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# TRUTH TALK

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## Reparation and Rehabilitation

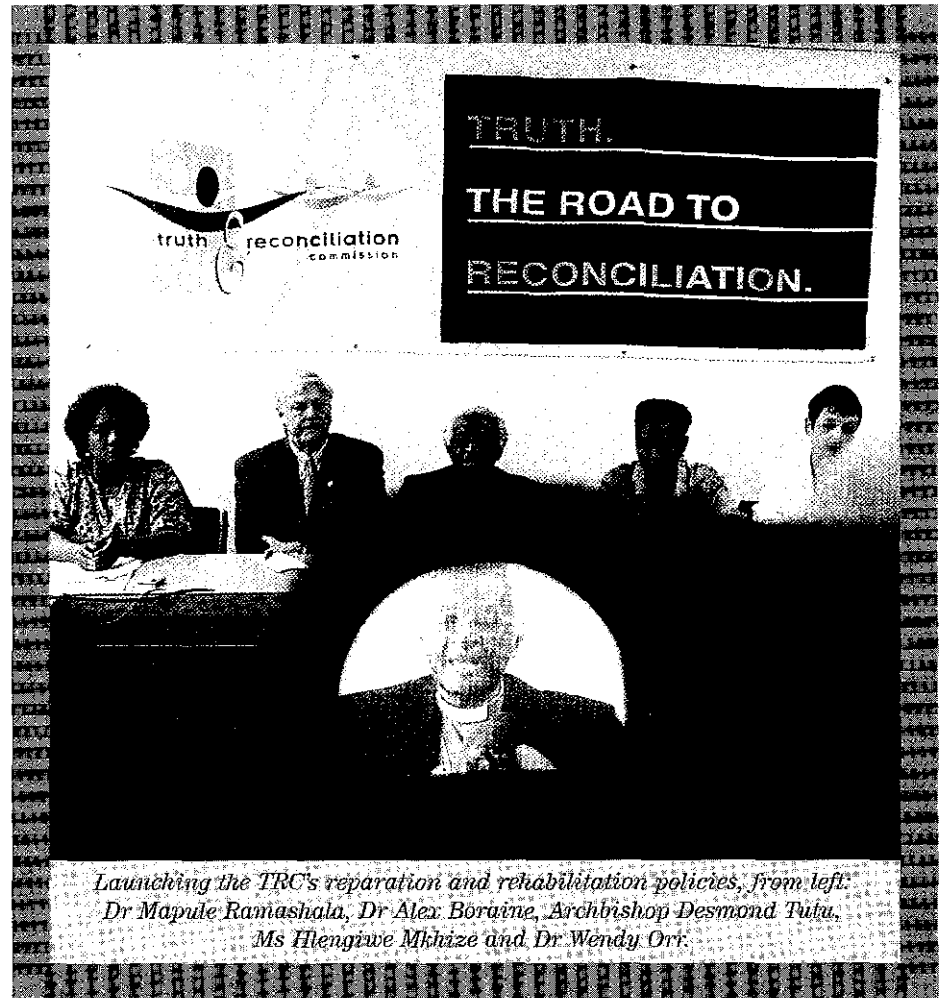
The Truth and Reconciliation Commission has unveiled a five-point plan for reparation and rehabilitation, including Individual Reparation Grants (IRGs), symbolic reparation and community rehabilitation programmes.

The plan also incorporates Urgent Interim Reparations and institutional reforms. The proposals, drawn up by the TRC's Reparation and Rehabilitation Committee, have been tabled at a meeting of the full Commission but still need to be fully discussed with government before they are finalised.

The Promotion of National Unity and Reconciliation Act broadly defines reparation as including "any form of compensation, ex-gratia payment, restitution, rehabilitation or recognition".

After intense debate the R&R Committee, chaired by Ms Hlengiwe Mkhize, refined these guidelines into a proposed policy for rehabilitation and reparation with five components:

- Individual Reparation Grants, which will be part of an individual financial grant scheme;
- Symbolic Reparation, which will help communities to commemorate together "the pain and victories of the past";
- Community Rehabilitation Programmes;
- Institutional reform, designed to prevent human rights abuses from happening again; and



Launching the TRC's reparation and rehabilitation policies, from left: Dr Mapule Ramashala, Dr Alex Boraine, Archbishop Desmond Tutu, Ms Hlengiwe Mkhize and Dr Wendy Orr.

- Urgent Interim Reparations, which have long been under discussion in the TRC.

The R&R's proposals were developed around several principles identified by the Commission, which were that reparations should be: development-centred, simple and efficient, appropriate in cultural terms, community-based, and must promote healing and reconciliation as well as capacity-building in communities.

It is proposed that individual reparation should take the form of a scheme under which each victim of a gross human rights

violation will receive an individual, annual financial grant for a period of six years.

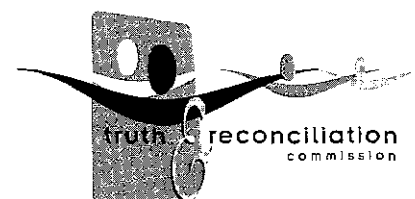
Most of the value of the grant would

Continued on page 2

### INSIDE

### TRUTH TALK

- 1 Why does the TRC take so long?  5
- 2 Focus on reconciliation  4 & 6
- 3 The challenge ahead  10 & 11
- 4 Looking back at HRV hearings  12-15
- 5 What happens after the TRC?  16



# TRC PROPOSES GRANTS

The TRC's proposal that there should be Individual Reparation Grants for victims and survivors of gross human rights violations made the biggest news when the Commission revealed its policy last month.

The proposal is still under discussion with the government, which has not yet said it accepts the idea. However the proposal — as presented to the government by the TRC — is that each victim who is still alive should receive an Individual Reparation Grant twice a year for a total of six years. If a victim has died, then the grant would be divided equally among relatives or dependants.

The amount of the grant would vary between a total of R17 000 a year and R23 000 a year, if Parliament

accepted the idea. The purpose of the grant would be to meet needs such as medical, education, housing and others, but the basic reason for making a grant is to acknowledge the suffering caused by a gross violation of a person's rights.

Most of the value of each grant would acknowledge suffering. However, payments would be "topped up" — to the maximum level of R23 000 a year — for those who have many dependants, for those living in rural areas a long distance from services and for those who live in places where the cost-of-living is high.

The grant is intended to provide resources to victims to help restore their dignity. It will be accompanied by

advice to help those who receive it to make the best use of the resources.

Four of every ten people who made statements to the TRC asked for money to improve the quality of their lives. Nine of every ten asked for services which they could pay for if money is made available, such as education, medical care and housing.

