclude the diverse experiences of individual victims. For example, the expected healing of a victim through public testimony was dismissed when locals called the public hearing a ‘circus’ that did not allow for a follow-up programme (Hayner, 2001: 142). Although the primary objective of public truth-seeking is to search for the truth in any political dimension, Clair Moon has pointed out that the elimination of black-on-black violence—which occurred primarily between the Inkhatha Freedom Party (IFP) and the ANC in the early 1990s—from the TRC proceedings was an outcome of the commission’s internal demand that ‘fit within the broader morality tale the TRC sought to tell about South Africa’s past’ (2008: 77–78).

Although the TRC had cooperated with local nongovernmental organizations (NGOs), including churches, specifically for purposes of information dissemination and outreach as well as in hopes of settling on a public venue for open hearing, the scope of this cooperation has been criticised as insufficient (van der Merwe, 2003: 110–112; van der Merwe & Chapman, 2008). Considering the selection process of 17 TRC commissioners and the establishment of special women's hearings, which were assigned an all-woman panel, civil society organisations' input into the TRC programme has undoubtedly been crucial. Yet these actions may have been restricted to the prefatory stages of the TRC process, thus resulting in the final negative assessment made by critiques such as that of van der Merwe et al.

However, in searching for a more holistic assessment and for the further analytical landscape after recognising the appearance of various local politics, this paper proposes another avenue for consideration of the external organisation to the TRC and its activities in the post-TRC phase.

TJ in general needs to expand supporters among citizens during its work because it is not guaranteed to hold public legitimacy from the beginning partly because of its nature as a newly established organisation which has no comparable predecessor in society. A politically unstable condition also functions as a negative factor to such a policy. As such, TJ would be more stable and active when acquiring more supporters and participants to the project. Abe (2014) introduced this idea that TJ may well be unique compared with the character of a social movement rather than with that of normal policy or governmental organisation in a relatively stable society. While recognising the catalytic character of TJ in illustrating the case of the Khulumani support group (see below), the argument did not sufficiently elaborate a specific approach of social movement theory to further draw a unique aspect of a TJ process.

On this point, this paper specifically adopts the approach of *propagation of movement repertoires* when incorporating a social movement framework. A social movement is not just a genuine expression of complainants but a calculated collective action, sometimes drawing on deliberate learning from prior movements. Information and episodes of movement in other areas are delivered and circulated among actors inside a movement. Thus, one can perhaps identify an action being successfully implemented at a different place from an original context where the project had finished in failure. Propagation is surely open to a change in performance depending on the new situation, reminding us of the term *syncretism* in religious studies. The concept of propagation or diffusion of movement repertoire is useful in understanding the TJ body's unique but informal influence on the concerned society. Charles Tilly used this term to describe a contentious demonstration taking place in the form of 'a limited set of routines that are learned, shared, and acted out through a relatively deliberate process of choice' (Tilly, 1995: 26). Tilly has elaborated this term in analysing the political contentious actions in Burgundy province in France for the period of 300 years. A collective expression, properly accepted by many other fellows in a society, would then be mimicked by another party because this might enhance the capability to mobilise people. Knowledge and skill on how to frame an appeal and how to behave in

public will become a common currency among those who interact with or are inspired to action by a previously existing party that possesses this currency. One of contributions of this term to the social movement theory is that a movement tends to learn the skill and the know-how from the proceeding stock of repertoires of collective actions, rather than appearing from protestors' philosophy or any abstract thinking. Using this framework, a TJ body is placed on the same ground as other social movement entities. By incorporating the term, this paper aims to bridge the TRC, or the incomplete aspects of TRC activities regarding official objectives such as national reconciliation, victim healing and public truth-seeking, with other loosely connected external movements even if they might not be identified as a direct affiliate with the TRC.

This group, manifested by the survivor group Khulumani and organisations such as Jubilee 2000, the Institute for Justice and Reconciliation (IJR), the South African History Archive (SAHA), the Freedom of Expression Institute, the Missing Persons Task Team (MPTT), and many others, has been active after the end of the TRC's work, demanding access to confidential documents, the memory projects, exhumation of remains, and the legal challenges for reparations in the post-TRC phase. Some of these groups have not only been implementing their activities outside the TRC's official programme but even criticising the work of the TRC in the commission's active period. However, being different from the three groups introduced in the previous section, this group demonstrates a uniqueness in that it seems to pursue TRC's objectives, which the TRC's work has not been able to realise, by their own initiatives. Put another way, their work is supplementary to the TRC, particularly in light of its unfinished business. We will trace the remarkable cases of such initiatives.

