

Supporting Post-Conflict Reconciliation: An Assessment of International Assistance to South Africa's Truth Commission

by

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Abbreviations

ANC	African National Congress
BBC	British Broadcasting Corporation
CCB	Civil Cooperation Bureau
CSVr	Centre for the Study of Violence and Reconciliation
DRST	Designated Reparation Statement Taker
DST	Designated Statement Taker
EU	European Union
HRV	Human Rights Violations
IDASA	Institute for a Democratic South Africa
IFP	Inkatha Freedom Party

IRG	Individual Reparation Grant
IU	Investigation Unit
N.D.	No date
NGO	Non-governmental organization
NP	National Party
R+R	Reparation and Rehabilitation
RD	Research Department
RDP	Reconstruction and Development Programme
RUF	Revolutionary United Front
SABC	South African Broadcasting Corporation
SADF	South African Defence Force
SANDF	South African National Defence Force
SAPA	South African Press Association
SAPS	South African Police Service
SWAPO	South West African People's Organisation
TRC	Truth and Reconciliation Commission
TRC Act	Promotion of National Unity and Reconciliation Act of 1995
UK	United Kingdom
UN	United Nations
US	United States
USA	United States of America
USAID	United States Agency for International Development

Introduction

In his foreword to the Truth and Reconciliation Commission (TRC) Report, Archbishop Desmond Tutu offers thanks. As Chairperson of the Commission, Tutu recognises those who supported this brave attempt to heal South Africa of its past: from former-President Nelson Mandela who appointed the Commission in late 1995 to the 21,300 people who came forward to tell about the gross human rights abuses they suffered during the apartheid era. Tutu is also thankful for international assistance given to the TRC:

We are grateful, too, for the support we have received from the international community - in personnel as well as financial aid. Our work would have been *severely hampered* had it not been for the generosity of foreign donor nations.

(TRC, 1998b, vol. 1, chap. 1, sect. 82)¹

This statement raises three key questions. First, is it true? Has international assistance been instrumental to the work of the TRC or is the ever-courteous Archbishop being too generous in his praise? Second, *why* has international assistance been helpful (or unhelpful) to South Africa's TRC? Third, can one infer from the TRC that future truth commissions in other countries emerging from violent conflict or authoritarianism will be hamstrung without international support?

Though scholars are keen to analyse the role of the TRC in South Africa's transformation and to harvest lessons for other countries, surprisingly little academic attention has been paid to the international assistance received by the TRC. The basic purpose of this study is, therefore, to provide a baseline understanding of the role of international assistance in the TRC process, upon which future policy can be built. I endeavour first to analyse the instances of international assistance provided to the TRC to determine what aid worked well and why or why not. I then seek to extract lessons from the TRC to guide future international efforts in support of truth commissions in post-conflict and transitional states.²

I argue ultimately that Tutu got it right. Foreign assistance has been an important, sometimes vital, aspect of the TRC process. Moreover, the experience of South Africa's commission suggests that foreign actors have a key role to play in the domestic truth-recovery efforts of post-conflict and transitional states. However, certain pitfalls encountered in the course of foreign aid to the TRC are to be avoided the next time international actors acquit themselves of this role.³

Organisation of the Study

Chapter I details the methodology employed in generating this study, which included interviews with members of the donor community and the TRC, and comprehensive archival work at the Commission.

Chapter II reviews the comparative literature on international support to truth commissions, in order to situate the study and its ultimate findings.

Chapter III presents an overview of the TRC's structure and then details the factors that led foreign governments to assist the Commission.

Chapters IV and V assess the instances of international assistance provided to the TRC to determine what aid worked well, why or why not, and what lessons can be drawn for future assistance to truth commissions. Both of the principal forms of assistance offered by foreign governments to the TRC are considered. Chapter IV appraises the secondment of investigative staff from various European countries, while Chapter V examines the financing provided by donors for aspects of the Commission's work.

Chapter VI explores opportunities past, by suggesting types of foreign assistance that were disregarded by the TRC yet are worth considering for future truth commissions.

Finally, Chapter VII concludes with key findings from the study.

Chapter I. Methodology

For clarity, I delimit the meaning of international (or foreign) assistance (or support or aid or help) to the TRC in three respects. First, only aid from governments - usually states but also a supra-national jurisdiction (the European Union) and a sub-national authority (the Flemish Community) - is considered.⁴ Second, the support must have been received directly by the TRC. Indirect assistance, for example to a South African NGO to publicise the Commission's findings, is not discussed. Third, I focus on tangible assistance such as money, personnel or hard evidence, rather than more nebulous 'political' or 'moral' support.⁵

Given that an in-depth analysis of foreign support to the TRC had never been conducted, fieldwork was a *sine qua non* for this research. In March and April 2000 twenty-eight interviews (see *Appendix*) were conducted to garner stakeholders' perceptions of how well instances of support to the Commission worked and opinions on how they might have been improved. Two sets of interlocutors were approached.

The first were foreign donor representatives in South Africa responsible for their respective government's assistance to the TRC. Representatives of all the donors to the Commission were interviewed with the exception of three: Belgium, the Flemish Community and Ireland.

The second set were (sometimes former) members of the TRC. Meetings were held with Commissioners, staff, and consultants to the Commission.

The TRC also provided unfettered access to its files relating to external donor funding. This proved invaluable since the files included all correspondence between the TRC and its international donors, revealing much on the nature, successes and failings of aid.

Chapter II. Foreign Assistance to Truth Commissions: The Comparative Literature

By pursuing the objectives outlined above, I hope to advance comparative scholarship on foreign roles in truth commissions. There is limited treatment of this issue in both the peacebuilding and transitional justice literature. Nonetheless, before diving into the South African case it is useful to take stock of what has been written to date.

Much of the past discussion focuses on whether truth commissions should be composed of national or international members. The origins of this topic lie in El Salvador's Commission on the Truth, which submitted its report in March 1993. This Commission, established in 1992, formed part of a comprehensive peace settlement brokered by the United Nations (UN) between the Salvadorean Government and the Frente Farabundo Martí para la Liberación Nacional. The Salvadorean Commission was headed by three international figures - a former President of Columbia, a former Foreign Minister of Venezuela, and an American jurist - appointed by the UN Secretary-General. The UN also paid for the Commission and staffed it entirely with non-Salvadoreans (Beigbeder, 1999, p. 109). This approach was unprecedented; the commissioners and staff of all previous truth commissions had been citizens of the country under study (Hayner, 2001, p. 219).

In the end, the Commission became extremely unpopular with the Salvadorean

Government. The Commissioners, in keeping with their mandate, insisted on publicly implicating a number of powerful military leaders in heinous crimes. The Government responded with a fierce diplomatic campaign to force the Commission to omit names from its report. This campaign failed, but the Government parried the release of the Commission's report by passing a blanket amnesty law, much to the satisfaction of the Salvadorean military (Buergethal, 1995, p. 307).

Ball and Halevi (1996, p. 24) conclude from this episode that truth commissions must be 'generated and supported internally ... External actors should not drive or play a major role in the process, as happened, for example, in El Salvador.' In contrast, Beigbeder (1999, p. 123) is more circumspect:

It would seem preferable, in principle, that [a truth commission] be composed of national members, on a fair political representation basis, in order to avoid any charge of foreign interference in the domestic affairs of the country. However, as in El Salvador, an international commission is less sensitive to the pressures of national politics, and may be more objective and detached from historical and local considerations than a national commission.

Beigbeder (1999, p. 123) adds that a compromise, 'a mixed national-international commission, would respond to most criticism.' This is the rationale adopted, for example, by Guatemala's Historical Clarification Commission, established in 1997. It was led by three commissioners, two national and one non-national, while its staff were approximately half Guatemalan and half non-Guatemalan (Byrne, 1999; Hayner, 2001, p. 285).

The debate over the merits of internationally versus domestically led truth commissions is interesting. Nonetheless, it will not be dealt with here. The South African Parliament decided that the TRC would be directed entirely by South Africans.⁶ Moreover, its staff was always intended to be predominantly South African. International involvement, if it were to occur, would be limited to assistance, not leadership. It is international assistance that is, therefore, the focus of this study.

There is, however, little written on why and how foreign actors should support (as opposed to run) truth commissions. In large part, this is because foreign assistance to truth commissions is a novel phenomenon. It was only with the El Salvadorean truth commission that donors began substantial funding to such bodies, and South Africa's TRC is the only example of an entirely domestically-run commission receiving large amounts of external aid. Moreover, unlike El Salvador, which was entirely foreign funded, the TRC is the first commission to have combined foreign donations with a domestically provided budget (Hayner, 2001, p. 224). Overall, the South African Government has covered 90 percent of the TRC's spending and donors the remaining 10 percent (Greyvenstein, 2000). Guatemala's commission has followed suit with this hybrid approach to budgeting, although in different proportions: 8 percent of its funds have come from the Guatemalan Government and 92 percent from foreign donors (Byrne, 1999).

Two avenues for foreign support to truth commissions have received relatively more attention in the literature. The first is the provision of information. Hayner (1996b, p. 180) argues that:

Foreign governments often have extensive information in their files pertaining to specific cases or ongoing practices in the country under study [by a truth commission], especially when these governments actively supported either the government or the opposition during the years when abuses were common [G]overnments should be expected to cooperate fully with the efforts of a truth commission, particularly when a truth commission has submitted a direct request for information from their files.