The average payment of R21 700 is linked to average annual income of a South African household 1997. The Commission considered using the poverty line of R15 000 as its average payment, but rejected this idea because it would condemn victims to a life of near poverty. ■

## From page 1

acknowledge the suffering caused by the gross violation of human rights experienced by a victim. However, people living in rural areas, where it is more difficult to access services such as health care, and those with many dependants, could receive higher grants. Past compensation granted as a direct result of the violation would be deducted.

Symbolic reparation conjures up images of monuments, but could take the form of a variety of other measures. It may include the erection of memorials and monuments on both national and local levels, as well as the identification of a "Day of Remembrance".

On a more individual level, symbolic reparation could also mean assistance to individuals in obtaining death certificates and finalising outstanding legal matters, or clearing their names from criminal records. Victims may be eligible to have relatives exhumed and reburied, or in some cases to receive a headstone or tombstone.

The R&R Committee has further recommended that streets and community facilities should be renamed to reflect and honour individuals or events in communities. It identified a need for culturally appropriate ceremonies in certain communities, which could in some instances include cleansing ceremonies. The Committee believes local and provincial authorities should arrange such ceremonies in close co-operation with faith communities and cultural and community organisations.

Community Rehabilitation Programmes hinge on the main policy principle that reparation should be development centred, to empower individuals and communities to take control of their own lives. It therefore implies the provision of sufficient knowledge and information about available resources to victims through a participatory process.

The Committee states clearly in its proposal that providing individuals with resources to access services is not enough as these services are in many cases "unavailable, inaccessible or inappropriate". It also notes that entire communities have been subjected to systemic abuse, and may suffer from post-

traumatic stress symptoms. The proposals make provision for rehabilitation programmes at community and national levels.

Among the categories of community rehabilitation recommended are health care, mental health care, education and housing. A programme to demilitarise the youth who have come to accept violence as a way of resolving conflict is included under emotional health care, as is a multi-disciplinary programme involving all ministries and departments to resettle the thousands of "internal" refugees driven from their homes due to political conflict. The Committee further proposes mental health interventions on community level, as well as specialised trauma counselling services and family-based therapy. It calls for housing projects in communities where gross violations of human rights led to mass destruction of property and/or displacement.

All these programmes would make provision for the establishment of services and activities in the community, aimed at promoting the healing and recovery of individuals and communities affected by violations.

The Committee also identified two other components of reparation: Urgent Interim Reparation and institutional reform. Limited financial resources will be made available to people in urgent need, to enable them to access appropriate services and facilities.

Institutional reform overlaps with the broader aims of the Commission, including measures designed to prevent the recurrence of human rights abuses, for implementation in a wide range of sectors such as the judiciary, media, security forces and business. Recommendations of a legal, administrative and institutional nature, to ensure the development of a human rights culture in South Africa, will be included in the Final Report of the TRC. ■

## C R E D I T S

*Co-ordinator*  
Terry February

### *Contributors*

John Allen, Dr Alex Boraine,  
Mary Burton, Terry February,  
Bongani Finca, Pumla Gobodo-  
Madikizela, Richard Lyster,  
Hlengiwe Mkhize, Fazel Randera,  
Wendy Orr, Christelle Terreblanche

*Editing*  
John Allen

*Photography*  
George Hallett

*Cover Photograph*  
IAfrica

*Design*  
Abdul Amien

DTP Origination & Repro  
Faiez Martin t/a Image Mix

*Printing*  
Forneset Printers

*Publisher*  
The Truth and  
Reconciliation Commission  
106 Adderley Street, Cape Town  
Tel +27 21 245161

*Apologies to Hlengiwe Mkhize for  
omitting her credit in our last issue.*

# Aid for Victims

Reports by **Christelle Terreblanche, assisted by Commissioners Hlengiwe Mkhize, chairperson of the R&R Committee and Wendy Orr.**

The public spotlight over the last 18 months has been on the high-profile activities of the TRC's Human Rights Violations Committee and Amnesty Committee. But during this time, members of the Reparation and Rehabilitation Committee have been working largely behind the scenes on what is arguably the Commission's most important long-term product — proposals to help the victims and survivors of the gross human rights violations which happened in the years 1960 to 1994.

This feature reports in broad outline on the "Proposed Reparation and Rehabilitation Policies" of the TRC, a document drawn up by the R&R Committee which has been tabled at the Commission and is now being discussed with government.

Readers should note that the proposals are suggestions or recommendations from the Commission at this stage. They are subject to debate and change. When the Commission makes its final proposals to government, they may be accepted, but they may also be amended or rejected.

So what is proposed here is what the Commission would like to see happen, and what the Commission believes is a justifi-

fied, responsible policy. But in the end it will be up to the President, Cabinet and Parliament to make the final decisions.



*Ms Hlengiwe Mkhize, chairperson of the R & R Committee*

An estimated 14,000 statements from people who have suffered gross human rights violations are expected by the TRC.

About one in five of those who have made statements have appeared at public hearings countrywide, but the statements of the rest have gone through the same process of corroboration and scrutiny so that the Commission can declare them victims of gross human rights violations during the apartheid years.

Now these people are being assessed by the R&R Committee to determine which reparations they will be eligible for. For these purposes, victims are defined by the Committee to include their relatives and dependants.

The Committee is proposing that relatives and dependants are defined as:

- A parent (or those who acted in place of a parent);
- A spouse (according to customary law, common law as well as religious and indigenous law);
- Children (either in or out of wedlock or adopted);
- People the victim has or had a customary or legal duty to support.

These definitions will be used to identify beneficiaries of both Urgent Interim Reparation and final reparation measures. **TR**

## WHY REPARATIONS?

Even before the beginning of the TRC, the relationship between justice, reparations and amnesty was a hotly-debated and controversial issue, particularly among victims of apartheid violations.

The preamble to the Promotion of National Unity and Reconciliation Act states clearly that one of the TRC's objectives should be to provide for the "taking of measures aimed at the granting of reparation to, and the rehabilitation and the restoration of the human and civil dignity, of victims of violations of human rights".

Through the taking of statements from victims of violations, the Commission has confirmed that thousands of people fell

victim to killing, torture, abduction and various forms of severe ill-treatment. In recognition of this, the R&R Committee of the TRC has developed policy proposals and recommendations to enable the government to provide reparations and rehabilitation to individuals and communities.

One of the main moral foundations for reparation and rehabilitation is that this is necessary to counterbalance the amnesty process. The granting of amnesty to perpetrators of human rights violation is so generous that, without equally generous reparation measures to alleviate the plight of victims, the process would inevitably favour perpetrators. Furthermore, victims

lose the right to institute civil claims against perpetrators, and need other means of compensation.

Another moral argument forwarded by the R&R Committee is that victims of violations have suffered many losses and therefore have the right to reparation and rehabilitation. These could include measures to restore dignity and self-respect as well as the physical and mental well-being of victims.

In addition, the present government has accepted that it is morally obliged to carry the debts of its predecessors and is thus responsible for reparation.