## I. Pursuit of Economic Justice

Abe (2014) focused on Khulumani, especially on its supplementary activities with the TRC work on victim empowerment. It began its work in 1995 at the time of the establishment of the TRC and grew to be the largest victims' association in South Africa with more than 100,000 members (Kesselring, 2017: 27). Its participants were victimised in myriad ways: torture, detention without trial, sexual assault, abuse, harassment, mutilation of body parts, banning and banishment by order, deliberate withholding of medical attention, denial of food and water, the destruction of homes, and loss of family members. Khulumani's track of activities has expanded from the critical review of and lobbying for the TRC programme to its own direction, staging a play that focused on the tensions and contradictions in the TRC process. The propagation of movement repertoire was first shown in Khulumani members' search for their own role as victims. The founders of the organisation realised that 'the group never would have formed without the truth commission, though it has now taken on a life of its own' (Hayner, 2001: 148). Khulumani thus formed initially as a positive derivative from the official institution, but over time it became closer and more tactically responsive to specific victims. The fact obviously denotes both Khulumani's current motive and programmes, particularly the ones having deployed after the end



of the TRC activities, can be recognised to be propagated repertoires which the TRC originally created. The TRC had never planned to create such a supplementary branch or independently functioning unit; on the other hand, Khulumani did not appear out of thin air; the motivation for the movement and its repertoire of activities, particularly victim testimony at a public gathering, came in part from its predecessor. Once the TRC was identified as an incomplete space, the need for a complementary space became clear. Khulumani, sensitive to this need, developed its unique style in response. Kesselring (2017: 164) assesses Khulumani's role among members as moulding their subjectivity: 'By teaching members how to articulate their pain in public settings, the leadership plays a constitutive role in coding members' victimhood.'

Meanwhile, the TRC's most crucial unfinished business lay no doubt in justice issues pertaining to symbolic and financial reparations. Therefore, Khulumani and another group, Jubilee 2000, brought a lawsuit in U.S. Federal Court in New York in 2002 on behalf of victims of apartheid (*Khulumani et al. v. Barclays National Bank et al.*, Case No. 02-CV5952, S.D.N.Y. 2002). The defendants were 23 foreign multinational enterprises including British Petroleum, Shell Oil, Barclays, Credit Suisse, Deutsche Bank, Ford Motors, and IBM; they were alleged to have aided and abetted the perpetration of gross human rights violations in South Africa by collaborating with the apartheid regime and providing military and other strategic equipment to its security agencies. President Thabo Mbeki expressed his strong opposition to the lawsuit in 2003, stating that it interfered with the 'sovereign right to determine, according to internal political and constitutional order, how best to address Apartheid's legacy.' In 2004, the banks and oil companies were freed from the case because 'District Judge John Sprizzo said that no direct link could be proved between the firms' actions during Apartheid and human rights violations of the era.'<sup>(18)</sup> South African Justice Minister Penuell Maduna affirmed this position, indicating to the U.S. District Court that the case should not be dealt with because it had the potential to discourage foreign investment in South Africa. However, the Zuma Government reversed its previous position in September 2009 and expressed support for the lawsuit. When General Motors, which had declared bankruptcy and been reorganised in 2009, opted to settle the case with a payment of \$1.5 million in 2012, Khulumani called on other defendant companies to follow suit. However, the remaining actors, Ford and IBM, were found by the U.S. District Court in August 2014 to be not responsible for apartheid-era abuses. In July 2015, the 2nd U.S. Circuit Court of Appeals in New York dismissed the case because Ford's South African subsidiary—not the U.S. company itself—had cooperated with the apartheid government and because it had not been proved that IBM had the clear purpose of supporting human rights abuses.<sup>(19)</sup>

The TRC has often been criticised for not bringing legal justice to victims, as typically illustrated by the decision by the family of Steve Biko to sue the TRC. Khulumani's activity embodies an answer, in a twisted manner, to the fundamental scepticism towards the TRC's ability to cope with justice issues in the past. Justice through the TRC process has also been explained as a form of restorative justice, but it does not fulfil the people's expectation of a genuine legal justice.