Sadly, this cooperation is often not forthcoming. This was the case, for example, with the commission in El Salvador. Its request for classified documentation made to the Bush Administration in the United States (US) was answered very slowly and highly selectively. Indeed, when the newly-elected US President, Bill Clinton, declassified some 12,000 documents on El Salvador after the truth commission's completion, former Commissioners realised that significant material had been withheld from them during their investigations (Doyle, 1999).

As will be shown in Chapter VI, South Africa's TRC experienced similar resistance when it sought information from foreign governments. Yet, more encouraging examples do exist. The Historical Clarification Commission of Guatemala decided to seek access to classified US documents soon after it began its operations in July 1997, arguing that 'Information in possession of the United States Government is essential for obtaining a comprehensive and objective picture of the armed conflict.' Ultimately, the Clinton Administration agreed to hand over almost 1,000 declassified US records to Guatemalan investigators. Some of these proved, according to Guatemala expert Kate Doyle (1999), 'critical to the Commission's understanding of certain key events and human rights cases under study for its final report.'

The second avenue for foreign support highlighted in the literature is the application of international pressure on governments to implement truth commission recommendations. This can be critical. As a rule, truth commissions are mandated to recommend measures to promote human rights and reconciliation. Hayner (1996a, p. 24) stresses that these recommendations are 'key to a commission effecting real change, but in reality are rarely implemented'. International actors can, however, counter this tendency. This was demonstrated in El Salvador, where the Government had bound itself to implementing measures called for by the Commission on the Truth, yet resisted. Kaye (1997, p. 712) writes that the ultimate:

Implementation of some of the Commission's recommendations owed much to the lobbying efforts of the international community. For example, significant pressure had to be exerted on the Salvadorean Government before high ranking officials from the armed forces who had been implicated in serious human rights violations by the Truth Commission were removed from office Spain withheld technical and economic assistance and the US suspended \$ 11 million in military aid.

In South Africa, the TRC has recommended a particularly thorny measure to strengthen the fragile reconciliation process: state compensation for victims of apartheid-era gross human rights abuse. For more than two years the Government has dithered over this recommendation. In contrast to the Salvadorean case, however, foreign officials appear neither willing nor able to pressure South Africa's Government into implementing the

TRC's proposal. The reasons for this international inaction are explored in Chapter VI.

Chapter III. The Workings of the TRC and the Origins of International Support

South Africa's TRC is the most ambitious and sophisticated of any truth commission created to date. It enjoyed the unprecedented power to grant individual perpetrators amnesty in exchange for their cooperation. In this way, the TRC has elicited detailed accounts from perpetrators far more successfully than other commissions. The South African commission is further distinguished by its very public nature. It has held a more extensive series of victims' hearings than any other commission and has been well covered by domestic and international media. Thus, the Commission sought to temper the granting of amnesty to perpetrators with a truth-recovery process to recognise victims, as well as the development of a proposed policy on victim compensation. This fusion of an amnesty process serving perpetrators with a truth commission serving victims was unprecedented (Hayner, 2000, p. 36). Finally, at its height the TRC was several times larger in terms of staff and budget than any previous commission (TRC, 1998b, vol. 1, chap. 4, sects. 24-30).

Its very public and provocative nature helps explain why South Africa's TRC is by far the best known of the twenty odd truth commissions created during the past twenty years around the globe. It has become 'the main reference point for new truth commissions' being set up, or contemplated, in transitional and post-conflict states (Hayner, 2000, p. 33).

The Aims and Structure of the Commission

The foundational legislation of the Commission, the *Promotion of National Unity and Reconciliation Act* (referred to here as the TRC Act) was promulgated in July 1995. The TRC was assigned the broad aims of promoting 'national unity and reconciliation in a spirit of understanding,' that would, 'transcend the divisions of South Africa's past'. Specifically, the Commission was mandated, first, 'to establish as complete a picture as possible of the causes, nature, and extent of gross violations of human rights committed in the period between 1 March 1960 and 10 May 1994,' within or outside South Africa, emanating from the apartheid conflict; second, to facilitate the granting of amnesty; third, to restore the human and civil dignity of victims of gross human rights violations through testimony and recommendations concerning reparations; and finally, to make recommendations on measures to prevent future violations of human rights (Promotion, 1995, sect. 3 (1)).

The TRC was duly established in December 1995 with the appointment of its seventeen Commissioners. The TRC Act (sect. 43 (1) & (2)) gave the Commission eighteen months to complete its work, with an additional three months permitted for it to submit a final report to the South African President.

The work of the Commission was divided across three committees: the Human Rights Violations, Amnesty, and Reparation and Rehabilitation Committees.

The Human Rights Violations (HRV) Committee was central to the TRC's truth-recovery process. The HRV Committee took the statements of individuals alleging to be 'victims', defined by the Commission as not only those who had directly suffered a gross human rights violation but also their family members and dependants. The TRC Act (sect. 1 (1) (ix) (a)), in turn, defines a gross violation of human rights as killing, abduction, torture or

severe ill treatment. Some 21,000 people came forward to make statements, telling the TRC about nearly 38,000 gross human rights violations. These statements needed to be corroborated by the Commission, which ultimately made a finding for each—either accepting the statement or rejecting it as untrue or not a gross human rights violation according to the TRC Act (TRC, 1998b, vol. 1, chap. 6, sects. 15-29).

Around 10 percent of statement-makers were chosen to appear at public hearings where they related their own accounts of what they had endured. More than fifty such 'victim hearings', each lasting from three to five days, were organised by the HRV Committee across South Africa, and they became a central component of the Commission's work (Hamber & Kibble, 1999, p. 6). In the second year of the Commission, the HRV Committee coordinated four additional types of hearings. During 'event hearings', the Commission focused not on individual victims but on events, such as the 1976 Soweto Student Uprising, during which violations had occurred. Ten episodes in South Africa's recent history were dealt with and were meant to serve as 'window cases' representative of broader patterns of abuse. 'Special hearings' were held to canvass the experiences of three especially vulnerable groups of victims - children and youth, women, and white conscripts. Through 'institutional hearings', the 'Commission sought to receive evidence from various professions, institutions, and organisations about the role they had played in committing, resisting or facilitating human rights abuse'. Finally, 'political party hearings' allowed the Commission to question political leaders on the involvement of their parties in gross violations of human rights (TRC, 1998b, vol. 1, chap. 6, sects. 37-41).

The Amnesty Committee was charged with evaluating the amnesty applications of perpetrators. Applications, it should be noted, were accepted not just from representatives of the former regime but from members of the liberation movements as well. The Amnesty Committee, was funded from the TRC's budget but was operationally independent and could not be overruled by the Commission itself. Amnesty was granted where, inter alia, applicants made full disclosure of all relevant facts and only for acts 'associated with a political objective committed in the course of the conflicts of the past'. In addition, there must have been 'proportionality' between the illegal act committed and the political objective; the act must have fallen within the dates under consideration by the Commission, i.e. 1960-1994; and, the application had to be submitted before the deadline set by the [TRC Act](#), originally mid-December 1996 and later pushed back to the end of September 1997 (Hamber & Kibble, 1999, p. 7; Promotion, 1995, sect. 20(1)(b)).

A total of 7,124 people applied for amnesty (TRC, 1998b, vol. 1, chap. 10, Amnesty Committee Report, sect. 3). By receiving amnesty, perpetrators are indemnified from both criminal prosecution and civil liability. Only applications concerning 'gross' violations required a public hearing, yet the TRC fell desperately behind in the processing of applications, at least in part because the Amnesty Committee adopted a highly legalistic *modus operandi* (Hamber & Kibble, 1999, p. 7). Amnesty deliberations continued until May 2001 - more than five years after the Commission began.

The Reparation and Rehabilitation (R+R) Committee was the only one of the three TRC committees not to hold public hearings. Instead, based on evidence presented to the Commission, it was to put forward recommendations for a comprehensive reparation policy for victims. In addition, the Committee was tasked with compiling recommendations aimed at preventing the recurrence of abuses. Significantly, implementation of any proposed

reparations policy and other recommendations was left squarely to the Government (Hamber & Kibble, 1999, p. 7). More broadly, the R+R Committee sought to help rehabilitate the lives of victims; it did this, for example, by organising symbolic reburial ceremonies for victims who had disappeared in order to provide a measure of closure to their families ('Truth body,' 1996).

The TRC's three committees were supported by an Investigation Unit (IU) and a Research Department (RD). The former worked largely to corroborate evidence in amnesty applications and victims' statements. It also undertook a limited number of 'proactive' investigations into a range of strategic themes, patterns and trends relating to human rights abuses covered by the Commission's mandate. Finally, the IU executed the Commission's powers of search, seizure and subpoena. The RD was established 'in order to assist with the analysis and contextualisation of the enormous amount of data, evidence and information' the TRC received. The RD also drafted and edited much of the TRC's 3,500-page report (TRC, 1998b, vol. 1, chap. 6, sects. 42-51).

At its peak, the national staff of the TRC was 438 (TRC, 1998b, vol. 1, chap. 11, Human Resources Management & Operational Report, sect. 2). Staff and Commissioners operated out of the Commission's head office in Cape Town, four regional offices in Cape Town, Johannesburg, Durban, and East London, and a sub-regional office in Bloemfontein (TRC, 1998b, vol. 1, chap. 6, sect. 6).

Motivations for the Donor-TRC Relationship

Foreign donors were quickly enamoured by the TRC. Within a month of the Commission's appointment, donors were making offers of assistance (TRC, 1998b, vol. 1, chap. 3, sect. 5). Supporting the TRC was, in the words of several donors, a 'sexy' project.