For this purpose the President, in consultation with the Ministers of Justice and Finance, will establish a President's Fund from which victims will be assisted in terms of regulations which will be promulgated by the President after Parliament has studied the TRC's proposals. **TR**

# Restitution – more than mere words

**Reconciliation was not merely “nice feelings”, Dr Alex Boraine, deputy chairperson of the TRC, told a recent conference on media reporting about the Commission. He said restitution was one of the anchors upon which reconciliation had to be based. This is an extract from his address.**

The Commission has a separate committee entitled the Reparation and Rehabilitation Committee. This is a recognition that it isn't good enough simply to pat people on the head and express words of sympathy unless it is accompanied by action.

Reconciliation is not merely nice feelings, it is more than goodwill; it must always go beyond words to action. The kind of reparation we have been talking about is not only the possibility of a central monument or peace garden where the names of those who were killed or disappeared can be honoured and where families can visit and remember.

We are talking about medical treatment, psychological help, the possibility of scholarships where breadwinners were killed in the conflict, and the possibility of a limited pension.

The Commission is only one side of the coin. The South African government has pledged the transformation of South African society which in the end will move towards economic justice... Thousands of South Africans are benefiting from electricity for the first time in their lives. Every time a light is switched on it is a sign of reconciliation. Every time a tap is turned on it does much more than provide water. It says to ordinary people, “we care about you”.



The same is true in the education system which deliberately disadvantaged the black population in South Africa — it is being reviewed from top to bottom. Every time a new classroom is built, every time a new teacher is trained, every time a new science laboratory or library is built it speaks volumes of a genuine commitment to reconciliation.

Every time a simple house is erected so that people who were squatting in the bushes can be protected, it speaks not merely of goodwill; it is a concrete action

which helps to reconcile a deeply divided society. Every time a clinic is built so that people don't have to walk miles to receive basic health care it is not only the healing of the body but also of the spirit.

During the apartheid era more than three million people were forcibly removed from their homes so that land reform must be and is an essential part of reconciliation.

Every time a new job is created it provides someone with equality in the race of life.

This is why I say that reconciliation without the anchor of restitution is not merely false reconciliation, not only a travesty of justice, but it is making victims of people who have suffered all over again.

The TRC cannot reconcile a deeply divided society and a society still tragically unequal and filled with suspicion and distrust. It can only begin to lay down some foundation stones, some building blocks, on which the total South Africa will have to build to create a new transformed and renewed South Africa. ■

For more reports on Reconciliation, see pages 6 and 7.

## AMNESTY COMMITTEE EXPANDS

The Amnesty Committee of the TRC is to be expanded to more than three times its original size to cope with the huge number of amnesty applications it has received.

It is estimated that the Committee will have to hear more than 1,600 amnesty applications at public hearings, and it has so far heard about 140 — less than 10 percent of the estimated total.

The Committee, which originally com-

prised one five-person panel, will be expanded to 19 persons if legislation being prepared for Parliament is approved. This will enable the appointment of six panels of three members each to hear applications.

Latest figures indicate that 85 people have been granted amnesty, 53 after public hearings and 32 after being heard in chambers. (Cases which do not involve gross human rights violations are

decided without a public hearing.)

Amnesty has been refused to 39 people after hearings and to 43 people in chambers. In addition, another 2015 applications have been rejected on the basis that they do not disclose a political objective, the acts committed were for personal gain, the acts fall outside the cut-off date for amnesty or the applicants denied guilt. There are 7041 applications in total. ■

**Commissioner:** Good morning, and welcome, Mr M.... How can I help you?

**Mr M:** I am very angry. I came here a whole year ago to make my statement, and I have heard nothing from you. I thought you were going to help me with all the problems I have, but you have done nothing at all. My son was tortured and killed, and I have to bring up his orphaned children. My wife is sad and depressed all the time. When I telephone the TRC from the rural area where I live, I just get told to be patient, so now I've come all the way to town to see you.

**Commissioner:** Well sir, I can see that you are angry with us. Let us see what has been done and what can be done to improve this situation. First of all, let me check: did you receive a letter from us thanking you for making your statement?

**Mr M:** Yes I did, and it gives the reference number I must use to ask about it. But it is a long time since I got it, and I began to lose hope.

**Commissioner:** I understand that. It has taken us much longer than we expected to be able to gather all the statements, and then to check up on all of them. Did you know that our team of investigators goes out to follow up on the statements we get, to see what more can be found out? In your case I can tell you that we have proof that your son was indeed held in the police cells which you mentioned, and we have found the medical records and the inquest which confirm your account of his death.

**Mr M:** Well then, if you have proof, why do I have to wait so long?

**Commissioner:** There are still a few things that have to happen. Firstly, it may be that the person or persons responsible for your son's death have applied for amnesty. Our amnesty committee are working very hard to finish looking at all the applications so that we can check to see if any of them concern your son. If that happens you will be told, and if the application is to be heard in public you will have the right to attend, and to oppose the application if you wish.

**Mr M:** Well, my wife and I would be pleased if that happens - at least we will know for sure who did it, and will be able to face the person. But what if they don't apply for amnesty?

**Commissioner:** We will still try to identify the person - the "perpetrator", to use the legal word. And if the perpetrators have been named, then we have to send them a letter notifying them that they have the right to respond, but they must do so within three weeks. Many such letters have already been sent out, and we are starting to get the replies.

**Mr M:** And then what do you do?

**Commissioner:** We are already doing this: a committee

# "Why haven't you done something about my statement - and where's my money?"



**Mary Burton, one of the Commissioners who faces regular questioning from those who have made statements to the Commission about the slow progress of their cases, records a typical conversation.**

sits with all the statements, and pulls together all the information, and then decides whether there has been a "gross violation of human rights" according to the law that established the TRC (The Promotion of National Unity and Reconciliation Act).

Some of the statements unfortunately do not fall in our classification: for example, if a person was killed before our starting date of March 1960, we cannot consider it. Or if a person died in an accident, rather than in a political conflict, that also is outside our mandate.

As soon as all the committee is ready to make a rec-

ommendation, it will be taken to the Human Rights Violations Committee of the TRC for a final decision.

Then at last a letter will be sent to the person who suffered the "gross violation of human rights", or the family, telling them of the decision. That person or family will then be able to apply for "reparation" - the kind of assistance that you have been hoping for.

If the Human Rights Violations Committee rules that the event mentioned in the statement is not a gross violation within our mandate, a letter will also be sent.

**Mr M:** But why does it all take so long?

**Commissioner:** I know it is very frustrating to have to wait, but we have to make absolutely sure that we have got the correct facts. We have to respond to your needs and wishes, but we are also recording things for the future, so that people will understand our history better, and we must try to get it right.

**Mr M:** But my wife and I are getting older now, and we worry about what will happen to my son's children. They need to get a good education, and we are struggling to bring them up with only our pension.

