NATIONAL DEFENSE UNIVERSITY
STRATEGIC FORUM
INSTITUTE FOR NATIONAL STRATEGIC STUDIES

Number 158, January 1999

Reconciliation in South Africa

Addressing Apartheid Era Human Rights Violations

by Michael Everett

Conclusions

- If the promotion of human rights as well as the establishment of democratic institutions and governments continue to be important U.S. goals, the Truth and Reconciliation process in South Africa deserves support, scrutiny, and continuous evaluation.

- Unlike the former Yugoslavia, South Africa is making the transition from oppression to democratic rule without outside intervention or the use of peacekeeping forces.

- President Nelson Mandela is the architect of reconciliation in South Africa, but the burden of truth is on all South Africans. A number of leaders of the past government and the anti-apartheid movement, as well as current government leaders, must reconcile with justice.

- Successful discussions between the United States and South Africa are indirectly tied to the success of the reconciliation process. Stability and growth could stimulate foreign investment and open markets in South Africa.

- The aim of the Truth and Reconciliation process was to develop a culture that places a high value on human rights to prevent recurrences of the injustices and suffering of the past. To succeed, social healing will require significant sacrifices and perseverance by former oppressors, perpetrators, and victims alike.

- With no significant external regional threat, internal security is the key to regional prosperity. The future success of the Southern Africa Development Community (SADC) and economic prosperity in Southern Africa may be linked to security within South Africa.

From Apartheid to Democratic Reform

On July 26, 1995, the government of South Africa passed the Promotion of National Unity and Reconciliation Act. The Act was an attempt to complement the transition from a formerly oppressive apartheid system to a democratically functional government. In December 1995, the Truth and Reconciliation Commission (TRC) started this program to explore, seek, and document information

20010925 311

about past events that national and international tribunals are unable to capture.

The new South African government wanted to reconcile the past with the present and the future by addressing human rights violations. If South Africa is to remain viable and maintain its pre-eminence in the region, then social chaos and instability must be avoided. Although there are several problems associated with the transition from apartheid, human and emotional healing have to go hand-in-hand with other transitional activities in the country. The government considered several models for reconciliation before deciding to tailor the Chilean model to best suit South Africa. Radio and television became the primary media to spread information about the process. Brochures and leaflets were also used but proved to be less effective than the electronic media. The Promotion of National Unity and Reconciliation Act attempted to close out the books on apartheid by providing for:

...the investigation and the establishment of as complete a picture as possible of the nature, causes and extent of gross violations of human rights committed during the period from March 1, 1960 to the cut-off date contemplated in the Constitution, within or outside the Republic, emanating from the conflicts of the past, and the fate or whereabouts of the victims of such violations; the granting of amnesty to persons who make full disclosure of all the relevant facts relating to acts associated with a political objective committed in the course of the conflicts of the past during said period; affording victims an opportunity to relate the violations they suffered; the taking of measures aimed at the granting of reparation to, and the rehabilitation and the restoration of the human and civil dignity of, victims of violations of human rights; reporting to the Nation about such violations and victims; the making of recommendations aimed at the prevention of the commission of gross violations of human rights; and for the said purposes to provide for the establishment of a Truth and Reconciliation Commission, a Committee on Human Rights Violations, a Committee on Amnesty, and a Committee on Reparation and Rehabilitation; and to confer certain powers on, assign certain functions to and impose certain duties upon that Commission and those Committees; and to provide for matters connected therewith.

There were several key elements in the Act: (1) gross violations committed within the time frame October 1960 to May 10, 1994 [President Mandela's inauguration date] were reported, (2) victims were given the opportunity to recount violations, (3) the perpetrators had to have a political objective while a member of a publicly known political organization or liberation movement, or as an employee of the State or member of the security forces, (4) human and civil dignity would be restored, and (5) most importantly, the TRC recommended measures to prevent human rights violations in the future.

The *Truth and Reconciliation Commision of South Africa Report* was published October 28, 1998. This five-volume report disclosed acts of atrocities, provided rehabilitation for victims, and became the basis of amnesty for perpetrators. Purportedly, this report on the apartheid era in South Africa relieves victims of an inhumane social system, thus ending a ruthless chapter in the history of South Africa. However, as more information emerges in future years the history of apartheid will be re-written for generations to come. All of the elements of the Act were contingent on the dynamic interplay of three functions—full disclosure of the truth, amnesty for persons making full disclosure, and reparation and rehabilitation for victims or victims' families. Reconciliation, without intervention, generally takes years, generations or even centuries. In order for South Africa to remain influential in the region, this process had to begin expeditiously.