Donors attribute their eagerness to support the Commission to a combination of four factors: (i) respect for the process which created the TRC; (ii) sympathy for the aims of the Commission; (iii) admiration for its leadership; and (iv) interest in the TRC from leaders at home.

At a glance, it seems strange that donors would endorse a body whose task was, amongst other things, to give amnesty to perpetrators of heinous crimes. Yet, any reluctance to support the TRC because of its controversial amnesty provisions was overcome by the democratic process through which the Commission was enacted. For months, draft legislation for the Commission was debated in the Parliament's Justice Portfolio Committee. The process was very transparent; hundreds of hours of public hearings were held on the TRC's proposed terms, and civil society played a vocal and influential role. In the end, the [TRC Act](#) enjoyed an overwhelming majority in Parliament. Only the small right-wing Freedom Front voted against, while the larger Zulu-based Inkatha Freedom Party (IFP) abstained. Similarly, the selection process for Commissioners was very open. A selection panel, composed of a cross-section of government and civil society, was appointed to consider some 299 nominations from the public. Forty-five of these candidates were interviewed in public sessions, and 25 selected for a shortlist from which President Mandela, in consultation with the multi-party Cabinet of National Unity, selected 15. Two additional appointments not from the shortlist were added, apparently to render the TRC more representative, to make a total of 17 Commissioners (Sarkin, 1996, 621). The TRC's

democratic credentials legitimised it in donors' eyes. They could back the Commission comfortable in the knowledge 'that it enjoyed strong support from most parts of South African society' (T. Kjellson, personal communication, March 23, 2000).

While foreign donors played virtually no role in the TRC's conception,⁷ they widely approved of the Commission's mandate. All donors who gave to the TRC argued that dealing with past gross human rights violations was an important step in the consolidation of South Africa's democracy. For donors who had supported the liberation movement it was 'natural' as a 'follow-up' to give to the TRC, not only to help victims but to permanently discredit apartheid (K. Johansen, personal communication, March 27, 2000; T. Kjellson, personal communication, March 23, 2000). In the words of Norwegian donor representative Aud Marit Wiig (personal communication, April 18 2000), '[Aid to the TRC] was seen as a continuation of the struggle ... a final chapter to struggle support. This is when it will all be laid out on the table, and the guilt question will be sorted'.

Arguably, the TRC also appealed to donors given the intention of many of them to terminate or greatly reduce their assistance programmes to South Africa by the new millennium (Hearn, 2000, p. 819). The successful completion of the TRC would strengthen donors' claims that democracy in South Africa had reached 'a point of irreversibility', allowing them to safely wind down assistance.

Donors extensively cited admiration for the leadership of the TRC as a motivation behind their support. The Commission's Chairperson, Desmond Tutu, a Nobel Laureate and former Archbishop of Cape Town, was recognised the world over for his stand against apartheid and moral fortitude. Of all South Africans, Tutu's international esteem was arguably second only to that of former-President Mandela's (T. Kjellson, personal communication, March 23, 2000). The Commission's Vice-Chairperson, Dr. Alex Boraine, while not as public a figure as Tutu, enjoyed profound respect within the donor community. He had developed strong ties to donors as co-founder and former director of IDASA (Institute for a Democratic South Africa), one of the country's best known human rights NGOs (A.M. Wiig, personal communication, April 18, 2000). Boraine would put these contacts to good use as he led the TRC's campaign for donor funding.

The standing of its leaders, Tutu and Boraine, and the positive coverage it received in international media made a visit to the TRC a must-do for foreign delegations to South Africa. Visitors included Hillary Clinton, the royal couples of Norway, Sweden and Denmark, and countless other ministers and officials from around the world (TRC, 1998b, vol. 1, chap. 1, sect. 57). In the words of one donor (and echoed by several others), 'Everybody who comes here wants to meet Tutu; if the Embassy can't arrange a meeting they are furious!' The popularity of the Commission amongst top leaders from home encouraged several donor representatives to fund the TRC. It is probably overstating the case to suggest that the Commission charged dignitaries admission. Requests for aid were, however, made at these meetings (Minyuku, 1997) and it was not uncommon for an official visit to the TRC to culminate with the announcement of a substantial donation ('Tutu, Christopher sign,' 1996).

Several factors, then, motivated donors to offer assistance to the TRC. For its part, the Commission was disposed to accepting this aid, and asking for more, because of two

fundamental aspects of its character.

First, the Commission was under remarkable time pressure. When it began, it was given just 18 months to investigate some 34 years of human rights abuses. (Ultimately, however, the life of the Human Rights Violations, and the Reparation and Rehabilitation Committees was extended to two and half years, whilst the Amnesty Committee was given five and a half years to complete its work).⁸ Moreover, the [TRC Act](#) provided for no explicit set up time. The Commission's operational clock began ticking the moment Commissioners were appointed, before any essential organisational details such as renting office space, hiring staff, buying furniture and computers, creating an information management system or designing a public outreach program were in place (TRC, 1998b, vol. 1, chap. 6, sect. 4). Consequently, Commissioners felt great pressure to be up and running quickly. This was especially so because the South African press and public had greeted the TRC's establishment with much anticipation (M. Naidoo & Y. Sooka, personal communication, March 7, 2000).

Hayner (1996b, p. 178) argues that:

Many past truth commissions have suffered from the same problem: They have lost much time in administrative and logistical preparations, which have cut significantly into the limited period of time that each commission is given to undertake and complete all of its work [S]uch delays can be disastrous and cause much consternation on the part of observers, especially victims and rights advocates, who may be frustrated at the commission's slow start. Those establishing future commissions should avoid this major pitfall by mandating explicit set-up time, written into the terms of reference ... before the commission's operational clock begins.

Many of the interviewees for this report felt that the TRC would have been far more effective had it been given a six-month statutory set up period.

To its credit, the Commission was up and running with remarkable speed, holding its first hearings within four months of its appointment (Krog, 1999, 31). Yet the haste with which it was established prevented the TRC from carefully developing a *modus operandi*:

There was little time for reflection. The result was that the methodology of the Commission evolved and changed quite considerably throughout its terms of operation. (TRC, 1998b, vol. 1, chap. 6, sect. 4)

Second, the Commission's work was novel and thus rife with uncertainty. Nothing like it had been attempted in South Africa, nor could previous truth commissions abroad provide much guidance, given the TRC's distinctly ambitious mandate. The Commission did not know how many victims' statements and amnesty applications it would receive, let alone the operational challenges it would face processing them, holding hearings and producing its report. As a result, unexpected problems kept cropping up; as the Commission puts it euphemistically, 'Its entire existence was a steep learning curve' (TRC, 1998b, vol. 5, chap. 6, sect. 62).

In summary, the TRC had little time to navigate uncharted waters. Accessing foreign aid was, therefore, deeply appealing; a burst of aid at the start would help the Commission get on course quickly (D. Ntsebeza, personal communication, April 6, 2000), and aid would provide resources to deal with the many unforeseen challenges that awaited it along the way (Clark, personal communication, 6 April 2000).

Foreign aid would, however, have to be delivered in such a way as not to clash with a third fundamental characteristic of the TRC: its fierce independence. The [TRC Act](#) states that:

The Commission, its Commissioners and every member of its staff shall function without political or other bias or interference and shall ... be independent and separate from any party, government, administration or any other functionary or body directly or indirectly representing the interests of any such entity. (Promotion, 1995, sect. 36(1))

The TRC took this ideal of independence very seriously. According to Paddy Clark (personal communication, April 6, 2000), assistant to the TRC Vice-Chairperson:

We were always very, very, very jealous of our independence. Although the Government set us up and gave us a budget, there was no way that we were accountable to Government for what we did.

In the same vein, there was, according to Commissioner Hlengiwe Mkhize (personal communication, April 26, 2000), simply 'no way' meddling by donors would have been tolerated by the TRC.

Chapter IV. Europe Come Hither: International Secondments to the TRC

International Investigative Secondments in Theory

One of the innovations of the TRC vis-à-vis other truth commissions was its mandate to establish a permanent Investigation Unit (IU) that enjoyed, on paper at least, robust powers of search, seizure and subpoena (TRC, 1998b, vol. 1, chap. 11, Investigation Unit Management and Operational Report, sect. 1).

Among the first steps the Commission took in establishing the IU was to seek the secondment of foreign investigative experts to the Unit. This was done in February 1996 while Tutu, Boraine and Dumisa Ntsebeza—the Commissioner appointed to head the IU—had lunch with a coterie of ambassadors from Western Europe and Scandinavia. (G. Goosen, personal communication, March 30, 2000).

At first, the ambassadors thought the TRC wanted its work monitored by foreign observers. The Commission clarified that it wanted 'internationals' to work hands-on to buttress the nascent IU. Ntsebeza (personal communication, April 6, 2000) explains:

I wanted people who were going to do the work; South Africa is a vast country. We had a huge area to cover, and the period of inquiry was a huge one If donors sent observers, the TRC would be losing out on vital skills.

The Commission was, however, unclear at this early stage how the IU would operate, since the [TRC Act](#) was 'silent on the specific functions to be performed by the Unit and on its relationship to the [three] standing committees' (TRC, 1998b, vol. 1, chap. 11, Investigation Unit Management and Operational Report, sect. 24). By extension, the TRC had no specific plan on how international investigators would contribute to the IU (G. Goosen, personal communication, March 30, 2000). Nevertheless, bringing foreign investigators on board—free of charge—seemed like a good idea.

First, an early injection of human resources would help get the Commission on its feet quickly (D. Ntsebeza, personal communication, April 6, 2000).