**Commissioner:** I understand that, and I can assure you that as soon as you receive your letter, and the form to fill in to apply for reparation, our Reparations and Rehabilitation Committee will give it their attention. People who need "urgent interim relief" will be attended to with particular speed.

**Mr M:** And what will they do for us?

**Commissioner:** The final details are still being worked out - that is another thing that has taken a long time to get just right. But in every case where someone has suffered harm because of a gross violation there will be some assistance, and where, for example, there are young children, particular attention will be given to their need for education.

I hope all this long explanation has made you feel less angry.

**Mr M:** Well I still think it has been far too long, but I can see why you have to be sure.

**Commissioner:** You did tell me at the beginning that your wife is very sad and depressed. Is she getting any treatment? I think that our Reparation and Rehabilitation team may be able to advise her and offer her some help.

**Mr M:** I would be glad if that could be done. The loss of our son, and the process of talking about it all over again has been very hard for us, but perhaps now things will start to get better.

**Commissioner:** I am pleased we have been able to explain the process to you, and I hope that soon we will be sending out the letters to people like yourselves. Go well, Mr M..., and be patient with us for a little while longer.



# RECONCILIATION BY UNDERSTANDING THE TRUTH

**The Truth and Reconciliation Commission recently has been holding vigorous internal debates about how to promote reconciliation in South Africa. Recently a number of Commissioners and other members of the TRC's standing committees were asked to make presentations to the Commission on their views. Truth Talk asked them to elaborate afterwards for its readers.**

**Commissioner Wynand Malan:** Reconciliation is an approach, not an event. It should be understood in the context of national unity, which is the charge of the TRC. We can but make a limited contribution to uncovering all of factual truth. But we may be able to contribute more to understanding the nature of the conflicts of the past by reporting on the motives and perspectives of both perpetrators and victims of gross human rights violations.

It is difficult to live with the suffering of harm, especially so if I have no idea why it was done to me. It may just be a little easier if I understand what went on in the mind of those who caused the suffering even if their motives had no justification.

Reconciliation is also the acknowledgment of the dignity of victims for long ignored. It restores the individual's capacity to take hold of herself and to manage the future and herself in that future. It restores the capacity to live with or alongside the other. It allows us, while remembering, to bring closure to a chapter in our past. It enables us to live in the present, making our life as a nation and our lives as individuals in a shared future. It always remains a never-ending process.

**Dr Mapule F Ramashala,** Commissioner and member of the Reparation and Rehabilitation Committee:

Reconciliation means different things to different people, ranging from issues related to individual reconciliation to national reconciliation.

For me reconciliation has to be conceived at several different levels. First there is individual reconciliation, involving perpetrator-victim interaction. On this level several issues are at stake: perpetrator-victim interaction within the same community where people have been turned against one another as a function of either political party conflict or state security involvement, such as that of the Third Force. People within communities who have experienced such conflict need to be healed and reconciled so that they may live together free of conflict.

There is also perpetrator-victim interac-

tion which involves the state security forces like the police and victims who live in different communities. Here the victims have asked for the truth and full disclosure which then facilitates their own healing process. Reconciliation at this level is tangential especially since there is very little, if any interaction between these two principals. At this level one should examine the role of perpetrators in the reconstruction and rebuilding process of families and communities, in particular those communities destroyed in the struggle.

A second level of reconciliation involves perpetrators in their own communities, specifically white perpetrators. Through the amnesty process, public disclosures of gross human rights violations have resulted in the isolation of perpetrators in their communities. This has a punitive impact and needs to be addressed as part of the

TRC's strategy of 'forgiveness', understanding, healing and perhaps reconciliation.

Thirdly, there is reconciliation as demonstrated by activities which involve development of disadvantaged communities. This involves redistribution of resources and investment in infrastructure, amongst others.

Finally, it is important for white South Africans to engage visibly and actively in the process of 'healing the nation' by taking responsibility for past abuses and showing a commitment to redevelopment of the country.

**Dr Khoza Mgojo,** Commissioner and



member of the R&R Committee: As someone has said: "The search for truth is a vital element of human nature and without this as primary driving force, humans would be no better than other creatures. Whilst it is most compelling, the search for truth is, however, often a painful and hurtful exercise. It is not a comfortable exercise to discover that a great hero was, in fact, a cruel and unforgiving person."

There are those who will argue that the fascination for the truth only opens old wounds,

causes new pain and exacerbates the suffering of the past. There is an element of truth in this but it is only through identifying the mistakes of the past that we can build the protection of the present and security for the future. It is true that very often humans have been slow learners but that is no excuse for dismissing inquiry. We must ask why and we must learn from the experience of the past.

But the truth can hurt and even though the search for truth is a noble quest, it should always be done in a manner that is compassionate and sensitive. In line with its noble intentions this search should be done to bring people together, rather than drive them apart.

This is why the title "Truth and Reconciliation" is so vital. A plain Truth

Commission could have driven even greater divides between many of our people but with "reconciliation" as "truth's partner" it is designed to heal, unite and comfort rather than antagonise. There are some who will antagonise but I think it is true to say that the process of reconciliation has been far greater than the process of polarisation.

One feels proud to quote the Brian Mitchell and Trust Feeds community case. This has gone beyond these two groups, adding an element of bringing about a process of reconciliation between Trust Feeds ANC and IFP groups. A working committee drawn from the former rival groups has been created to continue with the process of reconciliation. □

## Ms Pumla Gobodo-Madikizela, a member of the HRV Committee, writes about a remarkable effort to help the mother of a SADF soldier to learn about the way he died.

Ten years ago, Anne-Marie McGregor lost her son in the border operational area. His body was sent home in a sealed plastic bag, which she was not allowed to open.

For ten years, Mrs McGregor has lived with the burden of uncertainty, and the pain of hoping against hope, that the body in the bag belonged to someone else. A few months ago, the Cape Town office of the TRC facilitated a meeting between Mrs. McGregor and one of the ex-soldiers of the SADF who was present when her son, Wallace McGregor, was killed. In that meeting, many tears were shed.

The most significant thing about it for me was Mrs McGregor's words, "Hy is rerig dood" ("He is really dead"), which she repeated over and over. These words capture in a nutshell the emotional turmoil that has been

raging within her: knowing that her son died, and yet not knowing. But when that moment of truth came, she knew with certainty. She became reconciled with the fact of her son's death.

Mrs. McGregor's story is an illustration of how individuals are reconciled with difficult aspects of their lives.

But how does a "nation" become reconciled with itself, and with the past? What kind of response does the question of reconciliation evoke?

Our response to these questions is determined by our moral, political, and emotional understanding of our place in history. Victims and survivors of atrocities are driven by the memory and pain and suffering, and the need to move beyond the lingering

trauma. Many perpetrators are driven by a desire to forget. Our society is split between people who, consciously or subconsciously, identify with the perpetrators and those who identify with victims.

