

# Ghana's National Reconciliation Commission

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Since 1995, when the South African Truth and Reconciliation Commission drew the eyes of the world to the opportunities and challenges associated with this method of inquiry, truth commissions have become increasingly common tools used by countries attempting to come to terms with violent pasts. In this context, Ghana's National Reconciliation Commission (NRC) instituted in early 2002, serves to highlight the role they can play in promoting reconciliation and healing the wounds suffered in the country's past.

## Functions and Objectives of Truth Commissions

While their specific functions vary, generally speaking, truth commissions have two main roles. First, commissions set out to establish an official and accurate record of a country's past, which means documenting human rights abuses suffered during the mandated time frame. Furthermore, commissions are charged with putting forth recommendations to governments for reparations to victims, and for reforms of existing laws or institutional structures in an effort to prevent future abuses.

There is no set format for truth commissions. For example, commissions can conduct closed-door interviews or public hearings to which all are invited to attend. They can take on a formal courtroom-like atmosphere, or a much more casual, informal tone resembling a roundtable discussion. They can accept the victim's story as the truth without requiring any corroborating evidence, or conduct in-depth investigations into each case brought before the commission. These are just a few of the matters that must be decided upon when designing the structure of a commission, and they serve to illustrate the flexible and accommodating, as well as the complex and undefined, nature of truth commissions.

There are many possible objectives in undertaking such an exercise. It should be noted that each commission might omit, or place different degrees of emphasis on, some of the objectives. In Priscilla Hayner's Unspeakable Truths: Confronting State Terror and Atrocity, the five objectives of truth commissions are laid out. These include:

- ◆ clarification and acknowledgement of the truth;
- ◆ responding to the needs and interest of the victims;
- ◆ contributing to justice and accountability;
- ◆ outlining institutional responsibility and recommending reforms; and
- ◆ promoting reconciliation and reducing tension resulting from past violence.

## The Ghanaian Case

Ghana, a West African country that has undergone a number of periods of unconstitutional rule since it gained independence from Britain in 1957, suffered widespread human rights abuses during these periods. This gross aberration of human rights (which included crimes such as torture, killings, abductions, disappearances, detentions and seizure of property) by people in positions of authority was directly responsible for the formation of the Commission in early 2002.

Under Act 611, the NRC is mandated to establish an accurate and complete historical record of abuses perpetrated against individuals by public institutions and office-holders, or by individuals purporting to have acted on behalf of the state during periods of unconstitutional rule. It is also charged with putting forth recommendations for redress and institutional reform to the President.

The NRC began receiving statements of human rights violations from the public on September 2, 2002. Public

hearings commenced on January 14, 2003. The Commission sits for 12 months from the first hearing, with the possibility of a Presidential extension of six months, if good cause is shown. At the end of its work, the Commission shall within three months submit its final report to the President.

The Commission is made up of nine members, as appointed by the President in consultation with the Council of State. A series of Committees has also been set up in order to examine various institutions and bodies, such as the legal profession, the press, the labour and student movements, and religious bodies and chiefs. The Committees will investigate any involvement these groups may have had in human rights violations during the Commission's mandated time frame, and will put forth recommendations for reform.

The NRC conducts hearings and investigations into human rights violations, and the circumstances surrounding the abuses. The Commission has the powers of the police in its investigations, and the powers of a court in its hearings. This means that the NRC has the power to search, enter, and remove any property needed in its investigations, and also has the power to subpoena. It should be understood that this does not mean the NRC can place people under arrest, or hand down sentences. As discussed above, it is strictly a fact-finding and recommendation-making body.

Cases brought to hearing will be public, unless it is deemed inappropriate by the Commission. The NRC hearings have a quasi-judicial tone. They are being held in Accra, the capital city, in a newly renovated room in the Old Parliament buildings. The room itself resembles a courtroom, in that there is a bench behind which the nine Commissioners sit and preside over the hearings. The witnesses themselves sit facing the Commissioners, with microphones before them on the table. The proceedings are recorded in English. Television cameras from Ghana Broadcasting Corporation record all proceedings, which are broadcast live. Journalists and the general public sit on balconies overlooking the hearings.

## Critics of the NRC

There are a multitude of issues surrounding the Ghanaian National Reconciliation Commission that could be debated, but this section will be confined to two highly publicised issues.