Second, internationals, police in particular, would infuse the IU not just with extra manpower but also key investigative expertise and professionalism (D. Ntsebeza, personal communication, April 6, 2000). This was not a minor consideration. In its budget negotiated with the South African Government, the Commission had secured funds for a mere 48 investigators. The Commission rightly anticipated that this number was far too low for the investigation of thousands of atrocities spanning thirty-four years (G. Goosen, personal communication, March 30, 2000). The Commission also feared it would be unable to recruit skilled crime investigators domestically. The South African Police Service (SAPS) - largely unchanged from its apartheid-era composition - was (not surprisingly) hostile to the TRC ([Simpson, 1998](#), p. 7). Few South African police were likely, therefore, to accept secondments to the Commission. In any case, the SAPS, struggling to transform itself from a counter-revolutionary to a police force, was hardly a reservoir of skills in professional, ethical investigations (J. Daniel, personal communication, March 29, 2000).

Finally, as third parties to the apartheid conflict, foreign investigators would help ensure the IU was even-handed in its investigations, thereby increasing the credibility of the Commission (D. Ntsebeza, personal communication, April 6, 2000).

The idea of secondments resonated with donors. They were keen to meet the TRC's wishes and had systems in place to quickly second police overseas and considerable experience with such support as part, for example, of UN peace missions (K. Johansen, personal communication, March 27, 2000; J. Pinckaers, personal communication, March 3, 2000; A. M. Wiig, personal communication, April 18, 2000). For some, secondments were also motivated by a desire to have nationals on the inside of the Commission, keeping abreast of its developments and learning from the process (Börner, personal communication, April 26, 2000; T. Kjellson, personal communication, March 23, 2000). The response to the TRC's request was, therefore, 'overwhelming' (G. Goosen, personal communication, March 30, 2000).

Although the Commission had not identified how it would be using the international investigators, it gave some donors the initial impression that secondees would be doing intricate investigatory work on the most high-profile cases from South Africa's dark past. Indeed, as donors implemented the secondments a pressing and common concern was the security of their officers. Norwegian representative Aud Marit Wiig (personal communication, April 18, 2000) recalls that donors were asking themselves: 'What sort of protection will these guys need? They are going into this terribly sensitive, politically loaded situation with a history of sabotage and killings'.

In the absence of its own firm plan, the Commission also left it up to the donors to decide the rank and qualifications of the personnel sent, but emphasised a need for senior officers (G. Goosen, personal communication, March 30, 2000). Ntsebeza (personal communication, April 6, 2000) said to the ambassadors:

You appreciate the work that has to be done, and appreciate the sensitivity of political crimes; so we need not only skilled people but people who are sensitised to what [South Africa's] national agenda is The more skilled they are, the more highly ranked—the better.

Secondments in Practice

As Figure 1 indicates (*see next page*) ultimately seven countries—Denmark, Germany, Ireland, the Netherlands, Norway, Sweden and Switzerland—answered the Commission's call for secondments.⁹ All sent police officers, with the exception of Switzerland, which sent two human rights lawyers (M.-A. Antonietti, personal communication, April 26, 2000). Originally, the TRC planned to have 12 internationals out of a total investigative staff of 60 (TRC, 1998b, vol. 1, chap. 11, Investigation Unit Management and Operational Report, sect. 7). In the end, secondments peaked at 18 out of a total staff of 89 (Pinckaers, 2000). Internationals were allocated across the national office and four regional offices (TRC, 1998b, vol. 1, chap. 11, Investigation Unit Management and Operational Report, sect. 7).

But did the secondments live up to the aspirations of the TRC for a faster start-up, an infusion of manpower and skill into the IU, and an increase in the Commission's credibility?

Faster start-up

There is some evidence that the international secondees helped the TRC get up and running more quickly. Two Danish and three Dutch policemen arrived in March 1996 before any South Africans had joined the IU, including the Unit's National Director who was appointed a month later (G. Goosen, personal communication, March 30, 2000).¹⁰ According to Joop Pinckaers (personal communication, March 3, 2000)—one of the early-arriving internationals—these officers were able to assist Commissioner Ntsebeza with the "whole recruitment process" for the IU. The other secondees arrived too late, however, to participate in this vital set-up stage.

More human resources: under-utilised skills

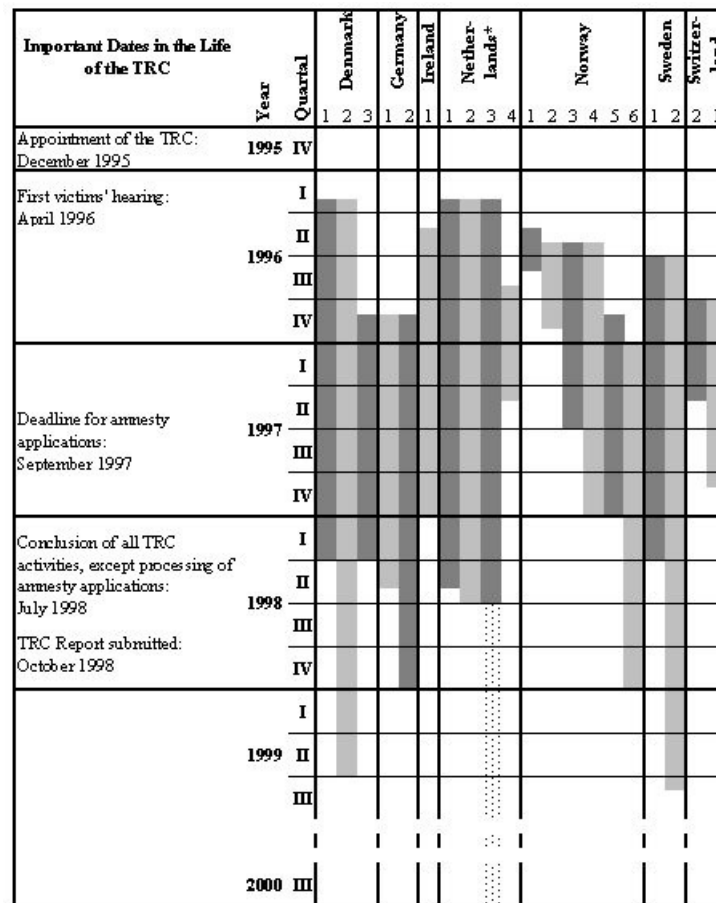
By the time the bulk of secondees arrived in the second half of 1996, the Commission was immersed in victim hearings across South Africa. It was these hearings, which began a week after the National Director of Investigations, Glenn Goosen (personal communication, March 30, 2000), was appointed, that "defined the entire way in which the IU functioned in the first eight months of its existence." The Unit, explains Goosen, while "running around" trying to find staff, desperately tried to put in place a system to substantiate the accusations of victims. With "incredibly limited staff to prepare for the hearings from one week to the next . . . the IU was swept along."

As a result, it became clear that the TRC would not be using international secondees to

conduct intricate detective work on high-profile cases. Rather the IU needed all hands working on the far more routine task of verifying, in a fairly superficial way, the veracity of some 2,000 victims' statements to be heard at hearings.¹¹ Donors' concerns for the security of their officers proved to be exaggerated; the internationals were not to be in the forefront, breaking down doors for the Commission. Rather they would be in the background, helping the IU cope with an incredible breadth of cases that left few resources for in-depth investigation (A. M. Wiig, personal communication, April 18, 2000).

Figure 1: International secondments by nationality and duration

Each column represents one officer. The length of his or her secondment to the TRC is indicated by the shaded area (compiled from Pinckaers, 2000).



This situation was not to change dramatically over the life of the TRC. Once the IU came to grips with victim hearings around September 1996, it had to turn most of its attention to the huge backlog of victims' statements that would not be handled in hearings: some 19,000 in the end (TRC, 1998b, vol.1, chap. 11, Investigation Unit Management and Operational Report, sect. 40). Initially the intention had been to thoroughly 'investigate' each statement submitted to the TRC; investigators would, for example, often go on field trips to meet alleged victims in order to get additional material to verify statements (Buur, 2000, p. 17). However, by mid-1997 this approach was abandoned as too resource intensive. As a consequence, it was decided that the vast majority of statements 'would require only a minimum level of investigation to establish the veracity of a claim'. The IU dubbed this

strategy 'low-level corroboration' (TRC, 1998b, vol.1, chap. 11, Investigation Unit Management and Operational Report, sect. 40). Under this approach, investigators would corroborate the basic facts of each statement by, for example, verifying court records, inquest documents, prison files, mortuary reports, death certificates, and newspaper clippings (TRC, 1998b, vol.1, chap. 6, sect. 21). For most of this work, investigators were desk-bound, conducting their inquiries by fax or telephone (Buur, 2000, p. 17).

For lack of resources, then, the IU became largely bureaucratic and cursory in its substantiation of statements. In fairness, this trend was counteracted to some extent by another IU policy, adopted in late 1996, to launch 'special' investigations into strategic areas, such as the apartheid regime's use of chemical and biological weapons, which held promise as rich veins of evidence on past violations. The Commission hoped this probing into select incidents and activities might provide some victims with answers as, for example, to the fate of their loved ones, while putting pressure on perpetrators who had until then not applied for amnesty. The IU could only afford, however, to devote a modicum of resources—10 investigators—to special investigations, such were the pressures to corroborate victim statements and later to provide investigatory services to the Amnesty Committee as it considered the applications of 7,124 perpetrators (TRC, 1998b, vol.1, chap. 11, Investigation Unit Management and Operational Report, sects. 43-48).¹² As a result, the TRC acknowledges that it had 'little time for proactive investigations into unsolved apartheid-era violations' (TRC, 1998b, vol. 5, chap. 6, sect. 59).