However, the needs of victims eager for judicial outcomes could be dealt with by external organisation such as Khulumani than the TRC. The TRC need not monopolise the role to embody all the needs. It can work as a catalyst to another entity to develop its own agenda in propagation of the repertoire. This process of propagation might well be advanced even by the recognition of incompleteness of the TRC because it makes ‘the need for an opposing space [become] clear’ (Abe, 2014: 19).

## II. Expanding Approach to the Right to Know

Having begun its work in the 1980s in close connection with the United Democratic Front, the Congress of South African Trade Unions, and the ANC, the South African History Archive (SAHA) now operates as an independent human rights archive that specialises in documenting and publishing a broad range of information on the liberation movement, political transition, and freedom of information in contemporary South Africa. Among its various projects, the following three are prominent in regard to the documentation of TRC activities.

(1) The Preservation and Access to Records and Stories relating to the TRC is an archive established in 2006–2009 in cooperation with the Historical Papers of the University of the Witwatersrand Library. This archive is unique in light of its interpretation of TRC activities, which SAHA believes should expand to ‘the ever-shifting stories about the TRC carried by a myriad people,’ so that ‘internal records used by the TRC as well as external documentation of the TRC process by a wide range of individuals and organizations, within and outside of South Africa’ are required.<sup>(20)</sup>

Based on the idea of the TRC as a social phenomenon, the archive includes the following:

- interviews with 63 individuals who worked for the Commission in various capacities and in different locales;
- the TRC’s *Select Bibliography to the South African Truth and Reconciliation-Commission Debate*, identifying key published articles, books and book chapters, theses, and online and audio-visual resources about the TRC, from conception to aftermath; and
- digitised copies of key archival materials organised into five broad categories—background, human rights violations, amnesty, reparations, and aftermath—with accompanying narratives, in an attempt to contextualise, compare, and contrast these archival fragments to enrich ‘social memory.’

(2) A digital web resource was launched in 2013 centring on the South Africa Broadcasting Corporation (SABC) television series *Truth and Reconciliation Commission Special Report*, which comprised 87 episodes and was aired weekly from 1996 to 1998. A multimedia platform containing all episodes of the series was created in conjunction with SABC Digital News and SABC Business Development. Moreover, the episodes are linked to relevant sections of the TRC’s final report and other documents, ‘to form a seamless searchable resource intended to

make the work of the TRC more accessible and to support on-going transitional justice and reconciliation work in South Africa.<sup>7(21)</sup> The project also digitised a collection of cartoons related to the TRC drawn by Zapiro between 1995 and 2004.

(3) SAHA's latest project was initiated in 2015 following the official release of TRC Section 29 records. The TRC conducted closed hearings, called Section 29 hearings, at which those subpoenaed divulged the full extent of their knowledge of gross human rights violations. Based on a freedom of information law passed in 2000, SAHA has repeatedly challenged the Department of Justice for access to the full transcripts of these hearings. SAHA's requests in 2003, 2006, and 2009 were denied mainly because of concerns that releasing such information would have a negative impact on cases being investigated and prosecuted by the National Prosecuting Authority (NPA). However, the NPA has prosecuted no cases related to Section 29 hearings since 2009; thus, in 2014 the department provided SAHA with 174 records from the hearings. The documents are the transcripts of hearings conducted in-camera by the Truth and Reconciliation Commission which were not open to the public. Many of the persons who testified under oath were summoned to the hearings under subpoena and were compelled to answer questions concerning their knowledge of events and persons associated with gross human rights abuses perpetrated by the primary forces who were party to the apartheid-era conflicts. Among those who appeared at these hearings were the top commanders of the former SADF and uMkhonto we Sizwe (MK, ANC's armed unit), as also numerous covert players connected to structures that had authorised, initiated, aided, participated in or directly perpetrated human rights abuses. Former TRC investigative Unit head Dumisa Ntsebeza said 'it was of utmost importance for the files to be accessible in the public domain, as these documents raise serious questions for the NPA about cases that were not followed up once the TRC closed its doors.'<sup>(22)</sup> In addition to publishing the full hearing records,<sup>(23)</sup> SAHA has been continuing to contact persons who interacted with Section 29 investigations.

