



The road to unity and social justice: gathering, accessing and preserving Truth and Reconciliation Commission (TRC) records

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Abstract:

The legacy of apartheid has left major divides within communities in South Africa. The Promotion of National Unity and Reconciliation Act of May 1995, which brought into effect the Truth and Reconciliation Commission, was promulgated with the intention of bringing together a divided nation. This paper discusses issues relating to access to information, which is the core business of libraries, in the unification process using the principles of social justice. The South African TRC is considered one of the more successful commissions. This paper examines the mandate of the TRC, which had generated large quantities of materials, and the legislation that supported the gathering of material about and by the TRC and making this material accessible to the citizens of the country. It stresses the successes of the Commission, as well as some areas of concern with regard to access to the records of the TRC.

Introduction

The legacy of apartheid has left major divides within communities in South Africa. The Promotion of National Unity and Reconciliation Act of May 1995, which brought into effect the Truth and Reconciliation Commission, was promulgated with the intention of bringing together a divided nation (Republic of South Africa 1995). Many viewed the Truth and Reconciliation Commission as a comprehensive therapeutic intervention for survivors of human rights abuses (Kaminer 2001). Whether such a Commission is viewed against the

backdrop of social justice or transitional justice, it is inadvertently linked to the perceived role of peace building. Emmanuel (2007) points out that the South African TRC is credited with having promoted national unity and reconciliation and for creating 'peace'.

This paper discusses issues relating to access to information, which is the core business of libraries, in the unification process using the principles of social justice. In teasing out the concept of social justice, Chaparro-Univazo (2007) and Mehra, Albright and Rioux (2007) indicate that there is a fundamental relationship between social justice and access to information and, access to information and libraries. In essence, social justice is the application of justice on a social level which includes the fundamental principles of human rights and equality. Equality would encompass equal rights and opportunities including the right to equal access to information. This is corroborated by Chaparro-Univazo (2007) who points out that access to information is a basic human right.

The South African TRC is considered one of the more successful commissions. This paper will examine the mandate of the TRC which had generated large quantities of materials. It will also examine the legislations that supported the gathering of material about and by the TRC and making this material accessible to the citizens of the country. This paper works from the assumption that the TRC was, in the main, successful. However, there are areas of concern with regard to access to the records of the TRC which is fundamental to achieving social justice.

The Truth and Reconciliation Commission and its mandate

It was clear at the start of the post apartheid era that South Africa was more in need of healing and unity than criminal prosecution. Archbishop Tutu (Truth and Reconciliation Commission of South Africa report: Volume Six 1998:1), drawing inferences from the Dr Wouter Basson trial (an alleged user of chemical weapons against anti-apartheid activists), stated that the criminal justice system was inadequate in exposing the full truth and establishing accountability for what happened in South Africa. "More seriously, we have seen how unsuccessful prosecutions lead to bitterness and frustration." Tutu further comments, as documented by Emmanuel (2007: 3), that the TRC "sought to repair, not revenge; it sought reconciliation not recrimination."

In the spirit of healing, unity and reconciliation, the TRC was mandated to investigate and establish as complete a picture as possible of the nature, causes and extent of gross human rights committed from 1 March 1960 to 10 May 1994.

The mandate also included the authority to grant amnesty to persons who made full disclosure of all the relevant facts relating to human rights violations that had a political objective; to establish and make known the fate or whereabouts of victims; to restore the human and civil dignity of such victims by granting them an opportunity to relate their own accounts of the violence; and, lastly, to recommend reparation measures in respect of these violations.

The TRC has been described as the largest survey of human rights violations undertaken anywhere in the world and has become an important instrument in South Africa's interrogation of its apartheid past. Unlike many other Commissions, the South African Commission held the greater part of its hearing in public venues including those venues that were in remote areas. However, there were a number of hearings that were held *in camera*. During the period of deliberation, over 22 000 victims of human rights violations made

statements to the TRC, and more than 7 000 perpetrators applied for amnesty. Approximately ten percent of the victims gave evidence at public hearings (<http://truth.wvl.wits.ac.za/about.php>).