In short, the TRC did not need internationals to focus on elaborate, in-depth and controversial investigations as had been suggested. Instead, secondees needed to throw their weight behind the crucial, yet relatively tedious task of substantiating thousands upon thousands of victims' statements and amnesty applications. This unforeseen reorientation created consternation amongst some of the internationals. One donor, for instance, had secured for the TRC its country's 'star performer, really the most experienced, senior police officer for international human rights investigations'. However, once in South Africa, 'he became quite disgusted' with the TRC and its apparent inability to use the skills of international experts effectively:

The TRC would send him off to carry papers, or have him drive for an entire day just to look for a police docket and drive back the next day to the office. He felt that his talent was wasted.

So the officer left. Fortunately for the Commission, his home country was prepared to replace him and sent further secondees—interestingly, all highly experienced officers.

This incident reflects a larger problem with the secondments. As the TRC had requested, donors tended to send senior police, often with extensive management skills. Many were equivalent to police superintendents in their national forces (Pinckaers, personal communication, March 3, 2000). Yet according to Goosen (personal communication, March 30 2000), 'it was quite difficult at times to fit in all of those top level skills'. This is echoed by Wiig (personal communication, April 18, 2000), who argues that, 'the TRC definitely did not need as experienced people as they got for the work being done'. Similarly, Pinckaers (personal communication, March 3, 2000), suggests that, in general, the ranks of

international officers 'could have been lower'.

The apparent under-utilisation of the internationals seems also to derive from disorganisation within the IU once it was up and running. According to many observers, the IU lacked a strategic plan and so decisions, when they were made, were *ad hoc*.¹³ This ineffectiveness could be blamed, in part, on the harried conditions under which the IU was established. But equally important were divisions that criss-crossed the Unit. Investigators came from a plethora of backgrounds and the Commission recognises that:

In view of the reliance on members of the police and the non-governmental (NGO) and private sectors to make up the IU, it was difficult to develop ... the highly effective, closely knit unit required for the enormous task it faced. Divergent approaches led to tensions. (TRC, 1998b, vol. 5, chap. 6, sect. 61)

The TRC neglects to mention the meltdown in relations between the Commissioner heading the IU, a black, and its Director, a white, over allegations of racism (G. Goosen, personal communication, March 30, 2000; D. Ntsebeza, personal communication, April 6, 2000).

Ineffectual organisation within the IU profoundly shaped the utilisation of secondees. According to Commissioner Fazel Randera (personal communication, April 11, 2000), the TRC never did a 'skills audit' of the secondees as they arrived:

Suddenly these people were just here and it took us a long time to recognise that these individuals had incredible skills and we could have used them very, very differently.

Moreover, 'no program to integrate the internationals was put in place, so they really had to find their own feet' (F. Randera, personal communication, April 11, 2000). Piers Pigou, a locally-hired former IU investigator, observed that the effectiveness of the internationals depended very much on:

Their willingness and capacity to pursue things on their own, because they were not being given directions ... It was very much take the bull by the horns and try and do something. (personal communication, April 20, 2000)

It seems many internationals took the initiative, but several fell through the cracks; 'Not all the internationals were up to scratch,' contends Commissioner Yasmin Sooka (personal communication, March 7, 2000). Pinckaers (personal communication, March 3, 2000) admits that amongst the internationals 'there were a few people around with very low commitments'. John Daniel, (personal communication, March 29, 2000), one of the TRC's principal researchers, describes the internationals as 'a mixed bag'. In the context of a somewhat directionless IU, he concludes that their value 'came down to the individuals sent'.

It appears that those internationals who applied themselves were extremely useful to the TRC. Drawing on his considerable administrative experience, a Dutch secondee became the 'core driving motor' behind the establishment and running of the low-level corroboration process (G. Goosen, personal communication, March 30, 2000), addressing 'one of the

greatest challenges facing the Commission' (TRC, 1998b, vol.1, chap. 6, sect. 23).

A Swede emerged as one of the IU's top investigators (D. Ntsebeza, personal communication, April 6, 2000). Despite having no background on South Africa 'he picked it up very, very quickly and was involved in a number of sensitive investigations dealing with some of the most high-profile perpetrators [to have applied for amnesty]' (P. Pigou, personal communication, April 20, 2000). This Swedish investigator was also central to some of the IU's special investigations. He was sent, for instance, to Paris to investigate the 1988 murder of Dulcie September, the ANC's chief representative in France (D. Ntsebeza, personal communication, April 6, 2000).¹⁴

Furthermore, there is anecdotal evidence that even when performing routine tasks, internationals added value to the TRC. Ntsebeza (personal communication, April 6, 2000) suggests that the stature of internationals made them particularly useful in acquiring information from elements of South Africa's bureaucracy hostile to the TRC:

You would never believe the inroads made in South African police stations, where—if it had only been our local investigators, especially the other than white investigators—there would have been problems. But when our investigator announced that he was so and so from, say, Denmark, it broke the police's resistance because they didn't know who they were dealing with and what trouble they might land in if they were difficult.

More generally, the internationals were able to transfer skills that the IU desperately needed. As had been anticipated, acquiring trained police from the SAPS proved extremely difficult for the IU (TRC, 1998b, vol. 1, chap. 11, Investigation Unit Management and Operational Report, sect. 10). As a result, the vast majority of the South African IU members came from backgrounds like law, social work, NGO activism and journalism. They were 'very much amateurs' at criminal investigations, according to Daniel (personal communication, March 29, 2000). The TRC puts it more diplomatically: 'Regrettably, identification of skilled investigators was not always possible ... a lack of computer-skills proved [particularly] problematic' (TRC, 1998b, vol. 1, chap. 11, Investigation Unit Management and Operational Report, sects. 19 & 21).

The IU had little resources to devote to formal training. This was mostly done on-the-job through mentoring between experienced investigators and less experienced colleagues (TRC, 1998b, vol. 1, chap. 11, Investigation Unit Management and Operational Report, sect. 23). In this regard, the internationals were able to play a positive role (D. Ntsebeza, personal communication, April 6, 2000).

The IU did make one attempt to use the skills of international secondees in a very targeted, deliberate way. In the second half of 1996, on advice from the Dutch secondees, the IU established an 'analyst function'. The analyst function was modelled on a crime analysis support unit used by police departments in most Northern countries. The Dutch Government provided funding for the IU to acquire advanced software for investigative analysis.¹⁵ Two new internationals, a Dutchman and a Norwegian, experienced in crime analysis were seconded specifically to use this software and build South African capacity. A German investigator was also trained on these programs and dedicated to the analyst

function (TRC, 1998e, p. 5).

The analyst function of the IU was meant to cross-reference the masses of information coming into the Commission via victims' statements, amnesty applications, interviews with witnesses, reports from investigators, and other documents such as reports from South African judicial inquests (TRC, 1998b, vol. 1, chap. 11, Investigation Unit Management and Operational Report, sect. 65). It was hoped that by analysing the totality of information coming into the TRC, the analyst function would draw out relationships between suspected perpetrators and past violations that might be hidden in the mounds of data piling up at the Commission (TRC, 1998b, vol. 1, chap. 11, Investigation Unit Management and Operational Report, sect. 62). Based on these revelations, it was thought the TRC could make more accurate findings and turn up the heat on perpetrators who were hiding the truth (D. Ntsebeza, personal communication, April 6, 2000).

Ultimately, however, the analyst function was 'under-utilised and not as effective' as the TRC had hoped (G. Goosen, personal communication, March 30, 2000). As the Commission abandoned proactive investigations in order to keep up with the corroboration of victims' statements, the analyst function became somewhat gratuitous. The administrative and cursory approach to this corroboration did not require advanced software or analysis. Instead, the analyst function was diverted to producing statistical analyses of the Commission's victim statement database for the TRC Report; the IU acknowledges that this work 'did not immediately assist' the TRC's investigative efforts (TRC, 1998b, vol. 1, chap. 11, Investigation Unit Management and Operational Report, sects 60-67).

The usefulness of the analyst function was redeemed to some extent late in the day when it was applied to the verification of amnesty applications. One of the tasks of the Amnesty Committee was to determine if amnesty applicants made a full disclosure of the truth, a duty it sought to execute with legalistic precision. The analyst function's ability to accurately cross-reference details in amnesty applications with other information at the Commission's disposal became, therefore, very important (TRC, 1998b, vol. 1, chap. 11, Investigation Unit Management and Operational Report, sect. 70). This is especially true given the complexity of certain applications. For example, Eugene De Kock, one of the apartheid regime's most prolific assassins, submitted a 1000-page application detailing some 20 international and 87 local incidents (Pauw, 1998, p. 32).

To sum up, it would appear that international secondments made an important contribution to the TRC, not only by increasing the staff contingent of the IU, but by transferring important skills to the Commission. Given the incoherence of the IU, however, the size of the contribution depended largely on the initiative of the individual secondees. Moreover, there appears to have been some mismatch between the high seniority of investigators seconded and the type of routine work with which the TRC needed the most help.

A boon to credibility?

Whether the presence of internationals strengthened the even-handedness of the Commission is very difficult to determine. Buur (2000, p. 17) observed that foreign investigators could assess victims' statements (i.e. recommend a positive or negative finding) more impersonally than their South African counterparts. As a result of this greater

distance from the cases they were considering, foreign investigators were arguably relatively more objective in their work. It seems plausible also to argue that, given their working knowledge of the IU, internationals would have blown the whistle had any blatantly biased investigatory decisions been made.