The TRC had gathered various information, yet it faced limitations in the time it could spend on human rights violations and perpetrations, which were defined as mandatory objectives in the TRC law. Therefore, not only the people who did not appear in an official conduit such as the TRC report or open hearings, but also the sacrifice, memory, and incidents, which were beyond the TRC's mandate, have been left intact in the course of this official truth-producing. The SAHA has been incorporating such various fragments that were put outside the social construction of official memory, while adopting a movement repertoire of the TRC that gathers information of damage in the apartheid era from any social strata and opens it. To encourage people to debate freely on the outcomes of the TRC activities, Mandela stated in his 1998 speech that the TRC would not be an official repository of the past, so the SAHA has been addressing the vision of the TRC in its own way, although the way was unforeseeable even for the insider staff of the TRC.

### III. Continuous Follow-up Research on Reconciliation

The Institute for Justice and Reconciliation (IJR) is a Cape Town-based NGO established in 2001 under the patronage of Desmond Tutu; its first director was the former head of the TRC's research unit, Charles Villa-Vicencio. As of 2017, three former TRC commissioners serve on its board of directors: Pumla Gobodo-Madikizela, Dumisa Ntsebeza, and Glenda Wildschut. Among the projects implemented by the IJR related to community healing, youth leadership, and arts and culture, its Reconciliation Barometer Survey warrants particular note. To understand the status of progress towards reconciliation, the IJR has conducted 'an annual national public opinion poll that measures citizen attitudes towards reconciliation, transformation and national unity' by means of six main indicators: human security, political culture, cross-cutting political relations, race relations, historical confrontation, and dialogue.<sup>(24)</sup> Particularly in terms of race relations, the IJR's Reconciliation Barometer 2014 Report provided contradictory but significant survey data for the 10 years since the TRC's final report was published. This report compelled a reconsideration of the meaning of reconciliation and of people's complex perceptions of reconciliation in the context of their everyday lives.

The IJR's survey on 'Interracial Talk and Socialisation across Race Lines' illustrated a gradual increase in socialising and talking with other racial groups, even though the curve of the graph is modest (Wale, 2014: 21). One related result, on interracial mistrust by race, portrayed a positive trend in that more respondents, both white and black, have described other groups as more trustworthy (Wale, 2014: 17). Notably, people of Asian (Indian) and Coloured identities have maintained their vigilance towards other groups (a sense of trust in others has low status), which was once reflected by their relative indifference to or distancing from the TRC proceedings in the 1990s. This finding calls for more consideration of the collective tendency towards national reconciliation. Also notable was that Coloured people dramatically showed their collective disappointment in interracial relationships with nearly 70% desiring interracial talk in 2003, but only 20% doing so in 2013, while the other three groups remained around 20% to 30% over that period. Moreover, the percentage favouring the 'desirability and possibility of creating one united South Africa,' an idea directly related to the sense of national identity or the nation-building project, has been steadily declining, thus demonstrating a gradual trend towards *living together separately* (Wale, 2014: 16). The report cautioned against a quick assessment of this data, pointing out that it 'could mean either that South Africans are indeed becoming less keen about the idea of a unified nation, or it may also suggest disillusionment with the interpretation of the concept of unity and nationhood as used in our political discourse' (Wale, 2014: 20).

In any case, these trends, such as greater communication among racial groups in general, specific groups' cautious stances towards other groups, and an apparent need to search for another model than that of national reconciliation based on a shared sense of 'us,' call for a fresh evaluation of the TRC's work and impact. This IJR survey effectively illustrates the complex situation of post-TRC

### South Africa.

Moreover, this is the only follow-up survey that has been conducted with chronological consistency around the TRC ideal of national reconciliation, as TJ organisations usually do not receive long-term evaluations, although longer-term impacts are arguably the only way to judge how a society has incorporated the legacy of TJ activities. Spontaneous involvement in such unfinished business is not officially controlled by an institutional TJ entity, including the TRC, yet that unplanned development is crucial from a longer-term perspective to positively interpret feedback on the TJ initiatives and advance new social policies.

