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Chapter 1 : South Africa's Truth and Reconciliation Commission | HuffPost

The Truth and Reconciliation Commission (TRC) was a court-like restorative justice body assembled in South Africa after the end of apartheid. Witnesses who were identified as victims of gross human rights violations were invited to give statements about their experiences, and some were selected for public hearings.

The hearings started in 1996. The mandate of the commission was to bear witness to, record and in some cases grant amnesty to the perpetrators of crimes relating to human rights violations, as well as reparation and rehabilitation. The work of the TRC was accomplished through three committees: The Human Rights Violations Committee investigated human rights abuses that occurred between 1960 and 1994. The Amnesty Committee considered applications from individuals who applied for amnesty in accordance with the provisions of the Act. The commission was empowered to grant amnesty to those who committed abuses during the apartheid era, as long as the crimes were politically motivated, proportionate, and there was full disclosure by the person seeking amnesty. The commission heard reports of human rights violations and considered amnesty applications from all sides, from the apartheid state to the liberation forces, including the African National Congress. A total of 5,000 amnesty applications were refused, granting only 7,000 out of the 12,000, which includes the number of additional categories, such as "withdrawn". Because of the perceived success of the reconciliatory approach in dealing with human-rights violations after political change either from internal or external factors, other countries have instituted similar commissions, though not always with the same scope or the allowance for charging those currently in power. The effectiveness of the restorative justice method employed by the Truth and Reconciliation Commission versus that of the retributive justice method employed during the Nuremberg Trials is debated. In a survey study by Jay and Erika Vora, the effectiveness of the TRC Commission was measured on a variety of levels, namely its usefulness in terms of bringing out the truth of what had happened during the apartheid regime, the feelings of reconciliation that could be linked to the Commission, and the positive effects both domestically and internationally that the Commission brought about in a variety of ways from the political environment of South Africa to the economic one. The opinions of three ethnic groups were measured in this study: All participants perceived the TRC to be effective in bringing out the truth, however, in varying degrees. The Afrikaners perceived the TRC to be less effective in bringing out the truth than the English participants and much less effective than did the Xhosa. Some viewed them as not entirely accurate as many people would lie in order to keep themselves out of trouble while receiving amnesty for their crimes, given that the Commission would grant amnesty to some with consideration given to the weight of the crimes committed. The TRC was viewed as much less effective in bringing about reconciliation by each group, with the two white groups about par and the Xhosa viewing the TRC as less effective than the other two ethnic groups. Some said that the proceedings only helped to remind them of the horrors that had taken place in the past when they had been working to forget such things. On 15 April the South African National Broadcaster televised the first two hours of the first human rights violation committee hearing live. With funding from the Norwegian government, radio continued to broadcast live throughout. The rest of the hearings were presented on television each Sunday from April to June in hour-long episodes of the "Truth Commission Special Report" by progressive Afrikaner journalist Max du Preez, former editor of the *Vrye Weekblad*. Facing the Truth by Bill Moyers. A South African feature film starring South African-born actor Arnold Vosloo as a disgraced ex-cop seeking forgiveness from the family of the activist he killed under the Apartheid regime. With Quanita Adams and Zane Meas.

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Chapter 2 : Truth and Reconciliation Commission (South Africa) - Infogalactic: the planetary knowledge co

The Truth and Reconciliation Commission (TRC) was a court-like body assembled in South Africa after the end of Apartheid. Anybody who felt they had been a victim of violence could come forward and be heard at the TRC.

Share via Email Anti-apartheid protests in Soweto in in which more than people were killed and more than 1, injured. Here we examine how other countries that have lived through civil war or internal conflict have approached the issue of transitional justice and reparations, and to what degree they have been successful in underpinning a lasting peace South Africa After the feast of liberation came the reckoning. Archbishop Desmond Tutu, who chaired it, described it as "an incubation chamber for national healing, reconciliation and forgiveness", and to many around the world it remains the gold standard. Sitting in the late s, the TRC illuminated horrors committed under white minority rule. Victims gave harrowing testimony of being jailed and tortured, and families described how their loved ones were killed or disappeared. They looked perpetrators in the face as they confessed their crimes, lured by the promise of an amnesty for politically motivated violence. Uniquely, the cathartic hearings were open to the public and broadcast on TV. It had to deal with sources of extreme pain that were being denied, to bring it out into the open. We had to come clean on that. As one political scientist put it, what the truth commission did was convert knowledge into acknowledgment. Some victims felt bitter as they watched self-confessed murderers walk free and did not receive promised compensation. Some believe Mandela and the TRC were too forgiving and that white people continue to reap the rewards of apartheid. How we deal with the truth after its telling defines the success of the process. And this is where we have fallen tragically short. They were not interested, however, in the details of whether he had been a torturer. As far as they were concerned, however, the alleged beating took place 45 years ago and so any offence would have lapsed. The pact began to fall apart a decade ago as campaigners started to search for and dig up mass graves, but the amnesty law means no official has ever been tried for what the lawyer Carlos Slepoy calls brutal and systematic repression. That would allow cases to be treated as crimes against humanity which, under international human rights law, could not lapse or be covered by an amnesty. About victims, including leftwing activists and former armed Basque separatists such as Arrizabalaga, have joined forces to try to prove the torture was systematic. The family of Arrizabalaga and those of hundreds more victims hope that will be the case. If so, they say, those responsible for Francoist repression may also soon find themselves on trial. Cambodia It was heralded as the most important trial since the Nazis were confronted at Nuremberg, an opportunity to ask the men who orchestrated the deaths of nearly 2 million Cambodians a simple question: It has produced just one verdict in eight years, convicting Kaing Guek Eav, aka Comrade Duch, of crimes against humanity, and sentencing him to life imprisonment. Kaing oversaw the Tuol Sleng prison where an estimated 15, Cambodians were tortured and executed. Many died of disease and starvation. Others were detained in overcrowded centres, tortured and executed as part of a programme to create a communist agrarian utopia. By the time Vietnam liberated the nation, a quarter of the population had been killed. For many Cambodians, reconciling the past is impossible while former Khmer Rouge cadres still act as government ministers and head the armed forces. The prime minister, Hun Sen, is a former Khmer Rouge commander. Many survivors have tried to forget their childhood by refusing to talk about it, while those who actively search out answers can find themselves harassed, detained and threatened by the state. It was hoped that senior Khmer Rouge members would be tried for war crimes, crimes against humanity and genocide. Many of the former cadres closest to Hun, however, including the senate president, Chea Sim, and the national assembly chairman, Heng Samrin, have been prevented from testifying, apparently to avoid embarrassing the government. Such obstructions do not necessarily render the entire process a sham, as some critics have said. Nobody wants to live with the past. The whole point of the tribunal is to move on. Of the four senior figures on trial under the current case, , one has already died and another has been declared mentally unfit to stand trial. Both are weak and unwell. The ECCC expects case to take another year, and