The identification with perpetrators is usually motivated by denial of the past. These people struggle to acknowledge their awareness of the atrocities committed by the perpetrators because this threatens their identity and sense of humanity. Those who identify with the victims embrace the terrible stories brought into the public domain. They either symbolically "take on" the role of the victim, or are burdened with guilt for not speaking out against atrocities.

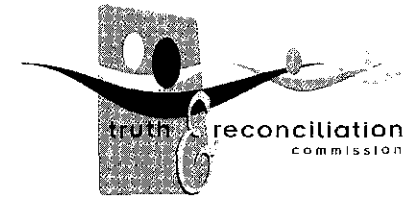
The TRC, therefore, has had an impact on people's identities in our society, and seems to have brought the salience of different roles and different identities. With these fragments in our society, how do we build on what we have already accomplished, and use it to achieve reconciliation?

There should be a way in which all South Africans are encouraged to see the TRC not as a process that is meant to benefit one political party, but as an important phase in the transformation of our society. Until the majority of South Africans of all races, and all political persuasions, acknowledge that there was something wrong with the political past, that locates their place in history, there will be no horrible past to reflect on, and therefore nothing to reconcile with. □

LEFT: Cape Town - Former Army Generals and their lawyers at the TRC Armed Force Hearings, October 1997.



# THE TRC AT WORK



*RIGHT: Mr Thulani Grenville Grey conducting a staff counselling session at the TRC Johannesburg office.*

*BELOW RIGHT: Archbishop Desmond Tutu in his Cape Town office, conducting a radio interview.*



*LEFT: TRC translator, Ms Nonkoloseko Ntobela in pensive mood during a break at an amnesty hearing.*

*BELOW: Mokatedi Mpshe, leader of evidence and Meleney Burts, TRC logistics officer at the Biko amnesty hearing, September 1997.*



*ABOVE: Ms Ruth Lewin, TRC Cape Regional Manager, in discussion with Mr Zenzile Khoisan, investigator.*

*RIGHT: TRC translators, Ms Pearl Maseko, and Ms Thoko Kepadisa in the broadcasting booth at a recent amnesty hearing.*



*LEFT: Award winning SABC TV – TRC Special Report producer, Max du Preez and cameraman, Dan Mlingwana at an amnesty hearing.*



# TRC faces huge task ahead

**Members of two of the Standing Committees tell Truth Talk readers about the challenge ahead as the commission comes to an end**

**M**embers of the Human Rights Violations Committee of the TRC see their greatest challenge in the coming months as the making of findings on as many statements from victims, survivors and their relatives as is humanly possible.

In a survey of Commissioners' opinions, HRV Committee members were anxious to give attention to the cases of as many individuals as possible.

This is a huge task — the Commission has already collected 12,500 statements and it may end up with nearly 15,000. Each statement has to be individually corroborated, then a "pre-finding" is made at regional level, then the full Committee makes a final "finding" that a gross human rights violation has occurred.

Mrs Mary Burton, a Cape Town member of the HRV Committee, told Truth Talk that her committee's greatest challenge was, "To complete the prefindings as speedily as possible so that the next step of making findings can take place and the people who have made statements can receive notification and, where appropriate, start applying for reparation."

The Right Revd Bongani Finca, head of the TRC in the Eastern Cape, described the committee's biggest challenge in his region: "We have to go back to the transcript of our hearings, take each one of the requests that were made to us and act on them.

"Those which are linked to the reparation policy will be dealt with outside the TRC process (through structures set up by government) but those which fall within our mandate such as those small requests for death certificates, investigations to establish the truth and meeting with perpetrators must be taken seriously and addressed individually."

Mr Richard Lyster, head of the Durban TRC office, said their biggest tasks were to make victim findings and "to make findings in the HRV Committee with regard to perpetrators, which are properly considered, balanced and above all legally defensible.

"I say this against the background of the Caprivi trainees' hearing in Durban, which in my view is the most important single hearing that the TRC has and will hold. Much is at stake for old regime military and

police personnel, as well as members of the State Security Council, who were involved in the planning of Operation Marion.

"We have to consider the matter in depth, familiarise ourselves with all the evidence and make a finding which answers to all the above requirements, but mostly one that is legally defensible."

Mr Wynand Malan, deputy chairperson of the HRV Committee, agrees on the most important challenge: "The making of decisions on all the deponents' statements as to who are victims, as defined in terms of the Act."

Archbishop Desmond Tutu, chairperson of the Committee, summed up its remaining task as follows: "To be able to capture the significant details; to tell the stories in such a way that our nation will accept them as part of our common history, and be able to reflect that horror of evil and also the exhilaration of the magnanimity and generosity of spirit of the victims; and to come up with viable suggestions about how we could prevent the repetition of the evil." □

## Big challenge for R&R Committee

**F**or members of the TRC's Reparation and Rehabilitation Committee, the biggest challenge between now and the end of the life of the Commission is to ensure that once the TRC has gone, the government looks after the victims and survivors of gross human rights violations properly.

Dr Khoza Mgojo, member of the Committee, from KwaZulu-Natal, told Truth Talk:

"The TRC has raised hopes for reparation to the witnesses and survivors who have come before the HRV Committee during the hearings. Most

of these people have not even been found to be victims yet.

"Our Committee has to make recommendations for urgent reparation. The delay has caused more trauma to the witnesses or survivors. Victim findings are becoming an urgent assignment for our Committee."

Dr Wendy Orr, deputy chairperson of the Reparation and Rehabilitation Committee, summed up her Committee's biggest challenge in one sentence: "To get the final R&R policy recommendations in front of Parliament before the end of the next session."

Dr Mapule F Ramashala, also a Commissioner on the R&R Committee, linked the Committee's challenge to the perception that the TRC process benefits perpetrators of human rights violations. The main challenge she identified was: "The implementation of reparations in an attempt to demonstrate to victims that the TRC cares for their needs (and not only for perpetrators, who have already walked free)."

Ms Glenda Wildschut stated the challenge in similar terms: "Finalising an innovative and implementable reparations policy." □

# Final Report will 'kickstart' debate

The Truth and Reconciliation Commission has gathered masses of information and covered most of the country in its quest to hear the stories of all victims of apartheid.

However, one of the biggest and most daunting tasks still lies ahead — the completion of the Final Report, which is to be handed to President Mandela at the end of July next year.

The commissioners and other scribes have begun to give flesh to the skeleton guidelines of the report, which have already been approved by the TRC.

"The act governing the Commission requires us to write a report on our work as quickly as possible," says Professor Charles Villa-Vicencio, the Commission's national director of research.

"That report needs to provide, as the act says, details of the causes, nature and extent of gross violations of human rights, one moreover that captures the perspectives of victims and the motives and perspectives of perpetrators. This is a massive task."

