

Chapter 8

Contestation of Reconciliation Strategies: Individual Case Management

1. Introduction

In the previous chapter, the TRC's engagement with the two communities (Duduza and Katorus) and their victim populations were briefly outlined. These intervention processes were seen as controversial by the stakeholders in these communities. An examination of this contestation of strategic decisions was outlined as an avenue to understanding differing underlying conceptions of reconciliation.

Strategic contentions are examined in terms of two basic components: individual case management (interaction with the victim and the perpetrator) and community engagement. These are not clear distinct categories. There is a great deal of overlap between them. The distinction is made here mainly as an organizing tool rather than for any analytical purpose. In this chapter the TRC's management of individual cases of human rights abuses in the two communities (how the TRC solicited victim statements, interacted with victims and delivered services to them) is analyzed based on primary data. The next chapter examines the conflict over community engagement strategies.

The case management strategies pursued by the TRC were found to be highly contentious. Different stakeholders disagreed and came into conflict about the way that

the TRC should have pursued its goals. Particular attention is given to differences observed between the two communities (Duduza and Katorus), between different interviewee categories (victims, ex-combatants, community leaders, etc.) and more broadly between community members and TRC staff. After assessing the extent and lines of divisions, the broad patterns characterizing these contentions is reviewed.

2. Interviewee Categorization

All quotes in this section are referenced to specific interviewees, using a coding system to identify the community, type of interviewee and political identity (where relevant).

These are indicated as follows:

Katorus - K

Duduza/Nigel - D

TRC staff - TRC

Victim - V

Community Leader - L

Ex-Combatant - EC

NGO staff member - NGO

ANC member - ANC

NP member - NP

IFP member - IFP

Race is not explicitly used in the above categories. Where race was a factor - among community leaders - the white community leaders were all NP members, while

the remaining community interviewees were all black. NP and white are thus interchangeable labels in this data set. The NGO and TRC staff interviewed were both black and white, but as this did not appear to be a factor in explaining differences, it was not included as a interviewee descriptor.

Party membership is indicated for community leaders and ex-combatants. Political party labels are only given to those community leaders who officially represent those parties. Community leaders interviewed in Katorus were either IFP or ANC, while in Duduza a number of leaders, while being ANC supporters (as opposed to official representatives), were not labeled as representing that party, and often were in direct conflict with the party of which they were members. In Duduza, the contrast among leaders is thus ANC, NP or non-representatives.

Party membership or affiliation (such as that of victims) was not noted, as many of those affiliated to a party were often at odds with that party on a number of issues. Victims were sampled among ANC sections of Katorus, and in Duduza most victims were ANC supporters. While none of the victims voiced any support for the IFP, they all were ANC supporters or ex-ANC supporters.

3. Contested Issues in Relation to Case Management Strategy

Case management refers to the way that the TRC dealt with each individual case: what steps were taken to initiate a case, process it, and bring it to some form of conclusion.

There are various stages of the case-management process that were contested. Some of these were challenges to the requirements set out in the Act, and others relate more to the strategic decisions made by the TRC during its operation. While in some cases there is clear, direct conflict between the views of one group of stakeholders and the provisions of the Act, the Act has been open to various interpretations, and does not necessarily limit the scope of the Commission to go beyond its requirements (as it has in fact done on a number of occasions).

The contested issues that I will examine in more detail below are:

- a) The definition of a relevant abuse
- b) The strategy to solicit statements about abuses
- c) The process used to select cases for public testimony at the community hearing
- d) The management of information and attitudes in the public hearing
- e) The subsequent management of the case (investigation, reparation, prosecution, etc.)
- f) Victim-perpetrator dialogue

These issues were chosen because they were intensely and/or broadly contested. Other issues (such as the venue chosen for the hearing, or the selection of Commissioners for the particular hearing) were also contested, but less intensely, or for reasons that may be related to simple logistical purposes, rather than arising from deeper divisions in strategic objectives. There was almost nothing that was not contested. Each respondent had some new issue about their interaction with the TRC - the way they were contacted, the identity of a particular TRC staff member, the time/date/place/length/language of the statement taking process, etc.. This broad range of individual problems, perhaps, acceptable or understandable in a public process that must satisfy a range of different

individual needs. The significant concerns are those that give rise to repeated expressions of dissatisfaction - the issues that point to a clear identification of an alternative process that would have produced more satisfaction among participants.

a) The Definition of a Relevant Abuse

Two dimensions of the definition of a relevant abuse were intensely contested: i) a narrow versus wide definition of a relevant abuse, and ii) equal recognition to all victims of political abuses.

i) A Narrow Versus Wide Definition of a Relevant Abuse

There was broad dissatisfaction among all community members in both communities that the TRC did not address a broad enough range of relevant abuses.

The TRC legislation attempts to define what is a relevant abuse. It does this in terms of a particular time frame, and in relation to what it terms gross human rights, defined to include only “the killing, abduction, torture, or severe ill-treatment of any person; or any attempt, conspiracy, incitement, instigation or command or procurement to commit (such) an act ...”¹

The legislation also only applies to violations “which emanated from conflicts of the past and which was committed during the period 1 March 1960 to the cut-off date within or outside the Republic, and the commission of which was advised, planned, directed, commanded or ordered by a person acting with a political motive.”²

While the Act appears quite narrow, the Commission has at times been pressured to interpret its mandate broadly. It has, for example, been urged to include forced

¹ Chapter One, Section 1(ix) of the Promotion of National Unity and Reconciliation Act of 1995.

² Chapter One, Section 1(ix) of the Promotion of National Unity and Reconciliation Act of 1995.

removals as included within its scope.³ This and other attempts to broaden the mandate have been turned down, while at other times the mandate was more broadly interpreted (such as during the sectoral hearings).⁴

Furthermore, the definition of relevant abuse is determined in terms of the actions of the perpetrator rather than the consequences for the victim. An act of attempted murder which may have had very little impact on the life of the victim, was thus included in the TRC's mandate, while forced evictions (and loss of property, livelihood, community, etc.) were not.

Some community members felt frustrated that the TRC did not understand their community's conflict dynamics (and had no interest in developing such an understanding), and simply came to impose its model of the political conflict that had happened in the country. In Katorus the political conflict was intricately interwoven with criminal dynamics. Some linked the emergence of the conflict to a fight between two gangs which then became increasingly politicized. To limit the definition of victims to those who were victimized by someone with a political motive, appears artificial to community members. The TRC's constant attempt (such as illustrated in the public hearings⁵) to unearth the political motive involved in the incident (and thus impose a

³ van der Merwe, H., Brandon Hamber and Polly Dewhirst (1998) The Relationship between Peace/Conflict Resolution Organisations and the TRC: an Impact Assessment, CSV, October.

⁴ Interview with (Commissioner) Dr. Wendy Orr, Cape Town, 5 March 1998.

⁵ Transcript of Vosloorus HRV Hearing (February 7, 1997):
DR RANDERA: But why did the links with the IFP ...(indistinct), you say he (Rev Khumalo) was strongly linked to the IFP? I just want us to go away quite clear, was this gang associated with the IFP or was this just because the Reverend's daughter was raped?
MR NTOMBELA: He was an IFP member, I mean Khumalo.

.....

political narrative on the victim's story) does not always make sense to the local community members. They do not draw these clear distinctions.