The presence of the secondees was very unlikely, however, to raise the credibility of the Commission in the eyes of many sceptics (predominantly conservative whites but others as well) who denounced the TRC as a witch-hunt (Beigbeder, 1999, p. 121). By and large, the secondees came from countries that had unequivocally supported the ANC during apartheid. This could only enhance perceptions in some quarters that the TRC's staff (and most of its Commissioners) were irredeemably loyal to the now governing liberation movement, and biased against members of the former apartheid order ('Police support,' 1996). In any case, there were too few internationals to have had any great influence on the conduct of the Commission. According to Goosen (personal communication, March 30, 2000), 'the number of internationals did not dilute the very South African, home-grown nature of the Commission, which is what it needed to be'.

The TRC clearly did not want any perception developing that it was being unduly influenced by the internationals. While a limited number of secondees might help the TRC's legitimacy, too many would damage it by putting South African ownership of the process into doubt (G. Goosen, personal communication, March 30, 2000). This would have been devastating to the Commission. To paraphrase Ignatieff (1998, p. 175), 'It is an illusion to suppose that "impartial" or "objective" outsiders' could ever have got their interpretation of atrocities accepted by the parties to South Africa's conflict:

For there is always a truth that can be known only by those on the inside. Or if not a truth—since facts are facts—then a moral significance to these facts that only an insider can fully appreciate. The truth, if it is to be believed, must be authored by those who have suffered its consequences.

International Secondments: Lessons for Future Truth Commissions

The TRC's experience with secondments suggests that international investigatory experts can reinforce the work of a commission's domestic staff. Secondments increase the man-hours a commission can expend on the daunting task of investigating years of abuse. More importantly, however, secondees can contribute vital skills not available to a truth commission from domestic sources. Commissions are unlikely, however, to receive the optimal mix of requisite skills if they do not ask for them specifically. This is a clear lesson that emerges from the TRC. As the Commission's former Director of Investigations sums up:

A lot of the organisational problems that crept in regarding the use of internationals could have been avoided had there been a more thorough, more rigorous process of deciding what it was we wanted to get out of them and what level of person was required to do that. (G. Goosen, personal communication, March 30, 2000)

Admittedly, this need for reflection conflicts with the tremendous pressure on truth commissions to be up and running quickly. This underscores the importance of giving a

truth commission a statutory set-up time during which details—like the skills required from secondees—can be thought through, before the commission's operational clock starts ticking. If a truth commission does not enjoy this luxury, it should consider staggering its requests for secondments: receiving some without much deliberation in the beginning to help with the start-up and choosing more selectively later once its *modus operandi* and skill shortages have emerged.

Donors and the recipient commission may be tempted to assume that senior police officers willing to serve overseas 'must be good' and thus worth seconding, even despite the lack of a clear plan for their use. This is not, however, always the case, particularly when the officers are dealing with unfamiliar territory; the TRC's experience with several senior, but nonetheless ineffectual, secondees testifies to this (P. Pigou, personal communication, April 20, 2000).

One might retort that commissions need not dwell on the effective use of secondees since they come free of charge. This view, however, ignores the enormous opportunity costs of secondments.

Secondments of foreign 'experts', as a rule, are expensive not the least because of the costs of relocating personnel and their families (A. M. Wiig, personal communication, April 18, 2000). Sweden, for example, spent some R4,500,000 to second just two police officers to the TRC, one for 21 months, the other for three years (T. Kjellson, personal communication, March 23, 2000).¹⁶ In contrast, a Swedish donation of R4,475,000 enabled the TRC to pay for approximately one year the salaries of 6 additional members sitting on the Amnesty Committee to hear perpetrators' applications, 3 secretaries for these members, 11 legal personnel to support the deliberations of the Committee, 12 South African investigators to substantiate applications, 8 data entry clerks to enter applications into the TRC's data base, and one media officer to liaise between the Amnesty Committee and the press (TRC, 1998f, p. 11).

Similarly, as part of a larger donation, the European Union (EU) provided the TRC with R1,940,000 for the secondment of five African investigators from former front-line states for eight months (TRC, 1997, p. 8).¹⁷ The Commission was not, however, able to implement this aspect of its agreement with the EU, ostensibly because no suitable candidates from former-front line states could be found. With the EU's permission, therefore, the TRC reallocated the R1,940,000 to hire, for six months, 60 South African investigators urgently needed as reinforcements in the Commission's battle to corroborate victims' statements (Hoosain, 1997).

These examples from the TRC suggest a key lesson concerning international secondments. Because secondments are costly, there should be compelling evidence that they will provide skills vital to the recipient truth commission and that these talents will be effectively utilised. Otherwise, donors are wasting considerable sums of money that could be far better spent hiring local staff for the commission concerned.

Chapter V. Lean On Us: International Financial Backing to the TRC

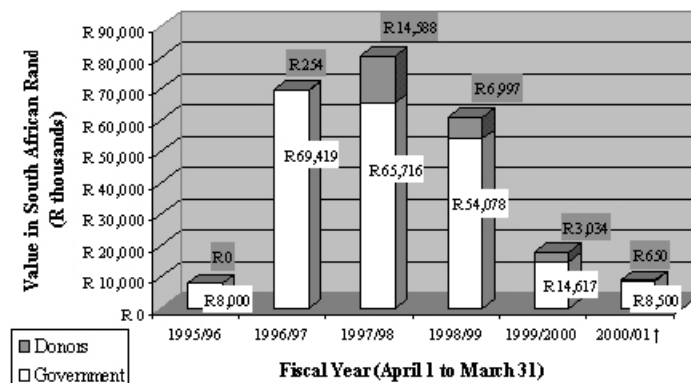
From Luxury to Necessity: The TRC's Unexpected Reliance on Donor Aid

At the outset, the TRC was to be funded by the South African Government alone. The [TRC Act](#) indicates that the costs of the Commission shall be 'defrayed out of money appropriated by Parliament for that purpose,' and makes no mention of foreign donations (Promotion, 1995, sect. 46(4)). The TRC Report (1998b, vol.1, chap. 11, Finance Department Management and Operational Report, sect. 38) explains that:

The Commission was originally allocated a budget of R8 million for the 1995/96 fiscal year and a budget of R29 million for the 1996/97 fiscal year. After completing the required estimates of income and expenditure, it was abundantly clear that this budget was inadequate. The projected budget requirement for the 1996/97 fiscal year was in fact R79 million.

Despite 'strong resistance from the Treasury Committee to making further funding available,' the TRC was able to negotiate a considerably higher budget - R69,419,000 - for the 1996/97 fiscal year. This amount seemed to suffice, given that the Commission remained largely within its government-approved budget for 1996/97, as is indicated in Figure 2 (TRC, 1998b, vol.1, chap. 11, Finance Department Management and Operational Report, sects. 39-42).

Figure 2. TRC funding from the South African Government and international donors*



*In 1996, the exchange rate was approximately US \$1 = R4; by 1999, it was US \$1 = R6.

† Estimated amounts. (Compiled from Greyvenstein, 2000)

Nonetheless, very early in its life, the Commission chose to receive donor funding. The Swedes, for example, contributed R1.5 million for salaries and information technology, while the Danes gave R500,000 for research as shown in Table 1. An urgent need for extra funds does not appear to have motivated the Commission's decision to accept foreign donations at this stage. It barely touched donor money it had available to use in fiscal year 1996/97 (see Figure 2 above). Rather, donors were extremely keen to give and were making offers with little or no soliciting from the TRC (H. Mkhize, personal communication, April 26, 2000). Commission Vice-Chairperson Alex Boraine told the press at the time, 'We are not going out there with a begging bowl. But if people come to us it would be silly to turn

them down' ('Dutch detectives,' 1996).

This dynamic changed quite dramatically when the South African Government cut the TRC's anticipated budget for fiscal year 1997/98. The Treasury Committee was only prepared to give the Commission R50 million, despite having indicated earlier that the TRC would receive closer to R75 million ('Truth commission warned,' 1996). 'The Commission's budget requirements, however, (based on its operating levels at the time) were in the region of R82 million' (TRC, 1998b, vol.1, chap. 11, Finance Department Management and Operational Report, sect. 40). The Commission might have been able to live within the R50 million budget had it finished the bulk of its work on schedule in June 1997 (F. Randera, personal communication, April 11, 2000). But as time progressed it became clear this was not feasible; in the end it took the Commission until July 1998 to process victims' statements and May 2001 to deal with amnesty applications. The TRC was faced, therefore, with a R32 million shortfall for fiscal year 1997/98. This was lowered significantly when the Government agreed to give an additional R15.716 million, but the Commission was still confronted with a deficit of some R16 million (TRC, 1998b, vol.1, chap. 11, Finance Department Management and Operational Report, sect. 41).

The Commission had three possible responses

First, it could have lobbied the Government for more money, but prospects on this front were not good. The general economic climate was discouraging. The cut to the TRC's budget was 'a direct result,' it was told, 'of the financial squeeze which is being experienced by the State'. All government budgets were to be cut ('Truth commission faces,' 1996). Moreover, the Government was, according to Charles Villa-Vicencio, head of the Commission's Research Department (personal communication, April 6, 2000), feeling 'increasingly uncomfortable with the expensiveness of the TRC,' and human rights institutions more generally. As Sarkin (1998, p. 629) writes, a public perception was growing at the time that 'statutory human rights bodies and the individuals appointed to them are on the gravy train'.¹⁸ The opposition National Party was also busy in Parliament making political hay out of the TRC's costs ('Too much,' 1996). In short, recalls Kariem Hoosain, former Finance Director of the Commission (personal communication, March 24, 2000), 'the message we were getting from government was "sorry, that's all we've got"'.