Dr Mapule F Ramashala, the Commissioner responsible for the research department, adds: "We have an incredible amount of information. Now we have to start analysing it so that we can respond to the mandate of the commission, which is to provide as full a picture as possible of the period under investigation."

"However there are some limitations to the information we have, for instance the fact that we have too few statements on human rights violations from Kwazulu-Natal, particularly from the Inkatha Freedom Party. The same applies to the leadership of the liberation movements."

Dr Villa-Vicencio explains that the Commission is drawing on various sources for its report. "These include the extensive statement-taking process (more than 12,500 human rights violations statements to date), statements from political parties and liberation movements, the South African National Defence Force (SANDF), NGOs, research institutions and a range of individuals within state structures and civil society."

Material has also come from special and event hearings, such as hearings on the health and media sectors, and on events such as the Bisho Massacre of 1993, the Seven-Day War of 1990 in Pietermaritzburg, the Moutse conflict of the 1980s in the former Transvaal and the Trojan Horse killings in Cape Town.

Masses of data have also been collected from amnesty applications, from the archives



*"We met a range of people — NGOs, investigative journalists, academics and others, and asked them to tell us what had happened in their regions, and above all about those events that were in danger of slipping out of the common memory."*

**Prof Villa-Vicencio,  
TRC director of research**

of bodies such as the National Intelligence Agency and the National Archives, and from

the Commission's closed investigative inquiries.

One of the biggest tasks will be pulling the enormous amount of material together, says Professor Villa-Vicencio. "We cannot do our work in a vacuum. In addition to our own data, there are already in existence huge data bases and superb books giving us the context within which the events have taken place."

One of the research department's first activities was organising 15 to 20 workshops all over the country.

"We met a range of people — NGOs, investigative journalists, academics and others, and asked them to tell us what had happened in their regions, and above all about those events that were in danger of slipping out of the common memory."

"We now have pages of chronology, and we have a fairly clear understanding as to what happened. So we are locating our primary data into this material and integrating the two."

Asked whether putting together the report involved controversial moral and other judgments, Professor Villa-Vicencio insisted that the report-writing is a process: "This has been a particularly contested activity, involving all sorts of people in TRC, with different views. We have been holding workshops on regional level and with commissioners to try to reach understanding on the methodology and on the values which will underlie the report."

"We have now agreed on an outline for a four-volume report, which is not cast in stone but is nevertheless a well-debated, established outline. We have consensus to proceed with the integration process."

There will be more consultations around the country, especially ahead of writing the most contested chapters: "Everyone will get the opportunity to brainstorm these matters. The research department will listen, and come up with a proposal." **BT**

## Report to be widely accessible

There is no guarantee that the recommendations in the TRC's Final Report will be implemented, no matter how good the report, says Professor Charles Villa-Vicencio.

However, he stresses that everything possible is being done to make the report widely accessible.

"We are writing it for the broad South African public, and at the same time at a level to ensure that people in government, and private sector structures and NGOs, will be able to pick this up and take this forward."

"We intend coming up not with abstract proposals, but fairly comprehensive suggestions concerning for instance the justice system, archives and reparations. It will not be an academic treatise. Academics will criticise it — it will give them something to do for years to come."

In the end, says Dr Villa-Vicencio, the most the TRC can do is to open up debate: "We can kickstart a process, to provoke discussion on recommendations which government and civil society, for instance, could take over." **BT**

# REGIONAL HEARINGS

**T**he TRC's public hearings for victims and survivors of human rights violations, which had a dramatic impact on South Africa's people, came to an end recently. In these articles, the four regional offices of the Commission reflect on the importance of the hearings for them.



*Focus on pain: Media members capture painful moments of slain MK combatant Ashley Forbes' sister at a recent hearing in Cape Town.*

## CAPE TOWN OFFICE

MARY BURTON, *Human Rights Violations Committee*

The most important achievement of the hearings in the Western and Northern Cape was to open a window for the public into the workings of the TRC, and to reveal the extent of the stories of human rights violations.

The full coverage of the media, especially at the start, took this picture into the homes of thousands of citizens, showing them the tragic experiences of their fellow South Africans. The hearings enabled us to hear many who had never been heard, and allowed people from all sides of the political conflict to relate their experience.

Only about one in six statements made to the TRC could be heard and there was some resentment about this. The selection

process was always difficult, and was aimed at achieving several results: to cover a cross-section of people (old and young, men and women, from all backgrounds and political persuasions), to demonstrate even-handedness in relation to perpetrators, and to ensure that enough checking of facts had been done, so that the facts could be presumed to be correct.

Many witnesses seem to have felt greatly affirmed by the experience. For many it was the first time they had revealed so much of what had happened, or the first time they had been allowed to recount it in their own words, their own language and their own way. Some showed an amazing capacity to forgive their abusers, and to

overcome their experience. Others remained angry, but for them too it was an opportunity to speak that anger, and therefore perhaps a step on the road to acceptance.

The role of statement-takers and briefers, both full-time and voluntary, cannot be rated highly enough. They were the first face of the TRC for many and they helped deponents through the painful process of telling their stories and dealing with their feelings.

For individuals, and for whole communities, the focus on past human rights violations was difficult, even traumatic. While the Commission tried to help individuals, or refer them to other agencies, it was also accused of tramping into towns like a circus, and leaving behind it a wasteland of turbulence with very little healing.

In several places, follow-up workshops have been held with people of the community. The limited capacity of the TRC to effect healing and reconciliation on any ongoing basis was acknowledged, and local energies and determination harnessed to address this need. The strengths which many communities developed in the years of conflict must now be directed towards the challenge of building for the future.

Travelling across sparsely populated areas, taking statements in small, poverty-stricken towns, made us more aware than ever of the desperate need for community reparations. All who suffered under past discrimination need a new and better chance to develop their communities.

We tried to reach as many people as we could but were limited by resources and no doubt there will still be people who were missed out. But we think that when the full story is told, everyone who suffered a "gross violation of human rights" will at least be able to recognise his or her own experience in those we have documented. ■

# REGIONAL HEARINGS

## EASTERN CAPE OFFICE

BONGANI FINCA, *Commissioners Convener*

**W**as it because the Eastern Cape has been the cradle of the liberation struggle? Or was it because of the high rate of unemployment? Or was it because rural communities live in a special relationship of solidarity where an injury to one becomes really an injury to all? Or was it because people here are particularly curious?

Whatever the reason, hearings in the Eastern Cape were community events of a special kind.

The TRC process began at a time when I thought people were disillusioned with politics. Rallies were generally poorly attended. The publicity given to the rejection of the TRC process by families of highly-respected slain heroes in this region, was cause for much concern. But as soon as we began with public hearings, the massive support of mainly the oppressed communities was visibly demonstrated.