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hearings for cases and have been delayed. Relatives of disappeared political prisoners demand justice at rallies in Santiago, Chile. For some victims, the trial has thrown up perhaps the most pressing question of all: What the Khmer Rouge tribunal is producing now is beyond the pale of anything resembling justice. To the contrary, the farce, the deceit, is damaging and is laying the dangerous groundwork for future instability and impunity. Today, dozens of former secret police officers are imprisoned, human rights investigations remain open and the nation is governed by Michelle Bachelet, herself a torture victim. The most recent nomination to the Chilean supreme court is Carlos Cerda, a judge who made his name fighting for victims of human rights abuses. Their mission was to shine a light into the darkest corners of state-sponsored murder. Thousands of cases were validated and formed the basis of a national discussion on how to prevent tit-for-tat vengeance. The secret squad was led by Marcelo Schilling, a socialist leader and former bodyguard to Salvador Allende. It was a controversial operation that Schilling today defines as a success. "Democracy is not in check," he said. Inmates waiting to be transferred to a gacaca court session in relation to the genocide. Political violence was minimal in the years after Pinochet. Instead, there was a quest for justice. The collective amnesty Pinochet had granted was overturned on the basis that if the regime had kidnapped or disappeared citizens but never handed over the bodies, then the cases could be defined as ongoing and so exempt from immunity. This allowed investigators to force testimony from retired officials with knowledge of human rights crimes. Nearly 100 were convicted. However, attempts to bring Pinochet to justice failed. His title of senator for life shielded him from Chilean justice. The British government released him on medical grounds in 2000 and he returned to Chile, where a constitutional amendment gave him further protection. Pinochet spent his last years surrounded by lawyers, but died a free man at 91 without having been convicted of any crimes. Rwanda The scale of the Rwandan genocide, in which 1 million people were murdered in 100 days, demanded a unique response if there was to be any hope of reconciliation. It came in the form of village courts known as gacaca after the grass on which they were held, a grand experiment in popular justice that ran for a decade with locally elected judges hearing an estimated 1.5 million cases. Defendants faced penalties including life imprisonment and hard labour, but were given shorter sentences in exchange for confessing and were encouraged to seek forgiveness. It was incredibly successful at coming to terms with the very specific crimes committed in communities. There was a lot more clarity about the past. Nearly all the perpetrators convicted through gacaca now live alongside survivors. Most communities are peaceful, but people are still working through the issues raised at gacaca. Churches, micro-credit cooperatives and other non-government actors play an important role in continuing to facilitate reconciliation, building on the work done at gacaca. But, generally, people are doing this for themselves. The official judicial system would have been overwhelmed by the caseload. Critics, however, said the courts fell short of international legal standards. According to Human Rights Watch, there were limitations on the ability of the accused to defend themselves effectively; numerous instances of intimidation and corruption of defence witnesses and judges; and flawed decision-making by inadequately trained lay judges. Survivors received no compensation from the state, and little restitution and often overly formulaic apologies from confessed or convicted perpetrators, casting doubt on the sincerity of some of these confessions," Human Rights Watch concluded. Perpetrators and victims are living together. Parties to the conflict were called on to cooperate with the international criminal tribunal for the former Yugoslavia ICTY in The Hague, but there were no sanctions for failure to comply, and the Nato-led peacekeeping force was under no obligation to find indicted war criminals. For more than 18 months, Nato troops pretended not to see the indictees. They were under instructions only to detain them if they came across them "in the course of their normal duties". Over time, however, it became clear that peace and justice were not mutually exclusive. Civilian and military peacekeepers found the continued impunity of the likes of Radovan Karadzic and Ratko Mladic was poisoning the peace. A unique chance to break down the ethnic divide that crippled the country may have been lost because of a fear of casualties and mission creep in the pursuit of those known in US military jargon as "persons indicted for war crimes" or PIFWCs. It was a first-class strategic error. The campaign began with lowly cogs in the machine, camp guards and footsoldiers, while Karadzic and Mladic slipped away to Serbia.