Table 1: Chronology of foreign government donations to the TRC

Month Donation Announced	Donor	Donation used to pay for	Amount of Donation*
February 1996	Sweden	Staff salaries and Information Technology for the TRC	R 1,527,280
April 1996	Denmark	Various activities of the Research Dept.	R 490,000
July 1996	Netherlands	Purchase of crime analysis software	R 163,500
August 1996	Netherlands	Research assignment undertaken by two Dutch NGOs for the TRC	R 163,500

September 1996	Belgium	Visit by TRC delegation to Rwanda; Visit by Rwandan Delegation to the TRC	R 253,660
November 1996	Austria	Witness Protection	R 1,350,000
December 1996	Flemish Community	Designated Statement Taker Program	R 767,208
December 1996	European Union	Investigation Unit salaries; Interpretation and Translation needs of the TRC; and Research Dept. activities	R 7,907
March 1997	Norway	SABC radio broadcasts	R 2,967,874
April 1997	USA	TRC communication costs and various activities of the R+R Committee	R 2,400,000
May 1997	Netherlands	Extension of research assignment undertaken by two Dutch NGOs for the TRC	R 368,545
June 1997	Sweden	Amnesty Committee enlargement	R 4,475,000
August 1998	USA	Final Report writing; Special investigations; Close down expenses; Legal challenges	R 1,500.00
December 1998	Norway	Designated Reparations Statement Taker Program; R+R notification and inquiries desk; Database cleanup; Findings report summaries; Investigation of amnesty applications	R 4,500,000
February 1999	Norway	SABC CD compilation of the TRC process	R 349,673

* In 1996 the exchange rate for the Rand was approx. US\$ 1 = R4, by 1999 US\$ 1 = R 6. (Compiled from TRC, 1998b, vol. 1, chap.11, Finance Department Management and Operational Report, Appendix 3.)

The second option was for the Commission to slash its budget; Commissioners, however, could find little fat to burn. The only way, therefore, to meet the budget shortfall on the spending side would have been for the Commission to prematurely curtail significant aspects of its work, notably public hearings (M. Naidoo & Y. Sooka, personal communication, March 7, 2000; W. Orr, personal communication, April 11, 2000; TRC, 1998b, vol.1, chap. 11, Finance Department Management and Operational Report, sect. 38). Hoosain (personal communication, March 24, 2000), while suggesting that the Commission could have found ways to cut costs without radically contracting the scope of its work, contends the savings gained would nevertheless have been insufficient to cover the R16 million deficit. Commissioner Randerá (personal communication, April 11, 2000) concurs: 'We were running a tight financial ship'.

This position seems plausible. As Martin Coetzee, Chief Executive Officer of the TRC

(personal communication, March 3, 2000), points out, the Commission's annual budgets had been negotiated line-item by line-item with the South African Treasury: frivolous expenses were unlikely to have survived this scrutiny. It should also be borne in mind that because of the Commission's frenetic pace, its management would necessarily have found it difficult to pause, refine operating systems and cut costs. Moreover, with its short life span, the Commission could not absorb an annual budget cut by deferring elements of its work for later ('Truth commission faces,' 1996).

Making deep cuts to its budget was not a route the TRC was prepared to pursue. Rather, it opted for a third approach: to raise its own revenue by soliciting foreign donors. Fortunately, donor funding was forthcoming. As Table 1 (above) shows, most large donations to the TRC occurred in the wake of the budget cut, which was communicated to the Commission sometime in October 1996 ('Truth commission faces,' 1996). As a result, foreign donations accounted for 18 percent of the TRC's funding in 1997/98, compared to 0.36 percent in 1996/97 (see Figure 2 *above*).

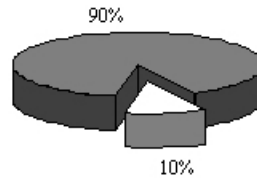
This reliance on donor funding to supplement the TRC's budget would continue for the remainder of the Commission. Donors provided 11 percent of the TRC's budget in the 1998/99 fiscal year, 17 percent in 1999/2000, and are expected to cover 7 percent of the TRC's final budget year 2000/2001 (see figure 2 *above*). As Figure 3 relates, international donations have accounted for 10 percent of the TRC's budget to date.

In sum, a fairly simple pattern in the TRC's budgeting appears to have emerged: the South African Government's budget to the Commission was fairly 'rigid' and would often be insufficient to cover spending the TRC deemed necessary (W. Orr, personal communication, April 11, 2000). All of these 'extras'—that is important projects not covered by the government budget—were then sold very successfully to donors, who supplied the supplemental funding required (K. Hoosain, personal communication, March 24, 2000).

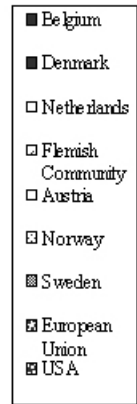
It is impossible to say exactly how the TRC would have differed had it not received significant foreign backing, especially in its crucial 1997/98 fiscal year, when the Commission was at the height of its activity and much work remained for the fulfilment of its mandate. If one assumes, however, that the Government would not have met the Commission's financial shortfalls, and that the TRC had little room to manoeuvre within the budget the South African Treasury was prepared to provide, then the following hypotheses seem plausible: (i) the Commission's outreach to victims would have suffered; (ii) the TRC would have become a less public process; and (iii) its investigative agenda would have been curtailed. All three of these aspects of the Commission benefited considerably from foreign aid.

Figure 3: Percentage contribution of Government and donors to the total TRC budget for fiscal years 1995 through 2000.

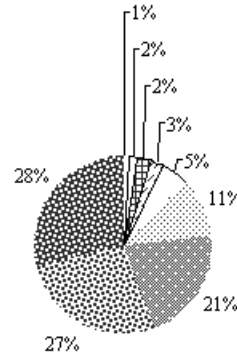
For a breakdown of donor contributions see below.



(Compiled from Greyvenstein, 2000)



Relative Share of Total Donor Funding to the TRC by Donor



(Compiled from TRC, 1998b, vol.1, chap. 11, Finance Department Management and Operational Report, Appendix 3).

Reaching out to victims

At its inception, the TRC had very ambitious expectations about how many victims' statements it would receive. 'People in the Commission, bless their hearts, were talking about 100,000 odd statements at the beginning of the process,' says Pigou (personal communication, April 20, 2000) who adds, 'This was completely unrealistic'. First, the Commission failed to develop a comprehensive public education strategy, incorrectly assuming, it would seem, that the extensive media coverage it was attracting would suffice to inform the public of its role and procedures. A direct result of this lack of a 'grass-roots communication strategy' was, according to Simpson (1998, p. 19), 'considerable uncertainty that existed amongst victims about how to access the Commission, particularly emanating from rural areas'. Second, the TRC failed to invest sufficiently in the points of entry for statements (P. Pigou, personal communication, April 20, 2000). Six statement takers were hired for each of the four regional offices. These statement takers, however, were largely confined to their offices, venturing out to only a select number of communities, often those where the TRC was holding hearings. Many victims, especially in rural areas, could not therefore meet TRC statement takers (TRC, 1998b, vol.1, chap. 6, sect. 16).

Consequently, as word spread that the Commission's original eighteen-month life span was ending, many 'communities started complaining that we had not heard from them,' explains Hoosain (personal communication, March 24, 2000). This was especially troubling because around this time it emerged that only those who the TRC found to be victims of gross human rights violations would be eligible for proposed reparations.

The TRC realised that it should extend its reach to these communities, but had no budget to do so (K. Hoosain, personal communication, March 24, 2000). It sought, therefore, a Flemish donation of R1,629,480 (of which R767,208 was spent) to launch the Designated

Statement Taker (DST) Programme. This donation was formalised in December 1996 and after many delays the Commission was able, in April 1997, to pay community-based organisations, like NGOs and churches, to take statements on its behalf ('TRC and NGOs,' 1997). Some three hundred people within these organisations were appointed as DSTs and were used to take statements specifically in areas that had been previously neglected by the Commission or were known to have experienced a high incidence of human rights abuse (TRC, 1998b, vol.1, chap.6, sect. 16).

The TRC had hoped to generate some 27,000 statements through the DST Programme. The Programme actually generated around 4,000. Nonetheless, this figure represents over 20 percent of all statements taken by the Commission. Perhaps more importantly, the DST Programme helped ensure that people of all backgrounds could gain access to the TRC (TRC, n.d., p. 4).

It seems fair to argue, therefore, that the TRC's outreach to victims would have suffered had it not been for foreign aid. This point is reinforced by the fact that the United States Agency for International Development (USAID) funded two further outreach projects: workshops to help design a Reparation and Rehabilitation (R+R) policy and the DRST (Designated *Reparation* Statement Taker) Programme.

Much of USAID's first grant to the TRC - worth R2,400,000 - paid for consultative workshops held by the R+R Committee throughout South Africa. This way the Committee was able to discuss its proposed reparation policy with victims, as well as NGOs and academics (TRC, 1998b, vol. 5, chap.5, sect. 36). According to the R+R Committee Chairperson, Hlengiwe Mkhize (personal communication, April 26, 2000), 'Without foreign funding we would have been extremely limited in the number of workshops held'.