The TRC's focus was on politically motivated abuses, rather than plain criminal acts. For the two communities examined here, this was a very difficult distinction. When asked if there had been any politically motivated abuses were whites have been victimized, a local white leader in Nigel immediately said: "Yes, several." He was, however, referring to criminal cases such as car highjacking and robberies where a white was the victim of a black assailant. The fact that whites perceived themselves as being specifically targeted by criminals and that the level of violence used appeared disproportionate (to what was deemed necessary) made these cases appear to have a racial motive (and thus in their view politically motivated). Whites considered themselves victimized through crime rather than the political system. They still, however, saw this victimization as political. A process of reconciliation between whites and blacks would, they argued, require a process which addresses their victimization as well. If the process is too narrowly focused on "politically motivated abuses," the fears and anxieties of whites (and the sources that fuel their hatred and racism) would not be addressed.

Similarly there were black victims who were concerned and confused about the TRC's apparent disinterest in their cases. A women whose son was arrested (and disappeared, presumed killed) for burgling the house of a white policeman does not see

MR LEWIN: Could I ask you, I think in following up what Dr Randera has asked, would you describe the conflicts that you have told us about, would you describe it as a political conflict?

MR NTOMBELA: What was happening had nothing to do with politics but murdering and thugs around.

the difference between her case and those of the mothers whose children had been shot by police during demonstrations.

NGO staff had great difficulty in explaining to communities the subtle legal differentiations of the Act, especially where the level of need of the victims was not related to the particular type of abuse:

Part of the problem is the focus on political victims. Many victims do not understand the distinction - why are they not accepted by the TRC. Some feel their suffering has been delegitimized because it is not a gross human rights violation. Some of them may have suffered even more than those who have been recognized. The type of victimization does not necessarily match the amount of suffering. Some people who have endured tremendous suffering also manage to bounce back. [NGO]

The cut-off date was also something that disturbed people, especially in Katorus. The legislation initially set the cut-off date as the day on which agreement was reached on the interim constitution (5 December 1993). This was subsequently extended to 10 May 1994, the day of Mandela's inauguration as president (10 May 1994). These dates were both seen as marking, in some way, the end of the "conflicts of the past". While not debating their national significance, their impact on local conflict dynamics and their impact on "ending" local conflicts is doubtful.

While in Duduza, human rights violations had dramatically decreased after 1991, violence in Katorus was still widespread until early 1994. While the local peace process

paralleled in many ways the national constitutional process, local stability was only gradually achieved, rather than abruptly, with the parliamentary elections in April 1994.

The conflict there was something that people saw as having its own internal dynamic, and not something completely determined by the national context of constitutional negotiations or even the elections. Their conflict is not “the conflicts of the past” to which the Promotion of National Unity and Reconciliation Act refers. It is something that is still alive. The dates were artificial, both to the victims and the potential amnesty applicants. Victims who did not fall within the stipulated dates felt that they have been denied the rights that others have been given.

ii) Equal Recognition to all Victims of Political Abuses

Some community leaders felt that the legislation does not give recognition to the particular form of victimization suffered by their group (such as white victimization through crime, as mentioned above), and that the legislation was thus itself biased towards particular political groups.

Most of those complaining of bias, however, viewed it as arising from the specific approach of the Commissioners who were seen to be more interested in the suffering of certain categories of victims. Whites and the IFP felt that their victimization by the ANC was not taken seriously by the TRC.

The TRC is only interested in destroying the image of the NP among blacks. They are not interested in ANC abuses. The TRC is an ANC instrument. The media is also controlled by the ANC. [D, L, NP]

Tutu's tears are only for ANC victims. [K, L, IFP]

Those who were victimized by the ANC (and were themselves from within its ranks) also felt that the TRC was not interested in their cases. While the first two groups (whites and the IFP) saw it as a simple bias of the TRC, the ANC (ex)supporters felt that the TRC approach was either related to the way in which it interacted with local politicians (giving them too much control) or due to the TRC's attempt to portray the conflict simply as between the ANC and the government. This model simply did not have space for local complexity and internal party conflicts. (The issue of relevant dimensions of the conflict addressed by the TRC is discussed in more detail later in this section.)

b) The Strategy to Solicit Victim Statements

Three aspects of the victim statement-taking process proved particularly controversial: i) the lack of long-term community involvement, ii) the role of political parties, and iii) the failure to access IFP victims.

i) The Lack of Long-Term Community Involvement in Statement Taking

There was general dissatisfaction among community members that the TRC had not made sufficient efforts to collect statements in the community and that they had not adequately involved community members in these efforts.

The main concern expressed by many victims and some community leaders was that so much focus was given to collecting statements in the period immediately preceding the public hearing. Some expressed the concern that the TRC only wanted the statements so that they could select suitable cases for the hearing. After the hearing was completed, the TRC were perceived to suddenly lose interest in that community.

The TRC concentrated its statement-taking efforts in both communities during the two to three weeks preceding the public hearing. Subsequent to the hearing, the initiative to submit statements was left mainly to the victims themselves.

In Duduza, nobody was trained to take statements on behalf of the TRC. A large portion of the statements were taken on particular days prior to the hearing, when the TRC sent statement takers to the community and advertised that they would be available. On the day of the hearing, there were also statement takers available to victims. After the hearing, victims who wanted to make statements had to travel to the TRC office in Johannesburg to make a statement (1.5 - 2 hours each way by public transport).

Many of the statements in Duduza were also collected by Khulumani⁶ which had fieldworkers trained by the TRC to collect statements. These fieldworkers worked independently of the TRC. There were thus two parallel processes of statement taking, one by the TRC and the other by Khulumani. The two were not coordinated. According to local Khulumani members, the TRC did not liaise with them regarding their efforts. The main contacts used by the TRC in its statement-taking drive in Duduza were the churches. These were, however, brought in to support TRC statement takers, rather than being built up to work independently.

In Katorus there appears to have been some confusion about the statement-taking process. While many victims had made their statements at various locations in the weeks preceding the public hearing, many were only aware of the venues because of their involvement in Khulumani. They would not otherwise have known where to go.

Khulumani also informed the TRC of victims who had come to them, but who had not yet made statements to the TRC. Khulumani was assured that these victims would be contacted by TRC statement takers. This had, however, not happened in most cases.

Further efforts to collect statements in Katorus were made by the TRC in the months after the hearing. A number of venues and dates were assigned for statement taking in different church and school settings around the township where a statement taker would be available. The person who did most of this statement taking in Katorus was a Khulumani member who was trained (and in this case paid) to take statements by the TRC. Information about these venues and dates were publicized through the media (radio and newspapers mainly).

During the last few months of statement taking (until 14 December 1997) Gauteng statements were only taken at the Johannesburg office. Victims had to call the office before they came in to ensure that a statement taker would be available. There was a late rush to make statements (which included a number of Katorus victims) after the TRC announced its provisional ideas about possible (substantial financial) reparations.

ii) The Role of Political Parties in Collecting Statements

⁶ Khulumani is a victim support structure which assisted victims to engage in the TRC process, organize to access legal, psychological services and lobby for policy changes.

One source of conflict was the role that political parties played in collecting statements from victims and/or blocking victims from making statements. This tension was mainly observed between victims on the one hand and ex-combatants and community leaders on the other. This tension was more explicit in Katorus.

There was some controversy about who should take statements for the TRC. In Katorus there was initially some confusion about whether the ANC was collecting statements on behalf of its victims. On the other hand, some victims who made statements to the ANC did not know that they had to make a separate statement to the TRC. Some victims were requested by the ANC to approach the TRC with their stories.