The Commission

Archbishop Desmond Tutu was the TRC chairman. The Commission's 17 commissioners closely represented South African demographics. They manned three committees—the Committee on Amnesty, the Committee on Human Rights Violations, and the Committee on Reparation and Rehabilitation. **The**

Committee on Amnesty allowed those who committed atrocities the opportunity to apply for amnesty provided they told everything they knew. Amnesty was chosen because it was a negotiated political settlement. Anyone who committed an atrocity for political reasons, regardless of which faction he supported, was expected to report his actions for the purpose of documentation, be protected from prosecution, and to then assume his place in society once amnesty was granted. The alternative for those who chose not to confess, but were implicated through others' testimony, was to be subject to criminal or civil litigation. In essence, the amnesty period was a period during which white-on-white, black-on-black, colored-on-colored, white-on-black, black-on-white, white-on-colored, colored-on-white, colored-on-black, and black-on-colored atrocities could be explained, documented, and reconciled. The events and issues investigated by the Commission included:

The Sharpeville Massacre, 1960 — What began as a peaceful demonstration ended in the shooting deaths of 69 people, including 40 women and eight children.

Soweto Uprising, 1976 — After two students were killed by police during a student demonstration, civil unrest spread throughout this township which eventually resulted in 176 dead, more than 1,000 injured, and 908 arrests.

Steve Biko, 1977 — An anti-apartheid activist who died from brain injuries in Pretoria while in police custody.

Church Street, Pretoria Bombing, 1983 — A car bomb intended for a headquarters of the South African Air Force killed 19 people and injured 219. Two members of Umkhonto we Sizwe, a faction of the African National Congress, were among the dead, and were found responsible for the explosion.

The Natal Conflict, 1987 — The beginning of intense confrontations between Inkatha and the United Democratic Front (UDF) in townships adjacent to Pietermaritzburg and in Mpumulanga. UDF defense committees were created in response to attacks from Inkatha vigilantes. This violence led to the deaths of 367 people, often involving innocent non-combatants.

Bisho Massacre, 1992 — Ciskei Defense Force (CDF) soldiers opened fire on 70,000 protesters at an ANC-sponsored demonstration; 29 demonstrators and one CDF soldier were killed.

St. James Church, 1993 — The Azanian People's Liberation Army (APLA) began attacking civilian targets frequented by white people. On Sunday, July 25, 1993, a group of APLA gunmen attacked the St. James Church outside of Cape Town killing 11 people and injuring 60.

Election Bombings, 1994 — Right wing activity designed to sabotage free elections in the Transvaal and Orange Free State resulted in 21 deaths and more than 200 injured; 36 members of the AWB were charged with 19 counts of murder and 191 counts of attempted murder.

The deadline established for victims to apply to the Commission was December 14, 1997. The deadline for perpetrators to apply for amnesty was September 15, 1997. The government granted extensions for a variety of reasons including: the volume of applications far exceeding the anticipated load; allowing those who were hesitant an opportunity to see the process work; and, permitting commission officials to engage extremist/dissident groups.

The Committee on Human Rights Violations had the difficult task of hearing the stories of people who suffered atrocities. The committee then had to: (1) investigate the incidents, (2) publicize them, (3)

determine who was responsible, (4) hold public hearings, and (5) recommend how victims could be assisted. These gross human rights violations included killing, abduction, torture, and severe treatment.

The Committee on Reparation and Rehabilitation was tasked to assess the harm victims suffered and the impact on their families. The committee recommended ways to compensate victims who have no other legal recourse against perpetrators who received amnesty. The committee also provided emotional support for witnesses before, during, and after proceedings, and consulted with communities to ascertain the best means for reparation and rehabilitation. The President and the Parliament had the responsibility to decide the appropriate reparations and determine how to prevent human rights abuses in the future. A President's Fund was established to provide payments based on decisions by the President and Parliament.

Truth Emerges

The facts of human rights abuses began emerging within months after the Commission began hearings. Victims and perpetrators under apartheid came to the Commission to tell their stories. From the beginning, the Commission was aware it could not hear *all* the victims. Each victim's statement was subject to factual scrutiny. The Commission did a superb job identifying a representative sample of victims to provide information and testimony. Consequently, the originally designated deadline of December 14, 1997 for the Commision's Report was extended to October 1998.

Several high profile figures were summoned by Commission. The two most noteworthy figures were Winnie Mandela and Pieter Botha. The Promotion of National Unity and Reconciliation Act determined that "anyone and everyone," regardless of previous social status, was subject to subpoena in order to relate all that they knew. Both were accused of perpetrating or committing atrocities. In November 1997, a former bodyguard for Ms. Madikizela-Mandela returned to South Africa from Great Britain and described how, in 1989, Ms. Madikizela-Mandela stabbed to death a 14-year old youth whom she suspected of being a spy. Several members of her former entourage, known as the Mandela United Football Club, also testified before the Commission. In December 1997, the former head of the Football Club acknowledged he had killed victims on instructions from Ms. Madikizela-Mandela. Later in December, Ms. Madikizela-Mandela chose to appear before the Commission. She refused a private hearing and in open forum disputed the testimony of her accusers. She admitted her Club had committed atrocities and expressed remorse to the victims' families. However, she insisted she did not order any of the killings or acts of torture. The case is still under review.