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Karadzic was caught in , Mladic in . In the eyes of many Bosnian Muslims, the main victims of the slaughter, justice delayed was justice denied. They were furious that big fish were allowed up to 15 more years of liberty. That feeling of a lack of reckoning has been deepened by recent ICTY acquittals of three figures in Belgrade who played a pivotal role in Serb military operations. Despite the acquittals, Serbs have continued to see the court as an exercise in one-sided justice. They point to the small number of convictions of defendants charged with crimes against Serbs. In the Serb-run half of the country, the school syllabus ends in , and the war is vaguely referred to as a bad time when all sides did bad things. In some of the sites of the worst atrocities against Bosniaks, Serbs have erected monuments to their own fallen soldiers with no mention of the war crimes they committed. In the absence of a shared history, Bosniak, Serb and Croat communities drift further apart. Colombia For 30 years, Colombia has been generous with leftwing rebels and rightwing paramilitaries, granting amnesties, pardons and reduced sentences. Demands for justice and reparations for victims were, however, generally ignored in the name of peace. Today some former rebels are mayors, senators and academics. Dozens of paramilitary commanders, responsible for thousands of murders in the s, are due to leave prison this year at the end of eight-year terms after confessing to their most atrocious crimes. An offer of impunity is impossible, as the peace process is the first in Colombia negotiated under international criminal court rules. The talks in Havana are widely seen as the best chance to put an end to half a century of conflict that has cost more than , lives. The problem is how to do that," said Rodrigo Uprimny, the director of the DeJusticia thinktank. As Farc and government negotiators began discussions on the issue of victims, the two sides issued a declaration of principles recognising the right to be recognised and to receive reparations, to know the truth and receive guarantees that such atrocities will never happen again. But Amnesty International pointed out that the document excludes any commitment to bring to justice those who displaced, tortured, killed, abducted, disappeared or raped millions of Colombians over the past five decades.

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Chapter 3 : Special report: Truth, justice and reconciliation | World news | The Guardian

Truth and Reconciliation Commission, South Africa (TRC), courtlike body established by the new South African government in to help heal the country and bring about a reconciliation of its people by uncovering the truth about human rights violations that had occurred during the period of apartheid.

Our accounts contain the personal recollections and opinions of the individual interviewed. The views expressed should not be considered official statements of the U. ADST conducts oral history interviews with retired U. Apartheid, the racial segregation system in South Africa, lasted from to During this time, black individuals in South Africa were deprived of citizenship and virtually every aspect of life in South Africa was segregated by race including education, neighborhoods, medical care, and public spaces. After nearly 50 years of brutal apartheid in South Africa, it is almost impossible to imagine how people could coexist peacefully. As a way to heal the deep wounds among people, the new Government of National Unity in established the Truth and Reconciliation Commission TRC , which invited perpetrators of violence to speak about their past transgressions. The idea was that if people spoke to one another as fellow human beings, it would provide an opportunity to heal and forgive and thereby allow reconciliation to occur. The TRC lasted until and, despite some flaws, was widely viewed as a success and served as a model for similar systems around the world in post-conflict communities. You can read the entire account on ADST. I started [at the TRC] in February and because of my media experience here in Washington I got assigned to the media office to be the administrator of the Media Office. I think [the establishment of TRC] was to appease the fears of white South Africans; but at the same time, to give answers to those many mothers who had lost their children and their loved ones through the atrocities of apartheid. If you look at the whole notion of amnesty, and how the perpetrators some of them were granted amnesty, you begin to wonder what a forgiving nation and black South Africans are specifically. The Archbishop Desmond Tutu was also the Chairperson, he saw it more as a catharsis for the nation so that post, you have this cleansing process for the nation. But the whole process of the Truth Commission was developed as part of the Reconciliation and National Unity Act to redress the atrocities of the past, including violations of human rights, and more importantly, to restore a level of dignity to the majority of South Africans who lived under the draconian laws of apartheid. I believe it was the first of its kind in the world. What was it that convinced the perpetrators to be present in a process that could likely turn against them? If you look at the incident with Amy Biehl, the Fulbright student who was murdered in one of our townships in Cape Town, that [reconciliation] process is how her parents embraced these men, these perpetrators, responsible for the death of their daughter. Instead of her parents turning their backs on these young men, they embraced them. To me, the purpose of the TRC started as a path leading to forgiveness. I never went to any of the hearings. I did not go for personal reasons, and I guess on principle -- I saw it as wounds, which had partly healed, were reopened. I did not understand; I thought of the parents, especially the mothers, how their wounds would be reopened and I was always concerned about the aftermath. Who goes home with these mothers? Who goes homes with these parents? Was there a support system in place once these families returned to their communities? If there was, I was not aware of it. But personally, I was just critical about that particular aspect of the process. I would receive local and foreign journalists, and if they wanted to meet and interview the Archbishop, I would arrange the meetings. On occasion, I would also sit in. Everybody knows [Archbishop Tutu] is a charismatic leader, very affable and I thought, at the time, easily accessible I also recall an interview in one of our local newspapers, where the Archbishop said that he loves the rum and raisin ice cream and the very next day, a large box of ice cream was delivered to the TRC. On another occasion, he shared with a reporter that he likes rum and Coke, and again, he received a delivery of rum and Coke. And what is further interesting is that I left the TRC in mid, and relocated to another city. In , almost 10 years later, I was invited to a breakfast by one of the representatives of the Desmond Tutu Trust, and there was the Arch as he is affectionately known Do you feel that the model can work in almost any