### IV. Exhumation as Reparatory Service

An actor in a movement that diverges from the TRC can sometimes follow a somewhat twisted path. In South Africa, even though then-President Nelson Mandela was a strong proponent of the TRC, other younger politicians within the ANC were sceptical and maintained a distance from the mainstream of the TRC. Those politicians, called ‘the transitional take-over or change-management group,’ were inclined towards more pragmatic positions in terms of redistribution of social resources and reparation policy. They even boycotted the publication ceremony of the TRC report in 1998. Looking back at these reactions, one gets the impression that the ANC body has never cooperated with TRC programmes substantially, even opposing and undermining their legitimacy.

Yet some years after the end of the TRC, another governmental unit became an actor in an inquiry regarding missing persons. Aronson (2011: 262) traced these ‘efforts to account for missing persons from the apartheid era in South Africa by family members, civil society organizations and the National Prosecution Authority (NPA)’s MPTT, which emerged out of the Truth and Reconciliation Commission process.’ Curiously, this movement has not been supported by a local ANC branch.

The families of the Mamelodi Four (four ANC operatives who were tortured to death by apartheid security police) first learned about their lost family members at the TRC amnesty hearings and then testified at the hearings of the Human Rights Violations Committee in 1996, ‘where they not only told their stories but also demanded information about their missing loved ones and return of the remains so that they could perform appropriate burial rituals’ (Aronson, 2011: 270). However, after their testimony, the TRC did not contact them. The investigation of missed persons was thus left as *unfinished business*, leading to the TRC’s recommendation to launch any follow-up entity. In 2004, this recommendation resulted in the establishment of the MPTT in the Priority Crimes Litigation Unit in the NPA. The MPTT started examining the suspected remains of the disappeared in the Winterveld cemetery and confirmed their identities with DNA tests. Following that, in 2005, the relatives received remains from the MPTT consisting of fragmented hip and leg bones. They reburied them at the local cemetery in Mamelodi (Aronson, 2011: 270). This is another story of victim empowerment that happened on a divergent track from the mainstream programme of the TRC. It is interesting because the MPTT was on the side of the ANC gov-

ernment, which had been opposing the TRC for years on contentious issues, such as the responsibility of the liberation movement for civilian losses or reparations to victims. However, a space for political appeal and manoeuvring remains:

These stories tend to be framed in terms of heroism, both of the missing, who are said to have died in service to their country, and of justice finally being served after decades without any resolution. Headlines like “Heroes ‘Return’ to Motherland,” “ANC Hero Saved from an Unmarked Grave” and “Former MK Cadres to Get a Hero’s Welcome” illustrate this narrative device well. ... Madeleine Fullard, head of the MPTT, openly acknowledges that the exhumations carried out by her team tend to be weighted in favour of ANC and MK figures. (Aronson, 2011: 272)

A government is not an innocent entity, and we should not overlook the question of political will. Prioritising ANC/MK cadres in exhumation programme to other freedom fighters such as PAC and APLA would serve to reinforce a specific political position.

However, such political bias and manoeuvring is not really the essence of families’ experiences. Maria Ntuli, mother of Jeremiah, one of the Mamelodi Four victims, said that no remains with DNA matched her children, but she was satisfied with the burial ceremony for others. Katherine Magagula thanked the team for its dedicated information sharing, even though no positive DNA results were found for her child either. Photographs of the crime scene obtained from security police were provided to those families, and an opportunity to examine the mortuary records was provided. Even a forensic anthropologist gave a presentation to the families at their request (Aronson, 2011: 274).

These reactions by the MPTT may not have been planned from the beginning. Yet, when confronted by the fact that no valid DNA records were found for some participating families, the team created an agenda to meet those families’ needs. Lizzie Selofo, wife of Harold Sefolo of the Mamelodi Four, recalled the experience of witnessing the exhumation as a chance to become part of the investigation process rather than being passive recipients of information (Aronson, 2011: 274).