The TRC had generated a substantial collection of records via their various offices, its Commissioners and officials as they gathered evidence during their investigative journeys across the country. Further, there were substantial records *about* the TRC. Collectively (records *about* the TRC and *by* the TRC), the result was “a vast accumulation of records in a range of media, documenting all TRC processes, from public hearings to vehicle requisitions, from investigations to the purchase of the office furniture” (Harris 2002: 3). However, the TRC had jurisdiction only of those records that it generated and sought to ensure that its records were adequately archived. This archive and the various other collections located in academic institutions and other private collections constitute a rich resource of social memory for both the South African and international communities.

The findings of the TRC, as indicated Pothier (1998), were captured in five volumes of almost 3000 pages. These volumes and a further two volumes (volumes 6 and 7) which dealt with the report from the Amnesty Committee is acknowledged as one of the twentieth century’s most historically significant documents. It represented a thorough and impressive record of South African apartheid history from 1960 to 1993. However, there were gaps in the record as the erstwhile security forces destroyed much documentation, and were doing so up until very close to the start of the TRC process. Nevertheless, Pothier (1998) points out that “we can be sure that what the TRC has managed to put together is as good a statement of the truth as was humanly possible.”

Despite the claim that the TRC was a resounding success, there were many criticisms that have been levelled at the TRC. The more significant but less quantifiable violations of human rights are those such as forced removals, pass laws, racialised poverty and racialised wealth. These issues have created a much deeper social scar which will take generations to eradicate. In defense of the TRC, it must be accepted that the mandate was too ambitious. The fact that the TRC achieved what it had was a major achievement and a significant contribution to social justice. This achievement must be viewed against the background that it was an innovative process with very little precedence for any guidance: the experience of the commissioners grew as the process unfolded. However, what cannot be condoned is the inadequate record keeping and archiving of the records of the TRC as the necessary experience and skills for such recording and archiving is in abundance in South Africa. It is this gap that detracts from a sound social justice process.

Be that as it may, the TRC process constitutes a rich resource of social memory. The TRC had the foresight to recommend that the highest priority needs to be accorded to the accessibility of its records in the quest for social justice.

Legislative support for the gathering of material *about* and *by* the TRC

Given the anticipated significance of the Commission and its findings, there was a great deal of importance attached to supporting and enabling legislation to ensure accessibility to TRC records by the ordinary South African citizen.

The TRC sought to use the Promotion of Access to Information Act 2 of 2000 (PAIA) to optimise accessibility to its records by national and international communities. Essentially,

this Act gave effect to that section of the constitution of the country that guarantees the right of access to any information held by the state. However, there are limitations to access to information but these limitations must be reasonable and justifiable. The fundamental purpose of the Act is to foster a culture of transparency and accountability (Republic of South Africa 2000: 2). Associated with the PAIA is the National Archives of South Africa Act (43 of 1996) which made provision for the archiving of the records of the TRC. The Commission recommended that all its records be transferred to the National Archives after the Final Report was made public and that all these records should “be accessible to the public, unless compelling reasons exist for denying such access” (Harris 2002: 4). The records that the Commission referred to is inclusive of the transcripts of the hearings, amnesty decisions, public statements issued by the TRC, as well as material available on its website. It also recommended that its expanded website which included its computer files be managed by the National Archives. Despite these recommendations, the Department of Justice is the statutory ‘owner’ of the records of the TRC as opposed to the Department of Arts and Culture which has legislative control of the National Archives (Kriger 2007; Dick 2006; Harris 2002).

There was a clear methodology by the TRC for the capture and archiving of TRC records. The TRC recommended to the South African government that adequate funds should be provided to the national archives to preserve and maintain the records. Further, it recommended special support in the form of decentralised, nation-wide ‘centres of memory’ which would provide members of the public who do not have personal computers, access to the proceedings of the Commission, including transcripts and sound and video clips of hearings. All of these recommendations reinforce the social justice process in that it attempts to make the records accessible to all of the citizens of the country – it expands on the right of access to information.

Constructs of accessibility

As indicated, the report of the TRC is formally captured in a total of seven volumes which have been published in hard copy and in digital format. Each volume has a particular focus: **Volume 1** is the introductory volume; **Volume Two** deals with the role of the state in the perpetration of gross violations of human rights; **Volume Three**, addresses gross violations of human rights from the perspective of the victim; **Volume Four** seeks to address the nature of the society in which gross violations of human rights took place; and **Volume Five** contains the conclusions reached by the Commission, including analyses and findings and recommendations. Volumes 6 and 7 is a report from the Amnesty Committee.