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country? And also, to me, human beings are not different from each other. We all breathe, we all smile, we all hurt, so that level of hurt may be intensified in some cases, but the basic traits of human beings exist. But allow me to add, this reminds me of [my] dear friend, Yaliwe Jiya, who taught at the University of Fort Hare; her husband, Zin, was in the United Kingdom and a white colleague of his died. Yaliwe went to represent her husband at the funeral. She told me that she saw the widow and her two children standing there in sorrow at the funeral, all alone, and all she did was to walk over and hug her and that is all this woman needed. And so that picture is always in my mind; reaching out to someone can sometimes be very clinical but it can also be very emotional. All she did was touch this person and nobody around her, not even her close family or other family and friends -- no one thought of that and Yaliwe added, "You know, in our tradition, we reach out. Desmond Tutu was forever hugging everybody. I think at several of the hearings, he would break down and cry. I thought, "If the Chairperson can break down and he is right there, and he has to listen to this, that says a lot. And I think South Africa needs to be recognized for taking that step. In order to be granted amnesty you had to fully disclose the truth. So how is fully disclosing the truth measured? If you look at the Biehl family, to me they epitomize what truth is all about. Because they opened themselves up to having these perpetrators disclose the truth, and in my view, this happened because the Biehl family was open and accessible. It gives the perpetrators the opportunity to "come clean. Because my belief is always that you respond to somebody as that person responds to you. If you open yourself up, you are allowing me to open myself up as well, so there is almost like a meeting of minds. Do you have any experience with the parents of the victims, or the relatives of the victims unable to open themselves? Did they accept amnesty? I do not have direct experience but I do know there were some perpetrators granted amnesty even although some members of the family did not think they warranted it because they did not disclose the truth. I think anybody, who But again, I still maintain that aftermath has been my concern. So I think if you are prepared to confront an issue, it is to start a clean slate. But human beings are fallible individuals so there might have been many who went [to the TRC] with anger and left with anger. I was more concerned with the majority, who broke down and did not leave with anger but left with a wound wide open. If you look at those young men, how they could go deep into themselves to say as an individual, who has been anti-white I never thought about it for the longest time but the more I am speaking, the more I think of the numerous possibilities of studying the Amy Biehl case itself, and how it could lead to so many ways of looking at this notion of reconciliation.

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Chapter 4 : The South African Truth and Reconciliation Commission | Justice in Perspective

The South African Truth and Reconciliation Commission (TRC) was set up by the Government of National Unity to help deal with what happened under apartheid. The conflict during this period resulted in violence and human rights abuses from all sides.

In Temps Modernes, No. This represents the culmination of a set of debates centred on how best to confront a past characterised by massive violations of human rights in a country which has recently undergone a transformation to democracy. It describes the aims, powers and structures of the TRC and in so doing engages with some of the more controversial and difficult areas of its work. Of particular significance here, are the agencies of state security - including the policing and military institutions - which were central to sustaining the apartheid system deemed illegal at international law. In addition, many of those who are now in power within the new government of national unity, were themselves actively involved in the armed resistance to apartheid which, it is argued, also entailed the violation of human rights within the country and beyond its borders. It is in this delicate political context that the question re-emerges as to what is to be done in respect of these past criminal abuses of human rights? Nor is it the first time that these concerns have been addressed. Indeed, from the very outset of the negotiations between the Nationalist government and the African National Congress ANC, a central bargaining point has been the relationship between indemnification of returning exiles and the associated requirement of full disclosure of their political crimes - demanded by the government as a pre-requisite for the release of all political prisoners. This fed into the negotiations climate and set a premium on bi-lateral agreements between the government and the ANC on these issues, in order to prevent the entire process being derailed. Whereas the early concerns revolved around the indemnification of returning exiles, subsequent negotiation focused on questions of amnesty in respect of members of the state security forces who had been involved in covert activities which were illegal even by the standards of South African law. Whatever its position within bi-lateral talks, politically the ANC had to resist the right of an illegitimate regime to indemnify its own functionaries. Representatives of the liberation movement argued that, although not opposed in principle to the notion of an amnesty, this decision should appropriately fall to a new government of national unity under the new constitution. Despite this, on October 16, The Further Indemnity Bill was introduced in parliament and promised, if passed, to empower then President De Klerk to forgive any politically motivated crime, with the sole condition of review in secret by a government-appointed commission. The only public record relating to the decision - in stark contrast to the conditions set out in the Pretoria and Groote Schuur Minutes which dealt with political prisoners and returnees - would be a list of those to whom immunity had been given and the records of the review body could be destroyed. The Bill effectively created an obligation to suppress the truth. It was suggested by authors such as Davis et al. The State President already had the power, in terms of the Indemnity Act 35 of 1995, to indemnify any person or category of persons, by publication of certain facts in the Government Gazette. It was argued that De Klerk needed the Further Indemnity Bill to give him the power to conceal the truth. However, as noted by the Parliamentary Committee of the General Council of the Bar of South Africa GCB, this general concern with reconciliation must be balanced in the crafting of the statute itself by a concern for the administration of justice. It is apparent that a blurred pursuit of "reconciliation and peaceful solutions", without adequate regard for its impact on policing, the courts, and the control of crime, will do more to threaten social stability. In particular, for the victims of these abuses of power - on whichever side of the political spectrum they may reside - the implication is that they may never have access to the information essential to their rehabilitation. The prospect is that there will be no public or private acknowledgement of their past, let alone any capacity for redress at law. One possible consequence of this is that, in the absence of any such public acknowledgment, coupled to the impossibility of restitution through the law, widespread resentment is likely to manifest itself in informal retribution at both an individual and a collective level, resulting in escalating rather than