Also within the TRC there were some staff who admitted this problem:

One problem with the statement taking process was that the ANC was, at one point also taking statements. They did this for their own records and did not forward their statements to the TRC. This created confusion because people did not know they had to make two statements. [TRC]

There were also reports of victims who made statements to the TRC being physically threatened by ANC members who felt that their statements might reveal the human rights abuses by party members.

Both the ANC and IFP told the community not to make statements initially, except for those that are specifically instructed to do so. The ANC was afraid of exposure by the TRC of its role in killings and its

internal divisions. These divisions were mainly between the old and the young, and between SDU (Self Defense Unit), who are mainly Xhosa, and rest of the community. [NGO]

After the first Johannesburg hearing where some victims from Khulumani testified, there were youths (ex-SDU) who got very angry at Khulumani. They threatened us because they were afraid of being implicated by the victims' testimony. It was, however, only individual youth. I don't think it was the leaders. We approached the leaders who said they would help. They never did anything though. It was very difficult when we started Khulumani. We asked the TRC for protection, but never got any help. [NGO]

In Duduza, this was less overt. The perception among many victims was that the ANC leaders had not made any real efforts to publicize the TRC's statement taking in the community, and were, in effect undermining the ability of victims to access the TRC.

iii) The Failure of Statement Takers to Access IFP-Affiliated Victims

In Katorus there was some controversy regarding the TRC's failure to adequately access IFP victims. The division was essentially between the TRC and IFP members who saw it as indicative of political bias.

TRC statement takers were reportedly too afraid of entering IFP hostels in Katorus. The hostility of IFP leaders to the TRC also led to very little cooperation on coordinating or facilitating taking statements of IFP victims. The unevenness of statement taking among ANC and IFP sections of the community led to various concerns regarding the implications for reconciliation.

The problem with reparations will arise because few IFP victims have made statements, both due to the TRC bias and the lack of knowledge of TRC process. If IFP victims do not get reparations they will be angry at their leaders. It will not create conflict with ANC. They will instead blame their leaders for not assisting them. [K, L, IFP]

Some IFP leaders were also concerned that a partial truth, arising from only ANC supporters making statements also leads to a skewed history of events:

The truth is about the history of the nation, but now we are hearing it mainly through the mouth of the ANC. It should cover the whole history of resistance, including Biko and Buthelezi. The full truth is not being revealed in Thokoza. The TRC does not give all Katorus people a chance to submit statements. [K, L, IFP]

The TRC's statement taking is central in writing the history of the community. Having so few IFP statements will lead to a skewed history.

[K, L, IFP]

The lack of IFP statements was also considered likely to diminish the potential benefit of the reparations process.

Reparations process will have an impact on reconciliation. It will pick up on the commonalities between victims (They all suffered because of the violence). It will address them as a joint group with similar needs. [TRC]

c) The Process Used to Select Cases for Public Testimony at the Community Hearing

In both communities there was some disquiet about the TRC's choice of cases that were heard at the human rights violations hearings. The concerns in the two communities were somewhat different, though. While a central complaint in both communities was i) the inadequacy of the coverage of stories relating to their own community, other complaints in Duduza related to the ii) particular selection of cases.

i) The Inadequacy of the Coverage of Stories Relating to Their Own Community

The concern that not enough cases from the local community were heard was commonly expressed by most community members in both communities.

People were very frustrated that only three cases from Duduza were heard at the public hearing. People were interested in finding out more about the various cases of

human rights abuse that had occurred in their community. The TRC's attempt to relate to a wide range of victims through presenting cases that show a variety of abuses held little appeal to victims and community leaders in Duduza. For them it was the local history that holds most meaning. They have various suspicions about who was involved, who did what, who was informing for the police, etc.

Community members (here in Duduza) are mainly interested in local cases
 - what happened in the community, and who is responsible, especially
 police atrocities. [D, L]

The victims particularly were mainly interested in cases within their immediate community that may shed light on what had happened with regards the victims they know and the perpetrators whom they suspect of possible involvement. Only hearing from three victims did not satisfy this thirst for new information. At best it was seen as a good start.

There were certain cases that were commonly known in Duduza on which the people particularly wanted the TRC to shed new light.

The TRC should have focused more on specific key cases in Duduza. It focused too much on rather insignificant cases. Certain cases are a crux in terms of understanding the conflict in Duduza. Others are more peripheral. The important cases are: the first killing of a boy during the

protest march against the bucket system, the case of Mrs. Thobela's family, and the killing of Maki. [D, L, ANC]

In both communities, those who had made statements but who were not called on to testify were also hurt that (as they saw it) their case had not been considered important enough. They felt that their case would consequently be less likely to be investigated or to receive reparations. (These perceptions endured despite one of the Commissioners explaining how the case selection was arrived at, and trying to re-assure those who had not been called upon.⁷) Some victims who had made statements went to the hearing in great excitement, thinking that their name might be called out. Only once they saw that the program had already been finalized did they realize that they would not have the opportunity.

⁷ Commissioner at Duduza Hearing (February 2, 1997):

Now, I know that many people who have made statements become very angry when they are not asked to appear in public hearings and that is, I think, because people may have the wrong idea that those who appear in public hearings are more important than those who do not. That is certainly not the thinking of the Truth Commission. When we select people to come to a public hearing what we try to do is select cases which give us some idea of the nature of the conflict. So we try to use cases to give us some insight or a window into the nature of the conflict. We do not choose people because we think their stories are more important or because they are more important. We also try, we also try to cover the period that the Commission has to look at which is 1960 to 1994. We also try to give as balanced a view of the conflict as possible because we know that the conflict was many sided.

In the East Rand, for example, we know that the conflict often involved members of the UDF and later the ANC and people who were seen to be members of Inkatha and later the IFP, Inkatha Freedom Party. We have tried to get statements which show the other side of the conflict as seen from those people who may have been members or thought to have been members of the IFP and we hope that we will hear some of those cases during the course of the week. We also hope to hear from people who were involved in local councils, in those structures which were set up by the Government so that we can get side of the conflict. So, we want to ask people to please understand that if we could, if it was possible in terms of time and resources to, to hear everyone in a public hearing, that is what we would have done, but we cannot do that. We do not have the time and we do not have the resources. So we, so we have to select cases, but simply because you have not been selected for a public hearing does not mean that your case is any less important because we use the statements to make our decisions and recommendations.

Those who did testify, on the other hand, had their expectations raised by their selection (they did feel that they had been singled out as special cases), and then felt even more despondent when very little materialized in subsequent months (particularly in terms of investigations or reparations).

Many fewer of the victims in Katorus had attended the human rights violation hearings. Many only found out more about the TRC or made statements after the hearing. As the hearing was held in Vosloorus, it was also not seen as a forum in which they could address their own community (Katlehong or Thokoza) or where they were likely to hear new information about the history of the community.

ii) The Particular Selection of Cases for the Public Hearing

Some community members, particularly victims in Duduza, expressed concerns about the selection of cases.