The records of the TRC are available in virtual format from a number of websites. The core website for the records of the TRC is the website of the Department of Justice. The Department of Justice site includes transcripts of public hearings and other formal documentation related to TRC activities conducted in the public domain. There are considerable collections about and by the TRC at the *Traces of Truth* (a website at Wits University) and the South African History Archive (SAHA- a non-governmental organization NGO). This joint venture between SAHA and an academic institution (Wits University) is an indication of the commitment by SAHA for justice and accountability in South Africa. SAHA has actively collected archival materials of the TRC through the TRC Archives Project, a joint archival project undertaken by SAHA and Wits University between 2003 – 2006 (South African History Archive 2010).

Essentially, there is fairly liberal access, through an aggregation of sites, to the TRC records. However, there are concerns about the availability of the sum total of the records about and by the TRC. Some records that were in private collections have been sold to foreign countries (Harris 2002). Unfortunately, this is inevitable in a 'free trade environment'. However, there are grave concerns relating to archiving and preservation, and access to 'state owned' TRC records by the institution responsible for the records of gross human rights violations.

Areas of concern

Given that the fundamental purpose of the TRC was to heal the nation and foster unity, it was critical that the information be readily available to the citizens of the country. In fact, it is an absolute imperative for social justice. However, concerns have been raised about the processes of archiving of the records and the accessibility of the records.

There has been substantial documentation *about* the TRC. Some of these are in public institutions, such as the South African Broadcasting Corporation and the National Archive or in private archives and are available to the public. However, there is a large cohort of 'private archives' that are not accessible to the public. This degree of dispersion of records is exacerbated by other accessibility barriers such as:

- Very little information on a global perspective of what TRC materials exist and where they are to be found. Further, no archival audit or survey has yet been undertaken to determine the sum total of TRC materials;
- Materials outside of archives are not adequately processed, and
- "Much material, notably that in possession of individuals is subject to disposal on the basis of personal whim. Stories abound of potentially valuable records either being destroyed or sold or donated, in some cases to overseas institutions" (Harris 2002: 5).

Another issue that detracts from a global view of the sum total of the TRC materials is the sanitation processes adopted by the pre- and post-democracy government representatives. As a matter of practice, apartheid government representative routinely destroyed public records to keep certain processes secret (Kriger 2007; Dick 2006; Darch and Underwood 2005; Harris 2002). However, that practice continued during the period 1990 and 1994. The state engaged in large-scale sanitation of its memory resources designed to keep certain information out of the hands of a future democratic government. The TRC investigated this destruction of records and was successful in acquiring those records that survived the purge. However, it was not only the apartheid government officials that destroyed incriminating documentation. The National Intelligence Agency of the post-apartheid government was also guilty of destroying records of former homelands intelligence agencies in 1996. Kriger (2007), Dick (2006) and Harris (2002) bring to the fore other sanitisation processes such as the disappearance of files containing lists of apartheid-era informers. Dick (2006) summarises this sanitisation processes as "the state's power of surveillance and its own access to information about its citizens, and the powerlessness of citizens to access state information. The point is that full access to all the missing files dealing with sensitive information around human rights violations now seems more remote than ever." The mandate of the TRC was to cultivate social justice. However, the summation by Dick detracts from the mandate despite the achievements of the TRC.

Another significant area of concern is the barriers imposed to the accessibility of TRC records. It is of grave concern, as pointed out by Kriger (2007), Dick (2006) and Harris

(2002), that the records of the TRC are not as accessible as the TRC would have liked them to be. Kriger (2007) points out that access to the TRC archive is governed by PAIA and not the National Archives Act. The significance of this is that application has to be made for transcripts of TRC records. There is history of the Department of Justice using the Act (PAIA) not to divulge sensitive records. This is corroborated by Dick (2006) who cites examples of deliberate attempts to create barriers to information on, amongst others, apartheid informers, the Civil Cooperation Bureau and the Dulcie September case. There are figures of between 34 and 38 boxes of information that have been withdrawn from the public domain. Such practices confirm that full access to the records of the TRC is not possible. This also demonstrates the determination of government departments and politicians to hide sensitive information. Dick (2006: 8) goes on to quote McKinley as referring to, “the right of access to a body of information that has been effectively hijacked by government officials and politicians for their own purposes and reasons”.