de-escalating violence under the new democratic dispensation. This institutional culture has historically been fostered by the myriad of legislative measures which have actively preserved secrecy and governmental privilege in the name of state security and which have thus contributed to widespread corruption and abuse of power. Unless it is subject to the public scrutiny which US Judge Louis Brandeis has deemed the "best of disinfectants",⁷ this organisational culture of covert activity within state institutions will continue to plague any future democratic dispensation which has the misfortune to inherit a civil service and state security establishment which, at best, may be passively resistant and, at worst, actively hostile to new democratisation initiatives. Indeed, the growing concern in the course of the transitional process with the need to render the activities and internal functioning of policing and other security establishment institutions "transparent", suggests the necessary awareness - at least on the part of some of the politicians. In this context, the whole question of "recovery of the truth" must have a central pro-active and remedial role. This may take a number of forms. In more sensitive negotiated transitions such as in the Latin American context, often the mechanism which accompanied the granting of amnesties was a judicial "Truth Commission" which sought to uncover the past without jeopardising the tenuous negotiated truce through the threat of extensive prosecutions. None of these mechanisms really compare with the magnitude of the social and administrative experiment in the new "unified" Germany after the collapse of the Berlin Wall. In this instance, the proposed vehicle of truth recovery has been the granting of extensive rights of public access to the records of the former State Security Service - the Stasi Archives. Each of these approaches to "truth recovery" articulated closely with the particular dynamics of transition in particular countries and historical contexts. It is therefore important that none are imposed lock, stock and barrel on the different and specific South African situation. However, all these initiatives concerned with various forms of public disclosure in respect of past abuses of human rights, to a greater or lesser extent, claimed to service two clear objectives: On one hand, they were all motivated by a primary retrospective concern with investigating, documenting and in some instances prosecuting human rights abuses which occurred under a previous regime. It is similarly in relation to these two guiding concerns that the final paragraphs of the interim constitution, under the heading "National Unity and Reconciliation", links the issues of reconciliation, reconstruction and future amnesty arrangements: The adoption of this Constitution lays the secure foundation for the people of South Africa to transcend the divisions and strife of the past, which generated gross violations of human rights, the transgression of humanitarian principles in violent conflicts and a legacy of hatred, fear, guilt and revenge. These can now be addressed on the basis that there is a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for ubuntu but not for victimisation. In order to advance such reconciliation and reconstruction, amnesty shall be granted in respect of acts, omissions and offenses associated with political objectives and committed in the course of the conflicts of the past. To this end, Parliament under this Constitution shall adopt a law determining a firm cut-off date, which shall be a date after 8 October and before 6 December, and providing for the mechanisms, criteria and procedures, including tribunals, if any, through which such amnesty shall be dealt with at any time after the law has been passed. Firstly, it was acknowledged by all parties that South Africa was a country with a conflictual and divided past. It was generally felt that to prosecute people who had committed crimes in the course of conflicts of the past would undermine the stability necessary to support a fragile democracy. Secondly, the outgoing National Party wanted to secure for itself and those who carried out their policies, a guarantee that a new government which in all likelihood would be dominated by their erstwhile enemy, the ANC would not victimise or persecute those who committed crimes in the course of defending white minority rule. In fact, the National Party categorically refused to allow the transition to democracy and the holding of non-racial elections without a constitutional guarantee that amnesty would be granted. The postamble compels the present government to grant amnesty to those who have committed political crimes and stipulates that mechanisms, criteria and procedures should be established in order to facilitate this process. In order to fulfil this constitutional obligation the government will establish the Truth and Reconciliation Commission TRC. The TRC will consist of a number of Commissioners who will direct

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and manage the activities of the Commission. The commissioners must be South African citizens who are impartial and respected and who do not have a high political profile. Each of these three committees will serve a different function in achieving the objectives of the Commission. These objectives can be summarised as follows: To establish as complete a picture as possible of the causes, nature and extent of gross violations of human rights which occurred between 1 March and 6 December. To establish the fate or whereabouts of victims of gross violations of human rights and to assist in restoring their human and civil dignity by giving them an opportunity to testify as to their experiences and by recommending various measures aimed at providing reparation and rehabilitation to victims. To write a report which publicises the work and findings of the TRC and which contains a set of recommendations of measures aimed to prevent the future violation of human rights. Firstly, it will conduct open hearings throughout the country. At these hearings survivors of human rights abuse will be able to testify regarding their experiences. This will serve to acknowledge officially both the suffering of survivors and the fact that they have been treated unjustly. By affording survivors the opportunity to tell their stories, the committee hopes to allow them to come to terms with the past and finally lay to rest the trauma and pain associated with it. Secondly, the Committee will supervise a research function whereby documents and evidence relating to gross violations of human rights will be collected in order to compile as comprehensive a final report as possible. This process will may also uncover information which may be of use to the Committee on Amnesty, the Committee on Reparation and Rehabilitation or an investigative team. The Committee on Amnesty The task of this Committee will be to grant amnesty to those people who have committed political crimes. In order for a person to qualify for amnesty he or she must satisfy two basic requirements: Firstly, he or she must fully disclose all acts in respect of which amnesty is being sought. If a perpetrator commits two crimes and fails to disclose one of these, then he or she will not be granted amnesty in respect of the non-disclosed crime. Secondly, the crime which is disclosed must meet the definition of a political crime contained within the Bill. The definition used in the Bill represents a modified version of the internationally accepted Norgaard principles which were used in defining political crimes in Namibia. These principles have been adapted to the slightly different circumstances which exist in South Africa. In South Africa the concern is not merely with crimes committed by members of the liberation movements in the struggle against apartheid. In fact, the predominant concern is with the human rights violations committed by members of the security forces and other clandestine organisations against members of the liberation movements or anti-apartheid activists. It will also be necessary to take into account the political crimes committed in the course of inter-organisational conflict particularly between the ANC and the IFP. The Norgaard principles have therefore been modified to incorporate these other dimensions of political conflict. They argue that no distinction is made between acts performed in the course of an internationally recognised struggle for liberation and self-determination and those acts performed in defence of apartheid, which has been condemned as a crime against humanity. However, those who framed the TRC legislation have argued that it would de-legitimise the work of the TRC and cause considerable political antagonism if it is only seen to investigate human rights abuse emanating from one side of the South African conflict. Both concerns could be addressed in the following manner. The TRC should consider, on a case-by-case basis, all instances of human rights abuse. However, in the publication of its final report, the TRC should assert that there is a considerable difference, both in morality and in law between fighting against and fighting for an unjust system. Furthermore, in a last-minute concession to the National Party, the ANC agreed to allow a political crime to be defined according to the modified Norgaard principles read in conjunction with the definition of political crimes utilised in the Indemnity Act of and the Further Indemnity Act of. This concession was granted because the National Party argued that it was historically inequitable to allow ANC members to be granted "easy" indemnity in a process with no fixed criteria, while the security forces and anyone else who applies for amnesty under the TRC will have to comply with more stringent criteria. The difficulty with this is that, as stated above, the two Indemnity Acts used no objective criteria whatsoever. How then, does one decide whether an act is a political crime if one is required to use a set of