They were suspicious about why these cases were not heard, and wondered whether the selection of cases had somehow been manipulated. Some openly expressed the suspicion that the choice of cases and the way that the hearing was handled indicated a hidden agenda. Some victims raised the possibility that there had been political interference in the TRC's selection of cases (particularly the fact that they left out one prominent victim who was very critical of the ANC leadership).

d) The Management of Information and Attitudes at the Public Hearing

During the human rights violations hearings, the Commissioners made various statements and asked a range of questions that created expectations among victims, or which conveyed impressions regarding their goals and attitudes towards victims. The purpose of the hearing, as revealed by the management of information and attitudes by

Commissioners, was highly contentious. Aspects that were problematic included i) the naming of perpetrators, and ii) collecting information and showing concern for individual victims.

i) The Naming of Perpetrators

There was deep concern among some victims and community leaders in Duduza over the way that the Commissioners dealt with one victim's attempt to name his perpetrators in public at the hearing.⁸ The Commissioners cut the testimony of the victim short when he tried to name the perpetrators involved in his case. While they may have done this for legal reasons (accused perpetrators have to be given advanced notice that they will be implicated at the hearing), the victim was not given an explanation for their refusal to let him name his perpetrators. This was seen as confirming the suspicions of those who saw the TRC's agenda as one of hiding the ANC's role (including those of local ANC leaders) in human rights abuses.

ii) Collecting Information about Cases and Showing Concern for Individual Victims

⁸ The TRC's transcript of the testimony at the public hearing of the case (Duduza HRV, 2 February 1997) reads as follows:

MR BUTHELEZI (the victim): I want to mention the names now. Why did they decide to call me a ...

CHAIRPERSON: Could you please ...

MR BUTHELEZI: police informer because ...

CHAIRPERSON: Could you please listen. We have never stopped you from mentioning those names. If you did not for the time that you were sitting there, do not blame it on this body. We are saying thank you, let us give others a chance.

MR LEWIN: Did he give us the names?

DR ALLY: Sorry, where is.

CHAIRPERSON: You can still, you can still give us the list of those people.

MRS SEROKE: Tom, the names are in the statement anyway. We will deal with that later.

CHAIRPERSON: Thank you for the, we have the list of those people. Thanks, please, I can literally say, can you please learn to give us the quiet that we need which, I think, you personally need, because you need to understand what is going on and you will appreciate that if you have got remarks to make, please make them out of here. We would love to give everybody a chance.

The questions asked by the Commissioners were also directed towards finding out more information about the history of events in that particular community. Victims who did not testify thus felt that they had not been given the same opportunity to clarify various matters regarding their case. There was also some confusion among victims and leaders as to why the TRC looked to these particular (sometimes seemingly arbitrary) victims for information about the history of the community.

There were also expectations created regarding what the TRC would do to follow-through on their case. When the TRC asked about the names of witnesses to the events, victims saw this as an indication that the TRC would pursue investigations with a view towards a possible prosecution. There were also direct statements by the Commissioners that re-enforced this impression.⁹

Similarly the Commissioners asked questions that directly implied that they would pursue possible interventions such as victim-offender mediation.¹⁰

In a more subtle manner there was pressure from the Commissioners to get victims to express a willingness to forgive, and more blatantly to express a commitment

⁹ Commissioner at Duduza Hearing (February 2, 1997):

Now, I want to emphasize that in the work of the Commission, what is most important is the process of making statements, that all the work that the Commission does is based on the statements which come to us, that we go through every statement as carefully as possible, we try and investigate as far as we can, we try to find out as much of the truth as possible ...

At the same hearing a Commissioner also responded to a victim's statement:

DR ALLY: The correspondence between yourselves and Mr Kamdar, do you have copies of that and if you do have copies of that, would you mind giving that to the Commission, to us so that we can try and follow up on this matter?

¹⁰ Commissioner at Duduza Hearing (February 2, 1997):

MRS SEROKE: Would you like or would you have liked to meet the people who killed your sister so that you can make a channel for reconciliation amongst the family as well as Maki's killers? Would you appreciate any efforts made by the Truth Commission to bring the two together and you want to know as to who gave the order? As the TRC, if we could try to arrange a meeting between the two of you, would you appreciate that effort?

MRS MOLOKO: Yes, I would appreciate it.

to reconciliation.¹¹ For some victims this was a blatant imposition of values that was felt to be inappropriate.

e) The Subsequent Management of the Case

Once victims had made statements to the TRC and there had been a public hearing in their community, victims expected something more to be done about their case. Most victims were deeply unhappy about the lack or pace of further TRC intervention.

The central expectation was the revelation of more information through further investigations. They expected further investigations to be carried out to address some of the issues that had not been revealed through the human rights violation hearing. The TRC had also created expectations of urgent interim reparations. As a longer-term goal there was also the possibility of prosecution for those cases where perpetrators had not applied for amnesty.

Once the statement made by victims was processed by the TRC, victims were sent letters of acknowledgment. These letters sometimes went out only months after the victim made a statement. At the time of the interviews some victims had not received any acknowledgment of their statements and were concerned that the TRC were not doing anything about their case.

¹¹ Commissioner at Duduza Hearing (February 2, 1997) after the testimony of two victims who were maimed and had four of their friends killed:

MRS SEROKE: Now, to conclude, we have seen the struggle that COSAS has been through to try to liberate the country. Now, we are proud that we are in a new South Africa. Now, as members of the then COSAS, are you going to be as committed as you were during that struggle? Are you going to be as committed in the process of reconciliation?

Another Commissioner also concluded the case by saying:

What lies before you is hard work and all these things are going to be healed and made useful as you daily glean, that is you gather the information behind all what took place. It is difficult to forget, it is difficult to forgive, but I think a store of information about what transpired should give you the strength and the forgetting and the forgiving will be processes and one major process that you are going to be involved in is the one of reconciliation. We thank you.

i) Revealing the Truth - Investigations:

Most victims in both communities wanted the TRC to investigate their cases, often in order to track down the perpetrator and find out what exactly happened. The need to have the truth revealed was seen as the most vital thing for many victims.

First I want the truth. I want an investigation. The truth is of primary importance. Please tell the TRC it is very important to investigate my case.

[K, V]

For many it was impossible to engage in other issues related to reconciliation without having this hurdle removed. Truth for some simply meant getting an explanation or having the perpetrator account for their actions. Some wanted specific facts (the location of the body, the identity of the perpetrators), while others just wanted to know “why?”.

I want to know why I was targeted. ... I want the perpetrators to be called to account. They must explain why they did it. Otherwise they must go to court. [D, V]

If the perpetrators tell the truth, they don't have to be punished. Jail will not help - I want peace for myself and for those people. [D, V]

I don't want the perpetrators to go to jail. It is a waste of tax money; it makes no sense. I don't hate them - they are God's people too. I only want the truth out of them. [D, V]

People initially had high expectations about investigations that may shed new light on their case. Some felt that the truth may easily be revealed by a legitimate investigatory body, and that previously the police simply had no interest in investigating cases where they were themselves implicated. Others simply saw it as a process of calling the perpetrators to come before the TRC and explain their actions (something the TRC did have the authority to do). After some months victims became frustrated that nothing seemed to be happening.

The TRC did have an investigative unit. Some alleged perpetrators were investigated and some were called on to answer questions. The TRC had extensive powers to conduct such investigations, but used them sparingly in the communities concerned. In these communities, none of the interviewees knew of any such investigations. The only interaction between interviewees and TRC investigators were when the TRC was involved in corroborating victims' stories. This was sometimes misconstrued by victims as investigations into the perpetrators.