Former President Pieter Botha's behavior toward the Commission and his trial tested both the Commission and the reconciliation process. The center of the controversy focused on his knowledge concerning murders and human rights violations committed by the Internal Security Force (ISF). A former Botha cabinet member testified that Botha gave orders to conduct bombings and other atrocities to protect the apartheid system. The committee was given evidence of a Botha-sanctioned policy to "eliminate" and "neutralize" opponents of white minority rule in South Africa. This policy included anyone, regardless of race and color, who was considered an enemy of, or spoke out against, apartheid.

Botha refused to admit to the policy or tell what he knew about the alleged abuses. He subsequently challenged the statutory subpoena power of the Commission. Despite a personal visit by Archbishop Tutu to convince Botha to come to terms with the TRC, Botha continued to defy a series of subpoenas to appear before the Commission in 1997. The case was handed to the Cape Town Attorney General who in turn submitted an 800-page document to the State Security Council. Botha made his first court appearance on January 23, 1998. The proceedings resulted in a continuance to March and then April

1998. Botha was eventually convicted of contempt. However, the matter is far from being resolved. Unless Botha has a significant change of heart and mind, this matter may be settled in the court system. Any references to Botha's activities were stricken from the final report pending his trial sometime in 1999.

International Implications

Despite strong opposition from the Inkatha and Nationalist Parties and some legal problems regarding irregularities in granting amnesties to political figures, the TRC persevered to complete its mission. Although the chapter on human rights violations in South Africa is not completely closed, the direction that the country is taking—and the initial success of the reconciliation process—generate hope for the future.

It may be possible to tailor and/or apply the truth and reconciliation process to other regions of the world, such as the former Yugoslavia, the Middle East, South Asia, and other regions of Africa, where politically motivated human rights violations are or have been prevalent. There is some evidence that Ireland is taking a similar approach. A similar process could be added to the Dayton Accords, provided the combatants in the former-Yugoslavia agree.

Reconciliation does not replace the need to punish those who commit grevious acts against societies, nations, and international law. However, reconciliation can provide a venue to achieve social healing after punishment is addressed. Reconciliation is very difficult to accept and implement because it asks the victims to forgive and those who have committed or benefited from atrocities to share or relinquish their gains. Secondly, a truth commission can allow a society to address fallacies publicized or injected by a government or warring faction. It would correct these fallacies being referred to or addressed by judicial tribunals, trials, and grand juries, and could significantly reduce the cost of long and laborious investigative procedures. Thirdly, the process allows a society to develop a shared memory. Lastly, the process permits the voices of previously "voiceless" people to be heard. The manifestations of the moral and social fiber of a nation become evident almost immediately.

South Africa, by demonstrating its focus on the development of human capital, is maintaining a role of moral leadership in the region. Eventually South Africa may be able to assume a global leadership role championing peace and humanitarian causes.

Colonel Michael W. Everett, USA, is a faculty member at the National War College, National Defense University. For more information please contact COL Everett at (202) 685 3645 or everettm@ndu.edu.

The Strategic Forum provides summaries of work by members and guests of the Institute for National Strategic Studies and the National Defense University faculty. These include reports of original research, synopses of seminars and conferences,the results of unclassified war games, and digests of remarks by distinguished speakers.

Editor in Chief - Hans Binnendijk

Editor - Jonathan W. PierceNOTE

| **Return to Top** | **Return to Strategic Forum Index** | Return to Publications |

Return to NDU Homepage
INSS Homepage

INTERNET DOCUMENT INFORMATION FORM

A . Report Title: Reconciliation in South Africa: Addressing Apartheid Era Human Rights Violations

B. DATE Report Downloaded From the Internet: 09/24/01

C. Report's Point of Contact: (Name, Organization, Address, Office Symbol, & Ph #): **National Defense University Press**
Institute for National Strategic Studies
Washington, DC 20001

D. Currently Applicable Classification Level: Unclassified

E. Distribution Statement A: Approved for Public Release

F. The foregoing information was compiled and provided by:
DTIC-OCA, Initials: __VM__ **Preparation Date 09/24/01**

The foregoing information should exactly correspond to the Title, Report Number, and the Date on the accompanying report document. If there are mismatches, or other questions, contact the above OCA Representative for resolution.