Wherever we went, people came out in great numbers, not to testify, but to listen, to cry, to laugh, to express their anger visibly, to cheer and salute the hitherto unsung heroes and heroines of their struggle.

The TRC mandate may have been to seek the truth and to lay a basis for reconciliation or national unity. Hearings may have failed to unearth new truth or to break the dividing wall of hostility between the races. But they achieved something special for our communities. For the first time their suffering was acknowledged and their dignity restored. The TRC hearings process became a national ritual of cleansing. What was done in secret was placed in the open. Names were named and the aura around them was removed. Women spoke in public about

things very intimate to them, and men told big crowds how they lost their manhood.

In our first hearing we went out of our way to demonstrate that the TRC process was all-inclusive. After much persuasion victims of liberation movement atrocities agreed to testify. But very few white people took part. Appeals were made though religious organisations in particular, for some form of symbolic presence of white people in the public hearings but no meaningful response was received.

The Appeal Court judgment requiring that alleged perpetrators had to be notified before they were named in hearings did not work particularly well. The intention was to give alleged perpetrators a chance to put their side of the story. But for many black policemen who had worked in the townships it was



*Member of the audience at the Steve Biko hearings.*



*Singer and composer, Peter Gabriel honours the late Steve Biko with his song, Biko.*

very traumatic to have to stand before the community and account. Many of them were at a stage when they were being integrated into their communities, and this process seemed to open up old wounds. Some of course came up boldly to justify their action, but many understood the notices as summons to come and account.

Every village and dorpie in the region wanted to have a hearing, and they all deserved one. But we could cover only a handful. Although we tried to include as many rural areas as we could, the equipment used for hearings required facilities such as electricity. So a number of rural areas could not be reached, leaving a number of communities feeling let down and not being taken seriously. **fi**



# REGIONAL HEARINGS

## JOHANNESBURG OFFICE

FAZEL RANDERA, *Commissioners Convener*

The Johannesburg office of the TRC, the regional office with the largest number of committee members available for hearings, arranged 21 Human Rights Violations hearings in four provinces.

From the outset, none of us recognised the enormity of the task and we were clearly too ambitious in our hearings programme, particularly in 1996. Nevertheless, everybody responded admirably and despite all the difficulties we completed our programme.

Our office was responsible for hearings in Gauteng, Mpumalanga, North-West Province and the Northern Province. We were able to divide the work into three teams, each team taking responsibility for one Province as well as part of Gauteng.

However, we were not able to meet the needs of many victims because last year we tended to stay in one town for three to five days and many people had to travel long distances. The pro-

gramme was changed this year so that we travelled, holding hearings in different towns each day. As a result we collected more statements in each place and had larger numbers of people taking part in the process.

Hearings also tended to be much more successful in smaller towns than in urban centres. In Soweto, for example, we did not collect a great many statements nor did many attend the hearings.

Despite the difficulties, we travelled to many far corners of the provinces. The co-operation from provincial governments was fantastic. The churches played a major role in every community and we need to ensure they are helped to



*Consultation: Jeremy Cronin, Limpho Hani and Tokyo Sexwale at the Chris Hani hearings.*

provide ongoing support for victims. We also saw very early on that NGO structures were relatively weak outside the major cities.

Another weakness was that we could not provide a platform to every person who had a statement. Discussions with survivors and victims showed clearly that those who appeared in public experienced the cathartic process much more than those who were unable to be heard.

## DURBAN OFFICE

RICHARD LYSTER,  
*Commissioners Convener*

In KwaZulu-Natal and the Free State, we were taken during our hearings into what I can only describe as the very heart of darkness, into the most cruel and lonely corners of the human temperament.

We remember the testimony of people like those in Port Shepstone, of a man who worked as a cook on a ship and came back on home leave from many months at sea, to find that his wife and two children had been murdered, hacked to death and their bodies thrown into a pit toilet. We think of witnesses in Brandville in Mooi River, where three women from one family — a grandmother, a mother and a young child of six — were brutally stabbed to death by men with spears and bush knives.

We have heard terrible stories of assault, abduction, torture and death from every corner of this country, but we've also heard stories about the strength and the triumph of the human spirit over adversity. We have heard people tell of shocking experiences, and we've heard them stand up and confidently and powerfully relate those stories of their past.

We've heard these people ask the Commission not just to recognise them, and what happened to them, but also to recognise and to remember the thousands of other people who also suffered and who have not been able to gain access to the Commission. And we've seen people who have suffered these terrible violations caring for and nurturing other people and helping them to gain access. We have been very moved by the actions of such people — without them we could not have done our work properly.

Obviously a hearing for victims tends to focus on individuals, on their pain, loss and suffering. It focuses on the events of a particular day, but often it doesn't tell us much about the big picture. It doesn't give us an overall understanding of what happened in a town, in a province and in a country. It doesn't tell us who gave the



*Prof Charles Villa-Vicencio examines exhumed remains on site in Kwazulu-Natal.*

orders for an incident, who supplied the guns, who helped cover up the investigations, who secretly buried the bodies.

But we have other means for finding out that sort of evidence — an investigation unit, private investigative inquiries and the often dramatic evidence of amnesty applicants. This sort of evidence is vitally important for the Commission, because it doesn't just tell us about the disappearing or the murder of one person, it tells us what the motives of the State were at the time and why these things were done.

So with all this evidence, we are able slowly to piece together like a jigsaw puzzle the history of this country. ■

# COMMISSIONERS REFLECT ON PUBLIC HEARINGS

**Members of the Truth and Reconciliation Commission were asked in a Truth Talk survey to give our readers details of the most memorable stories that come before them during the public hearings of the Commission.**

**Mary Burton, Cape Town:** The single case that comes to my mind most often is that of Mr and Mrs Juqu, probably precisely because it is not an unusual, dramatic or famous one. Their son Fuzile, aged 15, was probably a bystander killed in a police shooting. When they appeared at our first public hearing in Cape Town, Mr Juqu revealed his still raw and impotent rage at the senseless death, and at the callous inhumanity which left his parents to hunt for him in hospitals and morgues, and neglected to inform them of any inquest or follow-up.

**Richard Lyster, Durban:** A story we heard in Port Shepstone last year involved a woman and her children who were attacked in their house by a group of men. They locked her in a room next door to her four children and then murdered her children, one by one.

She described in the most tragic and pitiful way how she heard her children screaming, how she heard shots, and as each one died the screaming diminished until there was only one person left screaming, a final shot and then silence.

Her story epitomised the brutality of the war in KwaZulu-Natal in stark terms as well as the deep personal tragedy of this conflict. The six young men convicted of these murders were members of the ANC.