One senior TRC staff member stated that there were only four serious investigations conducted on the East Rand, and that they were probably of a broader nature - aimed at understanding patterns of abuses and determining responsibility in terms of which party or which arm of government was involved. There also appears to have been confusion within the TRC about the extent of investigations that would be

conducted. At the hearings, Commissioners did little to downplay expectations of the truth being uncovered. In many cases they even expressed the hope that they would be able to assist the victims to find out what had happened.¹² It seems that Commissioners were, at this time, under the impression that they would be able to uncover much more information than was eventually the case.

When a few cases were investigated in Duduza (for corroboration purposes), there was again suspicion about whose cases were prioritized and why. Suspicion again centered on the relationship between the TRC and certain local stakeholders. One rumor that a number of victims believed was that the TRC investigators were instructed by the ANC leadership which cases to investigate and which not. (This was, however, based on the belief that TRC investigations were concerned with collecting evidence against perpetrators rather than confirming victim stories, i.e., confirming their status as gross human rights abuse victims.)

This was also picked up by some leadership figures:

¹² TRC Commissioner at Katorus Hearing (February 7, 1997):

We can say however that, with the investigations that have been done and with all the amnesty applications, we are beginning to get a better understanding of what was happening in the East Rand and also into the workings of the Internal Stability Unit, we know that this unit was actually disbanded because of concerns about some of the activities of the Internal Stability Unit. So we hope that once all this information is available, we will have a clearer picture and maybe some of the questions which you want answered will also be answered. But thank you for coming, and as soon as we have more information we will certainly pass that on to you.

Another victim was also re-assured that investigations would be pursued:

CHAIRPERSON: Mrs Ngobeni, thank you. Just to let you know that our investigators are trying to follow up this both with the Vosloorus and the Tokoza Police to ascertain how far they are with their investigations into the disappearance of your husband the police are being asked to report on what they have been able to establish with regard to your husband. So we will certainly be maintaining contact with you but thank you very much and we know that this is something very hard for you to have to deal with. But thanks for coming to speak to us about it.

I have heard that only certain cases have been chosen for further investigation. These apparently have been decided on by the Mayor (of Duduza). What about all the other victims who want to find out the truth? This kind of process will not bring reconciliation to the people in Duduza. [D, L]

When people found out that the investigation process was mainly centered on verifying the stories of the victims (rather than collecting evidence against the perpetrator), they felt that they had been misled. They felt that the authenticity of their claims for reparations was now being questioned while nothing was being done to bring the perpetrator to justice.

Some victims and community leaders also complained that the TRC investigators were people brought in from outside the community who did not have any knowledge of local dynamics (or people with no sensitivity to the fears and suspicions that characterize a traumatized community and victims in particular).

The aspects of truth that the TRC was interested in also did not always match those of the parties. Some victims were more interested in revealing the local actors in their victimization. It was of less interest to them to find out who gave the orders, than to know who it was in the local community who assisted the police. They wanted to know whether their neighbor (whom they suspect of involvement) was in fact working for the police (or was manipulated by the police). Seeing this person on the street every day without knowing whether they should greet him was, for example, something that intrudes on the

daily existence of some victims. The TRC's primary (or sole) concern was, however, to expose involvement at the higher levels of political and security structures.

At the TRC hearing people expected to hear the truth about a number of key cases. The truth about who informed is central to people, because it had the involvement of local people who still live here. Certain more serious cases were not heard, and many others are also not addressed. People are less concerned about naming the police who were involved. The main concern is the people who were suspected of being informers. [D, L]

The history of the community that people were interested in was not just the broad patterns that they share with other communities, it was the detailed stories about people in the local context. As one NGO staff member remarked:

In African society it is important that the truth comes out in all its detail. The significance of every detail has to be teased out. [NGO]

It was, however, also recognized that it is only within a properly contextualized understanding of events that truth can lead to reconciliation:

Reconciliation means living with a clear understanding of what happened. We need to know the context and motivations of people. [NGO]

ii) Reparations

Reparations was a central concern for most victims in both communities. They were very unhappy about the slow pace of the reparations process and the inability of the TRC to make binding decisions.

For some, reparations was a question of justice, of making right the harm that was done. For others it was more simply a matter of physical survival. The TRC was a channel for material resources and they qualify for assistance because of their type and level of suffering. They framed their demand for reparations in terms of the level of their need, rather than the injustice of their victimization.

One issue that concerned some victims was the fact that reparations provided by the TRC would come from the state rather than the perpetrator. For victims who saw reparations as a form of justice, there was some incongruity in the prospect of getting reparations from the state instead of those responsible for their suffering:

With the TRC, the government compensates victims on behalf of the offenders. In our culture, however, the perpetrator must apologize to the victim and pay compensation. It is important for the victim that the perpetrator directly acknowledges their wrongdoing. In stead we now have the government taking the place of the offender. It would, for example, be more acceptable if the profits of the book that de Kock (a high profile security force hit squad commander) is writing is used to compensate his victims. [NGO]

I want the TRC to get the policeman to pay me compensation. [K, V]

Similarly, a Duduza victim feels strongly that the perpetrators should carry the burden for her reparations:

The perpetrators still work, or get pensions or golden handshakes. Some even got paid for the murders they committed. Of course they should be made to pay for the reparations to their victims. This would be better than punishment. [D, V]

For others it was of less concern. A man who was also shot by the police stated:

Reparations will help me feel better. I don't mind if it comes from the TRC instead of the perpetrator, but I would prefer not to tap the limited resources of the state. They need the money for other things too. [K, V]

For others, there were other concerns, such as:

the present police should not have to pay for the injustices committed by the previous police force [K, V]

I need reparations, but it is probably not possible for the perpetrator to pay me (as he is also a poor man). [K, V]

Reparations also carried a strong symbolic significance for some victims. Rather than simply looking at reparations as material compensation, they saw it as a form of recognition - something that would help restore their dignity or pride. For some it was a need for official recognition - their suffering was part of the fight for liberation and they should receive recognition for their role. One woman who was shot by the police in 1976 and is still suffering the consequences stated

My suffering was for a cause. I want recognition from the new government for my suffering. I want them to acknowledge me in their (TRC's) final report. [D, V]

For many the recognition they seek was rather from their own communities. They also wanted the perpetrators to hear how they suffered. One elderly man explained,

These people must be informed of the pain for us to be able to work together. [K, V]

Reparations from the perpetrator does not, however, necessarily imply recognition. One Katlehong resident was paid an out-of-court settlement by the police, but he saw this as a way of buying his silence rather than an admission of guilt.

In summary, victims see reparations as extremely important in their rehabilitation, both symbolically and materially. It was a very personalized issue that carried a wide range of connotations and expectations.

The TRC saw reparations as a form of restorative justice. The victims had been deprived of their right to seek civil and criminal redress through the courts, and the state thus has taken over the (moral) obligation to compensate them for their suffering. The TRC was mandated to draw up recommendations regarding such reparations. They were not given any authority to implement recommendations. The expectation was that the final report would make recommendations which the government would only act upon after the end of the TRC's operation.

The TRC did, however, (during its first year of operation) expect to be able to draw up an Urgent Interim Relief policy to assist victims who experienced very serious short-term needs. They were expecting to implement such a policy during the life-span of the TRC. It was only in early 1997, after much deliberation, that the TRC realized that an interim policy would only be implemented at the end of its life span - October 1998. (The main reason for this failure appears to be the enormous amount of resources and time allocated to setting up human rights violation hearings during the first 18 months of the TRC's operation. Members of the Reparations and Rehabilitation Committee were drawn into these activities and had little time to attend to their own policy development responsibilities.¹³)

¹³ The more powerful, high profile Commissioners were located in the Human Rights Violations Committee which (while being more competently staffed) also dominated the agenda and resources of the TRC.