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objective criteria the modified Norgaard principles read in conjunction with a classification used in the two indemnity Acts which uses no criteria at all? There can be no satisfactory answer to this question and a very real danger exists that the Truth Commission will classify crimes as political or non-political in a conceptually incoherent manner. This means that a person who has been tortured or a dependant who has lost a bread-winner cannot bring a damages claim against the perpetrator to whom amnesty has been granted. In theory the state assumes moral responsibility for fulfilling this claim by granting some form of reparation or rehabilitative assistance to the victim. The granting of amnesty to people who have committed gross violations of human rights is not uncontroversial. Throughout the world, citizens in countries which have undergone a transition from authoritarian, repressive regimes to embryonic democracies have had to confront two conflicting imperatives - the need to ensure stability and national unity and the need to create justice by punishing those who have committed crimes. Should those who have tortured, kidnapped and killed be prosecuted, convicted and imprisoned? Or should these perpetrators be forgiven in order to foster a spirit of national unity and reconciliation? Some argue that punishment of perpetrators is the best insurance against future repression. If those who violate human rights know that at some stage they will be convicted then they will be deterred from committing crimes. If on the other hand they are allowed to commit gross abuses with absolute impunity then they are more likely to resort to actions which violate fundamental human rights when the opportunity again presents itself. It is also argued that tyranny begins where the law ends - if the law fails to punish those who have transgressed it then the very notion of the rule of law is de-valued and undermined. Prosecutions demonstrate that nobody is above the law. If amnesty is granted it may also result in a great deal of popular disillusionment and cynicism. It may weaken the moral authority of government and reduce the extent to which citizens are prepared to heed its moral calls. Amnesties also represent a significant capitulation to the demands of the security forces. This may leave them with a disproportionate amount of power in an emerging democracy thus undermining the sovereignty of a newly elected government. Amnesties may be granted simply because it is politically expedient to do so. A new government, eager to remain in office at all costs may simply decide to accommodate powerful interests regardless of the consequences for those who have suffered or the greater imperative of protecting and promoting human rights. Such amnesties may have the effect of entrenching the power of those who have violated human rights and jeopardising any substantial social or political transformation. There are of course strong counter-arguments to those supporting prosecutions.

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Chapter 5 : The Truth and Reconciliation Commission (TRC) | Apartheid Museum

But the whole process of the Truth Commission was developed as part of the Reconciliation and National Unity Act to redress the atrocities of the past, including violations of human rights, and.

1994 was a significant year for Africa. South Africa made a peaceful transition to democracy. But on a darker note, Rwanda experienced a tragic and violent genocide. The TRC was tasked with bearing witness to, recording and in some cases granting amnesty to the perpetrators of crimes related to human rights violations during apartheid. The Gacaca Community Courts, based on a pre-colonial Rwandan approach to justice, were asked to establish what happened to the Tutsi during the genocide. Their job was to expedite the cases of those accused of genocide-related crimes. Both processes were meant to contribute to interpersonal and national reconciliation. Reconciliation goes hand in hand with many other factors and generates many difficult questions. Who needs to be reconciled with whom? Who should initiate the process? Who should facilitate it? What should it look like? How do national and interpersonal movements towards reconciliation intersect, if at all? But early on, concern was expressed that the country was trading justice for truth. In response to those criticisms the Institute for Justice and Reconciliation, an organisation that grew out of the work of the TRC, began focusing on equity and fairness as a central component to reconciliation. You only have to pay attention to current affairs to see the truth in this finding. The Economic Freedom Fighters - an opposition political party - are calling for land and resources to be redistributed. Students have also protested about equal access to education. Social justice and equity must remain front and centre of the reconciliation agenda. The TRC was very important. But very little follow up work was done by the government. And the policies it pursued left many South Africans feeling cheated. Reflecting on Rwanda Rwanda took a different path. Many were unsettled by this rigorous quest. There were calls for Rwanda to mimic South Africa and take the route of amnesty in exchange for truth. That would have assumed the wounds of the violent massacre of possibly a million people in three months were identical to the wounds of apartheid. In Rwanda, once the genocide ended, the entire country had been stripped of all of its resources. Dead bodies littered the streets. Perpetrators and survivors had to start rebuilding their lives side-by-side. The compulsion for revenge was strong, and there was an urgent need to deal as quickly as possible with the relationships between individual perpetrators and survivors within their communities. The Gacaca trials took place in every community across the country and were presided over by judges from the communities. Perpetrators were identified and community members could speak out about the crimes that had been committed. Perpetrators then had to do community service which involved rebuilding roads and homes, among other things. This allowed some healing to begin. These trials have been heavily criticised by international observers, researchers and academics for not following due process and being vulnerable to manipulation. Some people were accused of crimes they never committed: Judges were not always impartial and the record of events was sometimes inaccurate. More than that, the reconciliation process has been criticised for being a top-down affair that was micromanaged by the Rwandan government. This has limited their impact. The question remains whether these are necessary for reconciliation to take place. Between the national and the interpersonal One of the challenges every reconciliation initiative faces is the struggle to understand where and how national and interpersonal interests intersect. Reconciliation is about restoring relationships between wounded people and communities. It also extends to the healing of entire nations. Often, this is most visible in the interpersonal relationships between victim and perpetrator. The Forgiveness Project shares many of these stories in the South African context. In Rwandan this is evident in the way in which widows from both sides of the genocide divide work together on entrepreneurial projects or in self-help cooperatives to build a shared livelihood. It requires change and transformation at the systemic level. Governments must commit to policies and strategies that bring about greater freedom and equality. And individuals and communities must commit to the hard work of building and rebuilding relationships every day.