**Dr Khoza Mgojo, Durban:** Mr Mokgise Jacob Motheoane of Bethalie in the Free State told us he was abducted, tortured and incarcerated by a member of the SA Police called Vicky and a farmer, Mr Piet Fourie. They tied him up with barbed wire. They took him to a river where they beat him and squeezed his genitals with pliers. Then the end of his penis had to be amputated. As a result of this, his wife had to leave him and he can no longer have any sexual relationships with a woman.

**Wendy Orr, Cape Town:** I remember Mr Mkhabile, a man in his late 70s, a member of POQO who was imprisoned and abused on Robben Island. Now almost deaf, incredibly "high" about being invited to a public TRC hearing, when he was asked what he wanted from the TRC he took a crumpled piece of paper out of his pocket and read us the names of his comrades who had been sen-

tenced to death and hanged. All he wanted was that we remember them.

**Mapule F Ramashala, Cape Town:** When we heard the story of Fuzile Petros Juqu (15) in February 1995, to my surprise Mrs Juqu did the talking. The mother described how her son was killed, but they did not know. They looked for him everywhere. Finally he was presented to them at the Salt River Mortuary like a "dead dog". Their son was shot in the back several times by the police, according to eyewitnesses.

Mrs Juqu cried. Her husband sat there stiffly. After her testimony I asked him how he felt. He only said he was "outraged". It brought home to me finally the sense of desperation, hopelessness and disempowerment he experienced, to the point where he was not able to present his own story.

After that I thought a lot about how apartheid had really castrated African men in general and reduced them to helpless "boys". But on the contrary, he exhibited a sense of strength, suggesting that while he had been disempowered he was not defeated.

**Archbishop Desmond Tutu:** For me the initial hearing in East London stands out, perhaps because it was the first but also because of that haunting, piercing cry of the young Cradock 4 widow and because I broke down when another witness broke down. I was also deeply touched by the willingness of people who had suffered so grievously to forgive, for example the white woman victim of the King William's Town Golf Club grenade attack. People are quite remarkable.

**Glenda Wildschut, Cape Town:** The most memorable case for me was that of the BMWs (Bonteheuwel Military Wing members) in Cape Town, especially the public testimony of one of the leaders, Colin de Sousa.

I cannot explain why this touched me, perhaps it was because they were all so young at the time. He was only 11 when he joined the military struggle and their lives were changed so dramatically. The consequences of the human rights violations had a major impact on them. Colin suffers from mental illness and has made several attempts to take his own life. □

When the Right Revd Bongani Finca, TRC Commissioner in the Eastern Cape, is asked about the most memorable story of the hearings over which he has presided, he finds it difficult to isolate only one.

As the only Commissioner in an area which experienced widespread violations, he cites two cases which challenged him most, to such a degree that he even dreams about them.

**Fundile Lawrence Gqubule** was a young man of 20 when he was shot at Maduna Street, in Uitenhage, during the Langa Massacre. When he came before the Commission he was on a wheel-chair. Both his legs have been amputated. He has a bullet on his spine. He trembled uncontrollably most of the time when he was giving his testimony. He was smartly dressed in a suit, as if to say, "Although my body is destroyed, my pride remains."

He spoke of the dreams he had as a young man, that one day he would be able to look after his parents who are very poor, that he would be a sportsman, and would learn until he became somebody in his community. Today he wakes up in the morning, is washed and dressed by his wife, and sits idle all day.

Life has become an empty shell. He sees other people progress and he dreams of what could have been had he not been at Maduna Street at that fateful hour.

**Beth Savage** was attending a Christmas Party at King William's Town Golf Club when she was injured in an APLA attack. She sustained severe injuries and during heart surgery she says she stopped breathing for a while. She has shrapnel in her body which causes alarms to ring every time she goes through airport security. Her father went into a depression and died. Her mother followed two months later.

But Beth Savage spoke of this event as something which enriched her life and gave her the ability to relate to other people's trauma. She expressed a wish to meet with the man who threw the grenade to her "in a spirit of forgiveness, and hope that he could forgive me too for whatever reason."

Throughout her testimony she continued to see the suffering which other victims had endured in this country as far worse than her own. She entered into the political situation in which the perpetrators were at the time and said: "I really don't know how I would have reacted if I had been in their situation." □

# COMMISSIONERS' POST-TRC MESSAGES

**As the Truth and Reconciliation Commission becomes ever more focused upon finishing its work, Truth Talk asked Commissioners what message they believed the Commission should be sending to South Africans for the post-TRC era. These are the replies we received:**

**Desmond Tutu:** We have been wounded but we are being healed. It is possible even with our past of suffering, anguish, alienation and violence to become one people, reconciled, healed, caring, compassionate and ready to share as we put our past behind us to stride into the glorious future God holds out before us as the Rainbow People of God.

**Mapule F Ramashala:** Healing the nation and eventually accomplishing national reconciliation is a responsibility for all South Africans and not only for the TRC. Many sacrifices have been made by victims. These have to be translated into rebuilding our country and improving the quality of life for all of us, once again a task beyond the TRC, for all South Africans.

**Wendy Orr:** Learn to tolerate and celebrate diversity.

**Dumisa Ntsebeza,** head of the Investigative Unit: "Alles sal reg kom, as elke een sy (haar) plig doen," and that is not even original, for those who know their history of wars and conquest, defeat and peace-making, diplo-

macy and settlements, and give and take. Who said history doesn't repeat itself?

**Dr Khoza Mgojo:** There is every chance of bringing about reconciliation between the victim and the perpetrator, for example, Brian Mitchell and the people of Trust Feeds in KwaZulu-Natal. The level of awareness of the South African people has been enhanced. They will never allow the violation of their human rights again, now or in the future.

**Wynand Malan:** The time for the closure of the TRC and with it a chapter in our history has come. It is now for everyone to take hold of him or herself and make a life in, and a living of, the future.

**Richard Lyster:** The TRC is not the panacea to SA's problems, but only one tool in the transformation of the country. I hope the knowledge gained will be used in a constructive way in a process taken forward by civil society, NGOs and government.

**Bongani Finca:** There is a long walk to reconciliation. The TRC marked the

beginning of a process which must go on throughout the structures of our nation in the next 10 or even 20 years. Like a signpost, we have shown the way which will lead our nation to genuine reconciliation. It is not the easy or popular road to traverse — look at us now and see the scars in our souls — but it is the only way.

**Mary Burton:** The country survived a long period of darkness because of the strength and determination of many individuals and communities. South Africa has been admired by the whole world. Now the people of South Africa must dig deep into their resources once again: having faced the past, they will have to work together to confront the difficulties of the present in order to achieve reconciliation, peace and prosperity in the future.

*TRC staff captured during a break at the KTC HRV hearing in Cape Town. From left to right: Phumla Dwane-Alpman, Mark Killian, Zenariah Barends, Commissioner Dumisa Ntsebeza, Madeleine Fullard and Commissioner Mary Burton greeting community leader, Christmas Tinto.*