Victims had, however, been made aware of the expected interim relief policy and developed high expectations of how it could assist them with medical expenses, school fees for children of murdered relatives, etc. When these failed to materialize, they also became somewhat skeptical of any future pay-outs. In many of the hearings the prospect of interim reparations was raised, as well as expectations that the TRC would facilitate contact between victims and services such as psychological counseling¹⁴ and legal assistance.¹⁵ These referral services also often did not materialize.

Another input in these expectations was policy deliberations by the TRC which came up with draft proposals for substantive financial compensation for victims (+- R20 000 per year over a three year period - well in excess of the average annual income of most victims). These proposals were publicized in November 1997 and led to a late rush of victim statements before the 14 December deadline. (From an interview conducted by the author in March 1998 with the chair on the Parliamentary Committee on Justice, these amounts were far in excess of what they had anticipated the TRC proposing, and were unlikely to be considered sympathetically in the budget. The budgetary allocation for reparations announced in March 1998 by the government is also substantially less than would be needed to pay this amount to victims.)

¹⁴ Commissioner at the Vosloorus Hearing (February 7, 1997):

I think that what whichever way the Commission can assist with counseling or any other kind of claims which you need to make, the Commission can assist in directing you to the organizations or institutions which may be able to be of assistance to you. So I urge you to try and make use of that facility. There is a rehabilitation and reparations committee and they do try and facilitate, particularly in cases of desperate need which is clearly your case. So thanks for coming and as I said, approach the Reparations Committee for some of these concerns that you have. Thank you.

¹⁵ Commissioner at the Vosloorus Hearing (February 7, 1997):

MS SEROKI: Or maybe you could accept it if we give you the addresses of legal aid attorneys who would help you without you having to pay, because it looks like it's going to

iii) Prosecution

Some of the victims in both communities wanted the perpetrators in their cases prosecuted through the courts. Very few of the perpetrators identified/suspected by the victims and other community members had applied (or were expected to apply) for amnesty. There was no general agreement among victims on whether prosecution of those implicated should be pursued. While some victims were very adamant about the need for prosecutions, the TRC did not prioritize prosecutions of those not applying for amnesty.

Some victims were very outspoken about demanding justice. The lack of prosecutions was an indication of lack of respect for their rights and their dignity. For them, retributive justice was the main concern.

I want justice. The perpetrators should go to jail. I want the TRC to investigate my case. [D, V]

Some victims were concerned that amnesty would rob them of this need, while others hoped that their perpetrator would apply for amnesty so that the truth would be revealed:

... if they are arrested they must be severely punished. If the person gets amnesty and I see them walking freely it will cause me a lot of pain. ... I am willing to reconcile but first need reparations. I am constantly facing

take quite some time for this matter to get sorted out. Maybe as attorneys they would try and

difficulties while the perpetrators are enjoying privileges. I am not able to reconcile while being deprived of my rights. [K, V]

I don't like the TRC, mainly because of amnesty. Police who killed children are now getting off. [D, V]

While many victims did not have a strong opinion (especially those who did not know what had happened to their missing relatives), quite a few supported the concept of amnesty:

If X applies for amnesty it would be good. We may then find out the truth (about what happened to my brother). [D, V]

For those who had attended an amnesty hearing (two victims), the process had contributed to their demand for punishment. Their belief that the perpetrators should be punished was confirmed by the apparent lack of remorse shown by the perpetrator at the amnesty hearing. Another victim also mentioned the apparent lack of apology or any other sign of contrition by the police as a reason for her continued anger.

The TRC was very ambivalent about pursuing future prosecutions against those not applying for amnesty. The majority view of those interviewed was that the state should not make a concerted effort to prosecute perpetrators of past abuses (who are exposed by the TRC, and who did not apply for amnesty).

The state should not pursue prosecution of past human rights abusers. It should be left to individual victims to press their claims (both civil and criminal). The state should support individuals in this though. [TRC]

There should not be a concerted effort to prosecute perpetrators. This would be seen as a witch hunt and undermine our efforts up to this point. It should be left to individuals to pursue. [TRC]

I am not sure there should be a concerted effort to prosecute perpetrators. I am in two minds about this. On the one hand I feel, yes, we should teach them a lesson. But then also we do need closure and our limited resources should be spent on present crime problems. There is no real danger of repetition of abuses because of the public stigma that has now been attached to human rights violations. [TRC]

There should be a concerted effort to hunt down human rights abuse perpetrators who are identified and have not applied for amnesty. Follow through on prosecutions is important but not vital. It is unlikely to happen because of other priorities, but we must dispel the myth of impunity. [TRC]

Leaving the initiative to pursue civil and criminal cases with the victim was likely to mean that very little will be done, considering the lack of access to the legal system (in terms of knowledge, resources, and energy).¹⁶

One victims' rights advocate interviewed argued that victims' demands regarding reparations, investigations and prosecutions were not static, but rather developmental in relation to their empowerment. In other words, those victims who feel that they were not in a position to demand much simply ask (or beg) for some form of compensation to relieve their suffering. When they were enabled to speak out, they demand more serious reparations and investigations. Those that have access to proper legal representation demand punishment for the perpetrators. Some commentators have argued in a similar vein that forgiveness is only meaningful if the victim also has the power to exact punishment (which is not the case where amnesty has been granted).¹⁷

f) Victim-Perpetrator Dialogue

Differences were observed in views regarding i) direct victim-perpetrator mediation, and ii) the meaning and significance of apology

i) Victim-Perpetrator Mediation

Victims and other community members in both communities felt that the TRC should have done more to facilitate victim-perpetrator interaction or direct dialogue. Some TRC staff were positively oriented towards victim-perpetrator mediation, but did not see it as a priority (even though it was within the legislation). Other TRC staff were very dismissive of the idea.

¹⁶ The Centre for the Study of Violence and Reconciliation, in cooperation with Khulumani, is, however, examining the feasibility of such victim-initiated prosecutions. Another concern regarding such victim initiatives is the statute of limitations on civil cases.

For some victims, reconciliation mainly made sense in the context of rebuilding direct relationships with the perpetrators. Victims wanted direct interaction in order to get an explanation for what had happened, to get an apology and to get direct reparations. They wanted to be in a position where they could consider forgiving the perpetrator. By generally equating reconciliation with forgiveness, they position this interaction as central to their conception of a reconciliation process. Forgiveness for the victims was not something to be done in an abstract impersonal manner, but rather in the form of a personal bond that is re-established by the acts of confession and forgiveness.

Victims have a need to meet and confront the perpetrator. It is important for them to get an apology and see the perpetrator show remorse. Families are willing to reconcile with individual perpetrators, but they require remorse and information (e.g., location of bodies). [NGO]

An important element in explaining the desire of the victims for engaging in some form of interaction with the perpetrator is the fact that the relationship is not one of faceless enemies. Most of the victims interviewed knew the perpetrators who were involved, or believe that they were from the local community.