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Chapter 6 : Truth and reconciliation commission - Wikipedia

This month marks 20 years since the Truth and Reconciliation Commission of South Africa Report was given to President Nelson Mandela. The Truth and Reconciliation Commission (TRC) is touted as one.

It was set up in under the leadership of Archbishop Tutu and was a € Background The unbanning of the liberation movements and opposition political parties in by Pres. A major obstacle to finalizing the interim constitution was the question of accountability for those guilty of gross human rights violations during the years of apartheid. It became clear during the negotiations that the political right and many in the security forces were not loyal to President de Klerk and posed a major threat to stability in the country. They demanded that President de Klerk issue them a blanket amnesty for past actions. Those negotiating for the apartheid regime insisted that a guarantee of general amnesty be written into the interim constitution. Without it, it is unlikely that the apartheid government would have given up power. The strength of the amnesty deal was that it was part of a package of initiatives contained in the interim constitution that set the country on the road to becoming a democratic, constitutional state. This included a strong and justiciable bill of rights.

Establishment and mandate of the commission The Truth and Reconciliation Commission TRC was born of a spirit of public participation, as the new government solicited the opinions of South Africans and the international community regarding the issue of granting amnesty as well as the issue of accountability in respect to past violations and reparations for victims. Civil society, including human rights lawyers, the religious community, and victims, formed a coalition of more than 50 organizations that participated in a public dialogue on the merits of a truth commission. This consultative process lasted a year and culminated in the legislation, the Promotion of National Unity and Reconciliation Act 34 of the Act , that established the TRC. The Act provided for the establishment of a TRC made up of 17 commissioners. The commission was tasked with investigating human rights abuses committed from to , including the circumstances, factors, and context of such violations; allowing victims the opportunity to tell their story; granting amnesty; constructing an impartial historical record of the past; and drafting a reparations policy. Finally, the TRC would compile a final report, providing comprehensive accounts of the activities and findings of the commission together with recommendations of measures to prevent future violations of human rights. In order to achieve these objectives, the Act established three committees: The commissioners were selected through an open countrywide nomination process and publicly interviewed by an independent selection panel comprising representatives of all the political parties, civil society , and the religious bodies in the country. The primary focus of the commission was on victims. It received more than 22, statements from victims and held public hearings at which victims gave testimony about gross violations of human rights, defined in the Act as torture, killings, disappearances and abductions, and severe ill treatment suffered at the hands of the apartheid state. Those who had suffered violations at the hands of the liberation movementsâ€™ by members and leaders of such groups as the African National Congress , the Inkatha Freedom Party , and the Pan-Africanist Congress â€™ also appeared before the commission. The commission received more than 7, amnesty applications, held more than 2, amnesty hearings, and granted 1, amnesties for thousands of crimes committed during the apartheid years. An important feature of the TRC was its openness and transparency. The public hearings held by the TRC ensured that South Africans became aware of the atrocities that had been committed during the apartheid years. Challenges and limitations The TRC was confronted by a number of challenges, as it was not accepted by all parties to the conflict. The top echelons of the military did not cooperate with the commission. It was mainly the foot soldiers in the security forces and those who were already imprisoned or were facing charges who applied for amnesty. Senior politicians in the former government and senior leaders in the security forces did not apply. It took considerable effort to persuade them to participate in the amnesty process. A key weakness of the commission was that it did not focus sufficiently on the policies or political economy of apartheid. The link between racialized power and racialized privilege became obscured.

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Furthermore, a number of high-ranking officials from the security forces, including former minister of law and order Adriaan Vlok, were given suspended sentences through a plea-bargain process under new prosecutorial guidelines ostensibly meant to facilitate prosecutions. The failure to prosecute disillusioned many victims and encouraged the view that the government had strengthened impunity and that the beneficiaries of apartheid had escaped accountability for their actions. Assessment Despite these challenges and limitations, the TRC was internationally regarded as successful and showed the importance of public participation in such processes, including the initial decision-making process leading up to the establishment of a truth commission. The hearings of the TRC attracted global attention, as it was the first commission to hold public hearings in which both victims and perpetrators were heard. While amnesties are generally considered inconsistent with international law, the South African TRC provided some basis for considering conditional amnesties as a useful compromise, particularly if they help to secure perpetrator confessions. It was hailed as an innovative model for building peace and justice and for holding accountable those guilty of human rights violations. At the same time, it laid the foundation for building reconciliation among all South Africans. Many other countries dealing with postconflict issues have instituted similar methodologies for such commissions, although not always with the same mandate. The South African TRC has provided the world with another tool in the struggle against impunity and the search for justice and peace.

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Chapter 7 : Truth and Reconciliation Commission, South Africa | South African history | blog.quintoapp.com

A truth commission or truth and reconciliation commission is a commission tasked with discovering and revealing past wrongdoing by a government (or, depending on the circumstances, non-state actors also), in the hope of resolving conflict left over from the past.