A further complication is that the families who appreciated the MPTT’s work criticised the responsibility or follow-up efforts of the local ANC branch that was in charge of memorialisation and reburial. In other words, the MPTT, an ANC government agency, offered valued service to families on its own initiative, while local ANC bodies were rather reluctant and ‘did not even bother to inform the community that a reburial of formerly missing MK comrades would be taking place at the cemetery’ (Aronson, 2011: 278). This exhumation project resulted from the efforts of one unit within an ANC government that was opposed to the TRC’s proceedings, while the local ANC bodies were largely unsupportive of the families or the ceremony. We see here that a positive divergence from a TJ programme can emerge from a government agency, not just from a civil society organisation or social movement, although we must offer some reservations about the possible political utilisation of such an event.



## V. Divergent but Supplemental Activities

These groups' activities to some extent diverged from and interacted with the TRC's (incomplete) activities. Each initiative represents economic justice (Khulumani), right to know (SAHA), following-up on reconciliation attempts (IJR), and exhumation as reparatory service (MPTT) in a post-TRC stage. Even though these initiatives are not directly counted as TRC programmes, they need to be connected to the TRC activities in terms of the propagation of movement repertoire because all of them are topics that were expected to be embodied through the TRC process.

The characteristic nature of these activities is their spontaneous divergence from the TRC programme because these groups recognise the TRC's limits, while still affirming that the ideals and aims of TRC are themselves good. Such groups came into being with the TRC initiative but became aware that they were replacing or supplementing it in terms of completing the tasks expected of a TJ programme by victims. Without a doubt, appearances by these organisations were not planned in the TRC's official mandate. The TRC could not necessarily support the work of these organisations because sometimes they were critical of its inadequate implementation of expected tasks. On the other hand, these activities would not occur if the TRC was perfect, because people who are already satisfied with the TRC will have no motivation to engage in unfinished business.

These circumstances indicate that the core actors in such movements are people who feel disappointed, have complaints, or are even angry with official programmes while agreeing with the TRC's official ideals. They may develop the repertoires that have been demonstrated in the TRC process. Given the possible shift of agenda items from the TRC to other movement bodies, raising locals' expectations with highly promising ideals and goals should not simply be dismissed as unrealistic, even though such a strategy cannot always insist on its legitimacy as long as the official appeal may still leave space for the spontaneous engagement of locals who attempt to fill in the gap between official words and their expectations. Put another way, an evaluation of the TRC can be implemented in a broader manner, incorporating the activities that diverge from official programmes.

## CONCLUDING REMARKS

This paper began to set the direction of its argument, by incorporating one of the recent arguments in TJ studies. It emphasises local perception and reaction to an official TRC programmes, particularly taking the different path from the success/failure debate. The first step to looking back and re-configuring the activities of the South African TRC is to map the main local politics of the TRC's truth-seeking. Various groups, which had participated in the TRC process with dissident motives, negatively contributed to leaving unfinished business of the TRC. Yet, if one observes the longer-term influence of the reconciliatory project, this unfinished business from such politics can be re-identified as a source for

other movements in the post-TRC stage. Incorporating the idea of the propagation of movement repertoires has merit for deepening an understanding of local reactions to and social perceptions of the TRC. It helps deploy an argument concerning locals' nuanced reactions to the TRC outside the success/failure debate.

The mobilisation does not necessarily cause a positive reaction among locals, yet another type of local action appropriates, imitates or develops an official programme for its own interests and objectives. If we were concentrating only on the internal activities of the TRC process, we would overlook these events. By contrast, if we were to take the view that a TRC resonates with the public position of a social movement, which lacks established authority in society, then a TRC's ideal or motive implemented in a different place would be a subject for further inquiry. Local actors do not always respond directly to the official invitation for mobilisation. The TRC, and TJ in general, had no plan to generate local derivatives from its own official programmes. However, when a similar motive, a developed programme or a more contextualised activity is deployed at an indirectly related space in the society concerned, these appearances can be captured by the term *propagation of repertoires*. Incomplete outcomes of the TRC activities indirectly functioned as a soil for such propagation.

In referring to urban context in the current South Africa, Francis Nyamnjoh introduced the concepts of incompleteness and conviviality as a compass for those who coexist, or conflict. For him, incompleteness of others should rather be captured as a potential towards conviviality by balancing negotiation between 'the incompleteness of the past and the present in the interest of a non-linear future' (Nyamnjoh, 2015: 14). We can receive his message on the function of incompleteness not only in a context of conflicting neighbours but in the issues around TRC, or TJ, in our argument. The notion of others, who might elicit an actor's moment towards conviviality, can include the TRC. The TRC's incomplete programmes in specific manners have been variously criticised, however, when the local actors turned out to be the subjects who negotiate such incompleteness, the stock of incompleteness then turned out to be a flexible repertoire. The TRC's unexpected legacy has thus been propagated.