In Duduza many victims' accounts involved perpetrators that were known to the victim (nine out of twelve cases). Some of the police perpetrators were local police known by name (four cases), while those who were victimized by the ANC in Duduza also know the perpetrators (or those suspected of being the perpetrators). Six out of the

twelve cases of victimization in Duduza involved perpetrators from the local community. Ten of the twelve cases involved outside perpetrators (all cases involving the police).¹⁸

In Katorus the perpetrators were much more anonymous. Of the 17 cases, seven people knew who the perpetrators were, and only four of the perpetrators lived in the community (all IFP), while the other three known perpetrators were policemen. All the victimizations by IFP supporters were (victims believe) carried out by residents of the local or neighboring community.

For some victims the issue of interaction with the perpetrator was focused on personal notions of restorative justice focused on material compensation, rather than achieving inter-personal reconciliation:

He (the perpetrator) must be informed of how he made me handicapped.

He doesn't have problems; it is only I who suffer. If he doesn't have the money, his leaders who instructed him must bear the responsibility. [K, V]

The plea that the offender must be called to account was, however, the strongest sentiment expressed by victims (especially for those who know who the perpetrator is). Victims felt that the perpetrator must come and explain what they did. Being held to account, for victims, involves many different things, from being made to tell the full story, to explain how they could commit such extreme acts, be confronted with the consequences of their actions, and be required to show remorse.

¹⁷ Mahmood Mamdani presentation at IDASA conference - 3 March 1998.

¹⁸ Some cases involved both local perpetrators and outside police.

The need to have the perpetrator apologize was perhaps the most central of these issues.

I want them to apologize. I can not forgive them until they come and apologize to me; both those who gave order and those who killed her. [D, V]

I want X to explain what happened and to confess. Imprisoning X will not help anything. X should be held accountable though. Even if someone else gave him the orders, he should take responsibility for what he did. X knew my brother. What he did was a betrayal of trust. [D, V]

It would make my heart feel good to have the police apologize to me in person. It would be meaningful even if it was a representative of the local police who was not around at the time of my victimization. [K, V]

Many victims want to face the perpetrators directly. They want to meet them and personally call them to account. For some it is an opportunity to confront, for others it is their best hope for getting at the truth.

I don't want the perpetrators to go to jail. We could sit down and talk.

I only want the truth out of them. [D, V]

I just want to know why I was targeted. TRC should find this out. I want the perpetrators to be called to account. They must explain why they did it. It would feel good to confront them face-to-face. [K, V]

I want them (the TRC) to help me know why these people killed my son. I want to hear what my son did to these people. I want to confront them and ask them why they did this.... I want TRC to look for the perpetrators. TRC must bring us together. ... I want the truth. I want an apology. I just want peace to the people who shot my son because other people sent them. They must say who sent them. I know where the perpetrator lives. ... I want Khulumani to take me there. [K, V]

Others were, however, afraid to speak out and come face to face with their perpetrators. Many of the victims, especially in Katorus, still expressed strong fear of the group that victimized them, whether it is police, IFP or ANC. Perpetrators were generally still seen to have a more powerful position. The perceived threat of violence still looms.

As discussed later in this chapter, the divisions between victims from both sides, ex-combatants from both sides and leaders were relatively easy to overcome. The building of relationships between a victim and a perpetrator was, however, more difficult to facilitate, and the TRC was not seen as a forum that provides the right conditions.

Our (NGO) dialogue process brings together people with commonalities. This creates a more safe environment where people are more likely to be able to understand the perspectives of others. Victim-perpetrator interaction is the most threatening type of situation. It is only safe if properly facilitated. The TRC is not a safe environment for them because it is a court-like situation. If it had been a voluntary interaction, a safe environment could be possible. At the amnesty hearing, the great risk creates even greater barriers. [NGO]

Staff in the TRC were very divided as to the relevance of victim-perpetrator interaction. While some were deeply skeptical about its potential benefit or its relevance to broader national reconciliation, other felt that it was in fact the deepest and most essential form of reconciliation.

The question of whether it was appropriate for the TRC to encourage, facilitate or coordinate victim-offender mediation processes was quite contentious. Generally it was, however, felt to be the responsibility of other institutions (particularly NGOs and the churches).

The TRC should play a mediating role between victim and offender. It should do so if requested by the parties, but it is a secondary role. [TRC]

To a certain extent victim-offender mediation can be seen as part of our role and we have a mediation process in place. It is appropriate if people want it, but it is mainly a by-product of the TRC process. It is important

that cases be followed-though, but this should mainly be left to NGOs.

[TRC]

People will not move forward through embracing the perpetrator. It will happen through their capacity to manage themselves. It is the adoption of a value system is that is important rather than the creation of structures. For victims and perpetrators to embrace each other and say 'I love you my brother' is not real - forget it. It can only happen in an artificial environment such as a religious retreat. It will disappear after a few days - it is not real. It does not create anything. [TRC]

ii) The Importance of Apology

There was also disagreement among the stakeholders about the need for, or importance of, apology. White community leaders were particularly skeptical of calls for apologies for past wrongs. IFP leaders and ex-combatants from both sides were in favor of apology but were wary of a process that would expose them to possible revenge. As discussed above, most victims saw the apology by the perpetrator as a key aspect of the victim-perpetrator interaction. The TRC staff were very divided about the relevance of an apology and their role in soliciting apologies.

Some of the ex-combatants also identified the need for direct interaction with their victims. They were, however, also very wary of being identified. They did not trust that forgiveness would be a foregone conclusion. While not directly equating

reconciliation with forgiveness, as many victims had done, the need for confession and forgiveness was still a strong theme. Rather than a direct face-to-face interaction, ex-combatants were more in favor of rituals and anonymous public processes:

Apology is very important. Leaders must be honest about what they did. This will make it easier for others to also come out openly. Nobody's hands are clean. The notion of apology is similar to that of cleansing in traditional society. This has not yet happened. No rituals have taken place. We need the parties to do this together. [K, EC, IFP]

The TRC is a good idea because people who did something wrong must confess. This will bring peace. Before we were killing each other - now we must reconcile. [K, EC, IFP]

It is a good idea to confess one's sins. We will forgive because we now look towards the future. [K, EC, IFP]

Some of the community leaders were also concerned that the perpetrators had not yet come out and confessed their role. This was seen as a way of defusing victims' anger, mainly through assisting them to understand the motives of the perpetrators.

The TRC will bring reconciliation through perpetrators telling their stories. They should show remorse and explain to the families the

situation they were in. They should explain why they had no choice but to do what they did. They must apologize to the family of the victims, and the families should accept these apologies. [K, L, ANC]

If the perpetrator admits having done a wrong and confesses, it will lead to reconciliation. This process must directly involve those directly affected. There must be a direct apology and an explanation for the actions of the perpetrator. [K, EC, ANC]

The victims demand reparations and an apology. If they get this, things will move forward again. [K, L, ANC]

Some (white community leaders) raised concerns about the different cultural meanings and constraints regarding apologies:

Reconciliation will take a generation of two. Initially we must just start by admitting things are wrong and we need to change. Whites do not attach the same value to apology though. When blacks apologize, they mean it - they often cry. Whites do it without much sincerity. [D, L, NP]

Remorse is not central to reconciliation. It is more important for parties to simply understand each other. Showing remorse is seen as weakness by whites. There is plenty of remorse, but to show it is very difficult. We

still say “Boys don’t cry”. We have been socialized to say sorry but not to show emotions. It would be useful if it could be shown so that it can be communicated. [D, L, NP]

Some felt that confession was something between the individual and his/her God, and should be separate from the political process:

Mandela is only the president - he is not God. To clean one’s hands one should go to the church/Jesus. Confession is a personal thing. You receive forgiveness from God. [K, L, IFP]

Confession and forgiveness should be confined to the church. It is dangerous to do it in public. [K, L, IFP]

A strong distinction was between those who see the role of the perpetrator as one of providing information (through the process of amnesty applications and subpoenas), and those who focus on the importance of remorse, confession and apology.