Truth-seeking[edit] As bodies mandated by governments, truth commissions constitute a form of "official truth-seeking ". Increasingly, supporters assert a "right to the truth" that commissions are well placed to carry forward. Truth commissions are sometimes criticised for allowing crimes to go unpunished, and creating impunity for serious human rights abusers. Their roles and abilities in this respect depend on their mandates, which vary widely. One of the difficult issues that has arisen over the role of truth commissions in transitional societies, has centered on what should be the relationship between truth commissions and criminal prosecutions. The Commission for Reception, Truth and Reconciliation in East Timor also aimed to tell a new "national narrative" to replace the version of history that had been prevalent under foreign rule. Reconciliation[edit] Within the scope of transitional justice , truth commissions tend to lean towards restorative rather than retributive justice models. This means they often favour efforts to reconcile divided societies in the wake of conflict, or to reconcile societies with their own troubled pasts, over attempts to hold those accused of human rights violations accountable. Less commonly, truth commissions advocate forms of reparative justice , efforts to repair past damage and help victims of conflict or human rights violations to heal. Reconciliation forms a crucial aspect of most commissions. In some cases, peace agreements or the terms of transfers of power prevent court prosecutions and allow impunity for former rulers accused of human rights violations or even crimes against humanity , and truth commissions appear as the major alternative. In other cases, governments see the opportunity to unite divided societies and offer truth and reconciliation commissions as the way to reach that goal. Truth commissions formed part of peace settlements in El Salvador , Congo , Kenya , and others. These processes sometimes include the hope of forgiveness for past crimes and the hope that society can thereby be healed and made whole again. On some occasions, truth commissions have been criticized for narrow mandates or lack of implementation after their reports. A short-lived Commission of Truth and Reconciliation in Yugoslavia never reported as the country that created it ceased to exist. In others, such as Rwanda , it has been impossible to carry out commission recommendations due to a return to conflict. History[edit] The first truth commissions did not use the name, but aimed to unearth the truth about human rights violations under military regimes, predominantly in Latin America. Bolivia established a National Commission of Inquiry Into Disappearances in based on bringing together disparate sectors of society after the end of military rule, but the commission never reported. An earlier and perhaps the first such commission occurred in Uganda in , and was known as the Truth Commission: Other early commissions were established in diverse locations including Uganda , Nepal , El Salvador , and Guatemala. Formal hearings began on 16 April During the truth and reconciliation commission, there were three committees and 17 commissioners in total. The criteria not only included individuals to fully admit their crimes, but to prove they were politically motivated.

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Chapter 8 : Has South African reconciliation worked? - BBC News

Chairman of the TRC (Truth and Reconciliation Commission) Archbishop Desmond Tutu (R) hands over the TRC report to South Africa's President Nelson Mandela at the State theater Building in Pretoria.

Jeff Cangialosi May 14, One of the scariest things about having my time in South Africa quickly coming to an end is that there is so much I still need to learn about this place. With the elections of ushering in a new democratic South Africa, the administration of President Nelson Mandela recognized that some sort of attempt must be made to deal with the injustices the apartheid system had wrought over so many years. As a result of discussions leading up to , Mandela and the African National Congress decided on the middle road option of a truth commission rather than blanket amnesty or outright prosecution of the perpetrators of apartheid. The Promotion of National Unity and Reconciliation Act of set the framework for the TRC, and in , the commission began receiving amnesty applications. The principal idea was to have information flow between the three committees as both the victims and perpetrators of apartheid were permitted to tell their stories. The TRC was grounded in the belief that South Africa could not move forward as a unified nation until it acknowledged its past. So did the TRC work? Many complain that the TRC let many of the worst figures from the apartheid era off the hook while at the same time giving a disproportionate opportunity for white victims to speak at the public hearings rather than black victims. The commission was also severely underfunded and understaffed; hence, the TRC probably only scratched the surface of the stories of abuse under apartheid that are out there. Even with these criticisms, others, such as Archbishop Desmond Tutu, argue that the commission accomplished what it set out to do: Unfortunately I do not know nearly enough about the TRC to declare it a success or failure. I will take the safe middle road and say it had both its strengths and its weaknesses. She became involved in the anti-apartheid movement while she was here and developed a number of close friendships. One day when she was driving a friend home to the township of Gugulethu outside Cape Town her car was attacked by a mob of black protesters. Biehl was dragged from her car and brutally murdered by four men simply because her white skin connected her with the apartheid government. We now fast forward a few years to the TRC when the amnesty application of the four men who murdered Amy Biehl came up. In a tremendous act of forgiveness, the parents of Amy Biehl supported the pardon of the four men who murdered their daughter and actually shook hands with the killers. The Biehl family has gone on to start the Amy Biehl Foundation, which runs after school programs for children around Cape Town. This level of forgiveness can be hard to fathom, but it demonstrates the type of reconciliation the TRC could facilitate at its best. Of course for every extraordinary story of reconciliation the TRC fostered, there is another story about how the TRC failed in some respect. As long as South Africa remains a divided and unequal society, I do not see the controversy that swirls around the TRC abating anytime soon. For some South Africans I talk to, time will heal all wounds. Others believe a fundamental confrontation with the history of apartheid is necessary now if we want future South African children to grow up not seeing racial distinctions. It is a complicated debate, and one that I must continue to engage in during the time I have left in South Africa. Discover similar content through these related topics and regions.

Chapter 9 : Truth and Reconciliation Commission - SourceWatch

Truth Commission: Commission of Truth and Reconciliation (TRC) Dates of Operation: December - (7 years; the original mandate ended in but was extended.) Background: Apartheid was a system of legally enforced racial segregation in South Africa between and