**ACKNOWLEDGEMENTS** This work was supported by the Grant-in-Aid for Scientific Research (S); No. 16H06318 and (C); No. 26380718 from Japan Society for the Promotion of Science (JSPS).

## NOTES

- (1) Public hearings composed of the following categories: Victim Hearing, Amnesty Hearing, Event Hearing, Special Hearing, and Institutional Hearing. The two predominant hearings were Victim Hearings and Amnesty Hearings. There was typically no opportunity for dialogue between victim and perpetrator in a Victim Hearing. Each witness was given 30 minutes of testimony in question-answer format in hearings led by TRC commissioners. Victim Hearings were held at 63 venues around the country, for three or four days at each venue.

- (2) Dumisa Ntsebeza, the ex-TRC commissioner, indicated in the book that the matter of reconciliation ‘between beneficiaries (mostly white people) and victims (mostly black people)’ is ‘the unfinished business of the TRC’ (Bell & Ntsebeza, 2003: 349).
- (3) Former president of Serbia (1989–1997) and the Federal Republic of Yugoslavia (1997–2000).
- (4) *Compomiso historico* is a term that comes from the Spanish civil war and has been within the parlance of the South Africa political theatre since the late seventies when there were signs that some forces within the broad liberation movement and internal mass uprising were advocating for some sort of engagement with the apartheid state in order to reach some sort of agreement that would guarantee a sort of check mate, where there is no clear victory by either side, but a situation is created where both side to the conflict can sell something to their constituencies which would be somehow, at a minimum, acceptable. This was then highlighted, particularly by those who came out of the Black Consciousness Movement such as Johnny Issel as a “sell out” idea.
- (5) Submission to the Truth and Reconciliation Commission by Mr F W De Klerk, Leader of the National Party, 1997, [http://www.justice.gov.za/trc/hrvtrans/submit/np\\_truth.htm](http://www.justice.gov.za/trc/hrvtrans/submit/np_truth.htm) (Accessed on 1 October 2017)
- (6) Statement by Nelson Mandela on receiving Truth and Reconciliation Commission Report (29 October 1998), [http://www.mandela.gov.za/mandela\\_speeches/1998/981029\\_trcreport.htm](http://www.mandela.gov.za/mandela_speeches/1998/981029_trcreport.htm) (Accessed on 1 October 2017).
- (7) Richard Goldstone, ‘Lest we Forget...Expose the Crimes of Apartheid,’ *Mail and Guardian*, 13 May 1994.
- (8) Nelson Mandela’s speech can be accessed at [www.mandela.gov.za/mandela\\_speeches/1998/981029\\_trcreport.htm](http://www.mandela.gov.za/mandela_speeches/1998/981029_trcreport.htm) (Accessed on 1 October 2017)).
- (9) National Assembly, 29 May 1998.
- (10) The ANC released a statement just prior to approaching court to indict the TRC final report: ‘The ANC has consistently sought a meeting with the TRC to discuss the Commission’s contemplated findings against it—as contained in the letter sent to it on 24 August 1998... This morning we received a letter from the TRC informing us that the Commission has again declined our request for a hearing. It also became clear to us that the Commission had not taken into account the ANC’s written submission before finalising its report .... In view of the TRC’s persistent refusal of the ANC’s request for a hearing to discuss the Commission’s contemplated findings against it, the ANC was left with only one option—to ask the court to compel the TRC to act in accordance with the law. ... The ANC has thus decided to lodge an urgent court interdict to stop publication of the TRC’s report’ (ANC statement on urgent court interdict against the TRC, Issued by ANC Department of Information and Publicity, <http://www.anc.org.za/content/anc-statement-urgent-court-interdict-against-trc> (Accessed on 1 October 2017)).
- (11) DOJ is legally a custodian of TRC documents, yet, the documents are physically located at the National Archives. DOJ, NIA and the National Archives, in 2001, formed a committee which would deal with the related issues such as management of, or, access to these records (Pigou, 2009: 19).
- (12) SAHA director Catherine Kennedy, Interviewed by Zenzile Khoisan (April 2015).
- (13) The vast TRC archives over 3,000 cubic metres had been transferred to the National Archives in Pretoria until 2003, however, the documents are unprocessed and inaccessible to the public (Pigou, 2009: 18).
- (14) Her husband, an Afrikaner anti-apartheid activist Marius Schoon, was the target of letter bombing, however, Jeannette Schoon and her daughter at the age of six were killed on 28 June 1984. The letter was sent by a former secret agent of the security police, Craig Williamson. The TRC granted amnesty to him.