Clearly, this ‘withdrawal of information’ was never the intention of the TRC. It is interpreted that TRC anticipated such devious behaviour and set about putting mechanisms in place to control those devious behaviours. However, the very legislation that it relied on to support unhindered access to TRC information is being used to sabotage free and open access to information that belong to the people of the country.

Conclusion

The TRC, despite its shortcomings, was a step in the right direction, in that it sought social justice for the healing and unification of a divided nation. The shortcomings were not in terms of its contribution to social justice but rather with the depth and breadth of its investigations. The TRC made every attempt to ensure that its records were accessible to the citizens of the country recommending, amongst others, that the records be the responsibility of the National Archives and that additional funding is made available for long term preservation of the records. However, the records have become a political prize at the expense of further gathering, archiving and making accessible the records of the TRC. It is proposed that the National Archives should become the owner of the collection which should also instil the obligation of growing that collection through further gathering of records as is currently being done by SAHA. Further, the National Archives would be obligated to the creation of accurate catalogue entries and description of the records, thus enhancing accessibility of the TRC materials to the citizens of the country and the world. The current surrogate relationship (that is, owned by the Department of justice and ‘looked after’ by the Department of Arts and Culture through the National Archives) is likely to be the demise of the rich social memory that the TRC materials represent.

It is beyond debate that the TRC made a significant contribution to social justice in South Africa by investigating and establishing, at the least, some of the gross human rights violations of the apartheid era. The other end of that social justice continuum should be entrusted to those with the training and skills to gather, organise and disseminate the records about and by the TRC. Access, unhindered access, to the records is an absolute imperative for the social justice process and a critical factor for the reconciliation and unification of a rainbow nation.

Works cited

- Chaparro-Univazo, S. 2007. *Where social justice meets librarianship truth commissions as information spaces for work and activism in international librarianship*. Available at <http://www.libr.org/isc/issues/ISC25/articles/WHERE%20SOCIAL%20JUSTICE%20MEET%20LIBRARIANSHIP.pdf> Accessed on 14 June 2010.
- Darch, C. and Underwood, P. 2005. Freedom of information legislation, state compliance and the discourse of knowledge: the South African experience. *International information and library review*, Vol. 37: 77-86.
- Dick, A. 2006. Power is information: myths and fables about access. *IKMD Newsletter: Umyezo*, Vol. 1(3): 7-9. Available at www.mrc.ac.za/ikmd/may2006/power.pdf, Accessed on 10 June 2010.
- Emmanuel, K. 2007. *Between principle and pragmatism in transitional justice: South Africa's TRC and peace building*. [Pretoria]: Institute for Security Studies.
- Harris, V. 2002. Contesting, remembering and forgetting: the archive of South Africa's Truth and Reconciliation Commission. *Innovation*, No.24: 1-8.
- Kaminer, D. 2001. The Truth and Reconciliation Commission in South Africa: relation to psychiatric status and forgiveness among survivors of human rights abuses. *The British journal of psychiatry*, Vol. 178: 373-377. Available at <http://bjp.rcpsych.org/cgi/content/full/178/4/373>. Accessed on 14 June 2010.
- Kruger, E. 2007. The interrelated roles of archival and right of access to information legislation to promote democratic government in South Africa. *IFLA/FAIFE world report series*, Vol 7. Available at www.archive.ifa.org/faife/report/WorldReport-pr-2007.htm. Accessed on 10 June 2010.
- Mehra, B., Albright, K.S. and Rioux, K. 2007. A practical framework for social justice research in the information provision. *Proceedings of the American Society for Information Science and Technology*, Vol. 43(1): 1-10.
- Pothier, M. 1998. *The TRC Report and its Aftermath*. Available at www.cplo.co.za/site/index.php?option=com_docman&task. Accessed on 9 June 2010.

Republic of South Africa. 2000. *Promotion of Access to Information Act 2 of 2000*.

Government Gazette No 20852. Pretoria: Government Printer.

Republic of South Africa. 1995. *Promotion of National Unity and Reconciliation Act 34 of 1995*. Government Gazette No 1111. Pretoria: Government Printer.

South African History Archive. 2010. Available at

http://www.saha.org.za/projects/trc_archive_project.htm. Accessed on 9 June 2010.

Truth and Reconciliation Commission of South Africa report: Volume Six.1998. Cape Town: The Commission.

<http://truth.wvl.wits.ac.za/about.php> Accessed on 10 June 2010.