The NRC has been called a partisan initiative by many observers who see it as an attempt by the ruling New Patriotic Party (NPP), to tarnish the image of its main opposition, the National Democratic Congress (NDC). Ghana returned to democratic rule in 1992 under Jerry Rawlings and the NDC. Generally speaking, truth commissions are held during, or soon after, times of transition. In the Ghanaian case, the NRC is occurring over ten years after transition. Rawlings had been responsible for two coups in the past, and had ruled Ghana as a military leader prior to his installation as a democratic leader. Rawlings and the NDC remained in power until 2000, when John A Kufour and the NPP were voted in. It was only after the NPP came to power that Act 611 was signed, allowing for the creation of the NRC, which would examine human rights abuses committed under past unconstitutional rulers, most notably Rawlings. Many point to this as evidence of the partisan nature of the NRC. They claim that the NPP seeks to damage the image of the NDC, their main political opponents, thus boosting their political power.

Other critics feel that within the Ghanaian context, a truth commission is simply inappropriate. They point to the truth commissions in South Africa and Sierra Leone, for example, and make note of the very different conflicts leading up to the establishment of the commissions. South Africa's commission was a response to mass human rights abuses that occurred under Apartheid, a state-sponsored system of racism leading to countless abuses committed against non-white South Africans and opponents of Apartheid. Apartheid was a policy that was a part of everyone's life in South Africa. In Sierra Leone, civil war ripped apart the country, and pitted groups against each other, rather than having a single nucleus of power committing abuses. Critics of the NRC do not deny that human rights abuses occurred under various regimes in Ghana, but they say they were much more isolated incidents

than the ones found in South Africa and Sierra Leone. They say the country did not undergo a widespread and penetrating conflict that calls for national reconciliation. Further, some argue that since the perpetrators are of a smaller number and more easily identifiable than those in South Africa and Sierra Leone, a truth commission is inappropriate. Still others say we should 'let sleeping dogs lie', and not risk stirring up old memories, pain, and political tension, when there is no assurance that the NRC will in fact yield any healing or reconciliation.

While all of these issues are still subjects of debate, the fact remains that the National Reconciliation Commission is well underway in Ghana. On 10<sup>th</sup> September, 2002, barely a week after it started its sessions, the number of complaints had reached over 350 and counting. Complaints included allegations of torture, disappearances, confiscation of properties and unlawful dismissal from work places.

Based on the steady establishment and popularity of new truth commissions over the past two decades, it seems clear that truth commissions are here to stay. With that in mind, at the very least, the NRC can serve as an instructional example for the design of future commissions. At best, it will serve to promote individual healing, and the reconciliation of a nation. ■

### Editorial Contd.

earnest human rights advocates to promote the principles of United Nations human rights law. The total preoccupation with a so-called "war on terrorism" has been used by many political leaders to increase their authority for denial of human rights. Governments world over have rallied enthusiastically to the cause of tighter security controls and increased policing with little regard for addressing the root causes of terrorism.

Kofi Annan, while making a speech about the menace of terrorism, also addressed this issue when he said, "*States fighting various forms of unrest or insurgency are finding it tempting to abandon the slow difficult but*

*sometimes necessary processes of political negotiation for the deceptively easy option of military action. Just as terrorism must never be excused so must genuine grievances never be ignored.*"

Basic standards of human rights must be respected by all leaders if they are to be successful in negotiating realistic alternatives to conflict. Regrettably so much current debate about human conflict relies on reactionary and retaliatory rhetoric rather than restrained reflection of human rights law and practice.

It appears there are too many political leaders who need to have an "enemy" to justify their behaviour of polarizing the debate about "good and evil". We hear plenty of accusations and condemnations but little preparedness to consider WHY there is such hatred and extremism nor to discover HOW we can work to prevent such distressing disregard for humanity.

Within the Commonwealth itself the human rights agenda is rarely debated as our leaders try to dominate in other fora. Tony Blair is convinced his major role is to support the military might of the United States. Current Chair of the Commonwealth John Howard is similarly persuaded even though his Asian Pacific neighbours are aghast at Australian priorities outside its region. Meanwhile Robert Mugabe continues to override all standards of democratic practice with little resistance from Commonwealth members.

Through these dismal days of the war whose first casualty has been the rule of law, even the most ardent supporter of human rights needs to hold on to belief and activism and must not be suppressed by the depressing atmosphere that surrounds us. There is only one justifiable human cause and that is humanity itself, so we must all re-double our efforts to find new ways to promote the human rights agenda. ■