- (15) Apartheid enforcer sticks to ‘farcical’ story on Biko killing (*Independent*, 10 September 1997), <http://www.independent.co.uk/news/apartheid-enforcer-sticks-to-farcical-story-on-biko-killing-1238495.html> (Accessed on 22 April 2017)
- (16) The TRC plainly admitted that ‘the Commission was restricted to examining only a fraction of the totality of human rights violations that emanated from the policy of apartheid’ (Truth and Reconciliation Commission, 1998: 29) although the covered period would be understood to be ‘the worst and...the bloodiest in the long and violent history...’ (Truth and Reconciliation Commission, 1998: 24). The TRE report began its contents from the historical remarks dated back to 1652 (Truth and Reconciliation Commission, 1998: 25). At the preparation stage of the TRC, the ‘1960 cut-off date chosen by legislators’ was roughly approximated ‘to the period at which the apartheid state turned unabashedly to the view that only traitors could differ with it over fundamental policy matters, including the basic human rights of voteless black people’ (Asmal et al., 1996: 9).
- (17) The term *Vlakplaas* originally designates a farm near Pretoria where the South African Police counterinsurgency unit placed its headquarters. Yet the term has generally been used to indicate the paramilitary hit squad against political opponents.
- (18) *Daily Maverick*, 22 August 2013, <http://www.dailymaverick.co.za/article/201308-22-us-corporations-cant-be-sued-for-apartheid-court-rules/#.VhfzwnLotjp> (Accessed on 10 October 2016).
- (19) See Sarah A. Altschuller, ‘Alien Tort Case Development: Second Circuit Affirms Dismissal of Claims against Ford and IBM,’ 31 July 2016, <http://www.csrandthelaw.com/2015/07/31/alien-tort-case-development-second-circuit-affirms-dismissal-of-claims-against-ford-and-ibm/> (Accessed on 31 July, 2016).
- (20) See the SAHA web page. [http://www.saha.org.za/projects/trc\\_archive\\_project.htm](http://www.saha.org.za/projects/trc_archive_project.htm), (Accessed on 9 April 2017).
- (21) SABC News, 1 March 2013, <http://www.sabc.co.za/news/a/4e60d7004eba3c4291b2fb7da4cd6ad7/SABC,-SAHA-launch-TRC-website-20130103> (Accessed on 9 April 2017).
- (22) Zenzile Khoisan, ‘TRC files reveal damning truth,’ *IOL News*, 12 April 2015, <https://www.iol.co.za/news/politics/trc-files-reveal-damning-truth-1843834> (Accessed on 20 September 2017).
- (23) The full records detail the following events and issues: the Helderberg disaster inquiry, after 159 people died when a South African Airways plane exploded in mid-air near Mauritius in 1987; the Mandela United Football Club and Winnie Madikizela-Mandela’s knowledge of its activities; the incrimination of Joe Mamasela, a notorious *Vlakplaas*-*kari* (a secret agent of the apartheid security force who infiltrated the ANC), in the abduction of the Pecco Three; and the deaths of anti-apartheid activists such as Rick Turner and Griffiths Mxenge. [http://www.saha.org.za/news/2010/March/trcs\\_secret\\_hearing\\_transcripts\\_handed\\_over\\_to\\_saha.htm](http://www.saha.org.za/news/2010/March/trcs_secret_hearing_transcripts_handed_over_to_saha.htm) (Accessed on 9 October 2016).
- (24) Quoted from the IJR website: <http://reconciliationbarometer.org/wp-content/uploads/2014/12/IJR-SA-Reconciliation-Barometer-Report-2014.pdf> (Accessed on 27 January 2017).

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