Some respondents within the TRC did not think the desire to elicit an apology was appropriate.

The amnesty process is essentially about information gathering. If it does contribute to healing of victims though, this should be seen as a by-product. Amnesty is an information gathering process. It is okay to get a

confession if that is what the victims wants, but amnesty is about political compromise and information gathering, not a moral process. [TRC]

I know it has happened, but I do not think that encouraging perpetrators to confess is appropriate for us to do. [TRC]

Remorse will occur but can not be created. When forced, it serves no purpose. It can even be counter-active. For example when the ousted leader of the Ciskei apologized before the TRC, at their request, the victims did not respect him. They had more respect for generals who refused to bend. Apology can not be a goal of TRC. It will flow from understanding by perpetrator of conditions of the victim. Victims also do not necessarily need remorse from the perpetrator. They don't need to embrace them. [TRC]

In contrast to those who argued that public apologies were either meaningless or irrelevant to most South Africans, others argued that it has a key symbolic role:

It is our role to encourage perpetrators to confess that they have done something wrong and to apologize. Most South Africans have a religious affiliation. People should be encouraged to make it right. The symbolism of the commission relies on Christian values. We must tap into our religious base.

We have a role in encouraging perpetrators to confess that they have done something wrong and to apologize. We are here to facilitate and encourage confession through interaction with amnesty applicants. Reparations and Rehabilitation Committee is present for both the victim and the perpetrator (and their families). We are responsible for their re-integration. We should be there to express appreciation on behalf of the country to people and groups who confess they have done something wrong. [TRC]

We encourage people to ask for forgiveness, but also encourage them to do more than that. They must come with concrete information which addresses victims' needs. [TRC]

The Christian focus on contrition and confession is central to the process, but it must come from person, not be done in response to pressure. The church has to create the context. Individual remorse has been expressed by many perpetrators. For example, the Pretoria amnesty hearing where they expressed their sorrow for the suffering they had caused. While there are different views about their actual sincerity, just saying it publicly means something. It is not enough but a start to build from. Confessions are a first step even when people don't say sorry directly. It can lead to a second phase outside the TRC process. [TRC]

We should be encouraging confessions, but this must not be forced. We should facilitate the process of people admitting that they did something wrong, but we should not pressure them. [TRC]

These comments clearly illustrate deep contrasts in the perceptions inside the TRC of the functions of the Amnesty Committee (and of the TRC more broadly).

4. Stakeholder Divisions over Case Management Strategy

The various tensions or open disputes identified in the review of strategies above presents a picture of conflicting perceptions of reconciliation - both what it is and how it should be achieved. These contestations were found to characterize almost every relationship between stakeholders. Some relationships were, however, characterized by more dimensions of dispute, while others presented greater consensus around appropriate strategies. While certain positions were characteristic of some parties, the parties were themselves often also internally divided about these strategies.

The following table summarizes the areas of contention identified in this chapter (the left-hand column refers to the various strategic issues referred to in this chapter):

Table 8.1: Stakeholder Divisions over Case Management Strategies**STAKEHOLDERS**

	Community					TRC
	Victims	Ex-Combatants	IFP Leaders	NP Leaders	ANC Leaders	
Case Management Strategies						
a (i)	X	X	X	X	X	O
(ii)			X	X		O
b (i)	X	X	X	X	X	O
(ii)	X	O	O	O	O	
(iii)			X		O	
c (i)	X	X	X	X	X	O
(ii)	X					O
d (i)	X		X	X	O	O
(ii)	X					O
e (i)	X	X	X	X	X	O
(ii)	X					O
(iii)	X					O
f (i)	X					O
(ii)	X		O		O	

This table indicates the positions taken by different parties on particular case management strategies. The table is a simplification of the strategic contentions in that it shows the conflicts in a linear manner, with “X”s and “O”s indicating positions towards the respective ends of each continuum. There were fourteen case management issues that were subject to contention. In many cases, one or more stakeholder group did not take a clear position, or was so internally divided that a general position (either X or O) was not assigned. The table thus gives an indication of which stakeholders were in broad agreement and which ones disagreed about specific strategic issues.

The strategic issues referred to are:

- a) The definition of a relevant abuse
 - i) A Narrow Versus Wide Definition of a Relevant Abuse
 - ii) Equal Recognition to all Victims of Political Abuses
- b) The strategy to solicit statements about abuses
 - i) The Lack of Long-Term Community Involvement in Statement Taking
 - ii) The Role of Political Parties in Collecting Statements
 - iii) The Failure of Statement Takers to Access IFP-Affiliated Victims
- c) The process used to select cases for public testimony at the community hearing
 - i) The Inadequacy of the Coverage of Stories Relating to Their Own Community
 - ii) The Particular Selection of Cases for the Public Hearing
- d) The management of information and attitudes in the public hearing
 - i) The Naming of Perpetrators
 - ii) Collecting Information about Cases and Showing Concern for Individual Victims
- e) The subsequent management of the case (investigation, reparation, prosecution, etc.)
 - i) Revealing the Truth - Investigations
 - ii) Reparation
 - iii) Prosecution
- f) Victim-perpetrator dialogue
 - i) Victim-Perpetrator Mediation
 - ii) The Importance of Apology

The table demonstrates that the line of division around most issues was between the TRC and the victims. The overall picture is also one of division between the TRC and other community stakeholders.

The group that was the most isolated in the positions it adopted was the TRC. In eleven of the 14 case management strategies, the TRC's position was in conflict with one or more community stakeholder groups. In six of these cases, it was in conflict with at least two stakeholder groups, and in four cases, it was opposed by all community stakeholders. Most telling perhaps is the fact that on only one issue (the naming of perpetrators), was the TRC in agreement with one community stakeholder - the ANC leaders.

Victims were also often in discord with others. While most often in conflict with the TRC's position, victims also found themselves opposing the strategies of other community stakeholders on three of the 14 issues. In five of its twelve positions the victim category was, however, supported by other community stakeholders.

The TRC and victims were particularly at odds. In the 14 case management strategies that were examined in this chapter, ten produced contestation between victim and TRC perspectives. The other four areas of contestation were between (IFP and NP) community leaders and the TRC; between victims and community members; between ANC and IFP leaders; and between victims and (ANC and IFP) community leaders.

Lines of political differences between the ANC, IFP and NP were not very stark in terms of their preferred strategies. ANC and IFP ex-combatants displayed no serious differences, and were thus lumped together in this diagram. ANC leaders were only in

direct conflict with other political leaders on two issues. Political leaders (as a united group) were more often united in conflict with the TRC (four cases).

Very few differences were observed among Duduza and Katorus respondents. In Katorus, the level of victims' fears of speaking out and confronting perpetrators was clearly linked to the recentness of their victimization. There were also greater fears of the possibility of a new outbreak of political (and personal) violence that made intervention efforts more fragile. On the other hand, the level of victim mobilization in Katorus also provided victims with a greater sense of their ability to challenge the leaders in their own communities.

Conclusions about the above findings will be discussed in combination with the findings of the next chapter. Before drawing overall conclusions about the lines of division among stakeholders, I thus first address the contestation over community engagement strategy in the next chapter.