One of the recommendations issued by the R+R Committee was for victims in urgent need to be provided with interim reparations, ranging from R2,000 to R5,000, to help them during the period the Government would require to establish a long-term reparative scheme. Government approved this interim reparation policy and charged the TRC with its implementation. The first reparations were delivered in July 1998. In order to access this interim relief, the 25,447 victims of gross human rights abuses identified by the TRC were required to complete an application, in English, to determine if they met the requirements for 'urgent need' (TRC, 1998b, vol. 5, chap.5, sect. 56). However, many of the victims expected to complete the application were illiterate, unable to write in English, or otherwise unable to cope with the form. Consequently, the TRC sought and received R720,000 (out of a larger grant of R4,500,000) to employ multilingual fieldworkers, dubbed Designated Reparation Statement Takers (DRSTs), to assist victims complete the form (Minyuku, 1998a, p. 2).

A more public process

The TRC explains that its hearings developed into a 'core' element of its work (TRC, 1998b, vol. 1, chap. 6, sect. 36). Simpson (1998, p. 20) lauds the Commission for having generated:

Unique and extensive media coverage in both print and electronic media. In particular, images and voices of victims and survivors, who testified about their

experiences under apartheid's repression, were viewed and heard in the homes of most South Africans. Over two years, this unquestionably had a dramatic impact on the popular psyche of all South Africans. This alone went some way towards achieving one of the TRC's major aims: the public acknowledgement of the trauma experienced by victims of all sides of the South African conflict [T]his enduring achievement cannot be underestimated.

An integral aspect of the Commission's hearings was the provision of simultaneous translation for any of the local languages being used. This was a pioneering endeavour for a public body in South Africa that proved 'invaluable' because it allowed victims and others to communicate to the TRC—and by extension the media—in whichever language they felt most comfortable (K. Hoosain, personal communication, March 24, 2000). According to the Commission, 'this undoubtedly contributed to the freedom and richness of the testimony' (TRC, 1998a, p. 8). It was also, however, one of the most costly aspects of the TRC's public process. Former TRC Finance Director, Kariem Hoosain (personal communication, March 24, 2000), recalls that translation was one of the aspects of the TRC for which donor funding was most needed. Accordingly, R3,392,000 from the European Union (from a total donation of R7,907,218) was devoted to paying for the TRC's translation services between February 1997 and June 1998 (TRC, 1998a, p. 5). Without this amount, it is difficult to imagine how the TRC would have maintained its very public process into the second year of its life.

A bolstered Investigation Unit

As discussed in Chapter Three, the TRC Investigation Unit (IU) faced a dire lack of human resources: only 89 odd people were available to 'investigate' over 20,000 cases. Simpson (1998, p. 21) argues that the 'limitations on the capacity of the Investigative Unit ... were essentially rooted in cost considerations'. As has been shown, its paucity of resources left the IU with little time for proactive investigations. Instead, it scrambled to corroborate victims' statements, and even then at a 'low-level' of rigour. This scenario would, naturally, have been worse if donors had not agreed to second investigative staff to the Commission. The situation would have been even more serious had international financial assistance to the IU also been denied.

USAID provided the IU with R200,000 specifically to conduct its 'special investigations' into strategic cases of abuse that had 'potential to present a huge portion of evidence' about South Africa's past (Minyuku, 1998b). For its part, the EU provided the TRC with some R2,184,000 for investigations, which the Commission ploughed into the low-level corroboration of victims' statements (TRC, 1998a, p. 4). It seems reasonable to presume that without this extra support even more of the IU's resources would have been diverted from in-depth investigation to cursory corroboration.

Beyond helping the IU directly, foreign donations were also key to an important adjunct of the Commission's investigations: its Witness Protection Programme. South Africa's truth commission was the first such body in the world to create a witness protection unit, whose purpose was to protect victims, amnesty applicants and others who feared that coming forward to the Commission would put them at risk (Hayner, 2001, p. 245). While innovative, the Programme was severely limited by a lack of funds (Simpson, 1998, p. 20). As a result, the TRC Report (1998b, vol. 1, chap. 11, Witness Protection Programme,

Management and Operational Report, sect. 7) indicates that 'witnesses could only be placed under protection as a last resort,' raising serious questions about the efficacy of the Programme. This unfortunate situation would likely have been even more distressing without donor aid; the TRC spent R1,607,000 on witness protection between 1 April 1996 and 31 March 1998. Of this, R1,350,000 (84 percent) came from a donation made by Austria (TRC, 1998d, p. 4).

Filling in the gaps

Beyond these cases of assistance, donor funding was applied to several other areas in which the TRC's domestic budget fell short. For example, in total the Danes, Dutch and EU supported the TRC's Research Department (RD) with around R1,865,000 (TRC, 1998e, p. 7; TRC, 1999a, p. 7; TRC, 1999b, p. 5). This allowed the RD to afford both workshops and consultancies that its former Director describes as 'vital' (C. Villa-Vicencio, personal communication, April 6, 2000).

When in late 1996, the TRC realised it was overwhelmed with amnesty applications, donors were also called to help. The South African Government agreed to legislate the expansion of the Amnesty Committee from five to eleven members but flatly refused to pay for the associated increase in costs. Sweden came to the TRC's rescue with a donation of R4,475,000 to cover the new members' salaries as well as a major reinforcement of the Amnesty Committee's staff for approximately one year (TRC, 1998f, p. 11). It seems likely, then, that the slow pace of the Amnesty Committee—which has, to quote one Commissioner, 'tarnished' the whole TRC—would have been even more sluggish without foreign aid.

International Funding to Truth Commissions: The Broader Merits

In South Africa, in sum, donors played a critical role buffering the TRC from a reduction in its domestically provided budget. Given that the TRC was determined to be a process sensitive to victims, exposed to the public, and effective at uncovering the truth, it would seem, based on the examples above, that the Commission would have been "severely hampered"—to borrow Tutu's phrase—without donor aid. Without donors, the TRC would likely have been far less successful in so far as its outreach to victims, and public accessibility and investigative potency would have diminished.

Extrapolating from the experience of the TRC, it seems likely that donors will be required to play a similar role vis-à-vis future truth commissions in other transitional and post-conflict states. As Simpson (1998, p. 21) writes, if 'a truth recovery process is to be successful, then it will be exceedingly costly'. There is a real risk, therefore, that domestic authorities will undermine the process by under-funding it.

This may not be done nefariously; governments in post-conflict and transitional states generally face many competing fiscal priorities. Their financial commitments to relatively small and transient institutions like truth commissions may, therefore, simply fall by the wayside, leaving these bodies with an unfunded mandate.

More problematically still, governments may seek to control truth commissions by their purse strings. Hayner (1996b, p. 179) argues that:

To the extent possible, full funding for [a] commission should be committed and available at the start of the commission's work. This is particularly important if the commission is fully or largely funded by the government that is under investigation, so that the question of continued funding cannot be used, or perceived to be used, as a point of leverage to influence the commission's work.

The independence of a truth commission is critical to the credibility of its findings. Donors can play a crucial role here—supplementing the commission's budget in order to counter any malevolent government fiscal manipulations.

International support can also protect truth commissions from financial shocks other than budget cuts, for instance, unforeseen costs that need to be met urgently. A classic such shock struck the TRC approximately mid-way through its life: the South African Broadcasting Corporation (SABC) announced that it did not have money to broadcast the Commission's hearings (Graybill, 1998, p. 123). Yet the Commission relied on the SABC, especially radio, to get its message out to the public in several languages. Presumably, the TRC could have turned to government for help, but it was quicker and more effective to seek foreign assistance (K. Hoosain, personal communication, March 24, 2000). The TRC did just this, receiving a Norwegian grant of approximately R3 million to pay the SABC to continue radio broadcasts of the TRC's hearings for an additional nine months (TRC, 1999c, p. 3). Given that the 'social impact ... of public testimony has been [arguably] the greatest achievement of the TRC (Simpson, 1998, p. 7),' it is clear that the Commission benefited immensely from being put back 'on the air' thanks to Norway.

Pitfalls to Avoid

To surmount government cuts and parry unforeseen costs the TRC became 'fairly dependent' on international funding (K. Hoosain, personal communication, March 24, 2000). This created a potential for two distinct pitfalls: first that donors would seek to unduly influence the TRC and second that delays in required aid would hurt the Commission. The former difficulty was evaded, but the latter proved troublesome.

Undue influence avoided

It was out of the question for the Commission to become beholden to donors. 'We held very closely to our independence,' says Commissioner Randera (personal communication, April 11, 2000), who adds that 'donors were as perplexed by this process as anybody else' and so were unlikely to contribute much through close involvement. Donors all appreciated this perspective. For instance, François Dronnet (personal communication, April 18, 2000), with the European Union, suggests that donors had little time to keep informed about the TRC and the Commission made little effort to cultivate a close relationship with donor representatives. Dronnet describes the EU's decision to fund the Commission as 'a leap of faith, since we had very little clue whether the TRC was being effective or not'. Aud Marit Wiig of the Norwegian Embassy (personal communication, April 18, 2000) echoes this, commenting that the TRC, unlike other public institutions in South Africa, made little effort to keep donors up to speed with its progress. It had no international liaison office and did not invite donors for briefings, 'so donors knew very little about what was going on in the TRC apart from what we read in the press'. Wiig emphasises, however, that:

We should not be upset about that because this had to be seen as a South African process Donors should not have had a very prominent role in it at all. What we did was assist, but it would have been disastrous for the whole process if donors had been seen to have done more.

This point - that donors must not be seen to be unduly interfering in the work of a truth commission - should be borne closely in mind whenever foreign aid to such commissions is administered. As Shea (2000, p. 53) points out, 'if a truth commission is to be credible it must have the freedom to exercise judgement, even on controversial issues, free from influence - direct or indirect - from the government . . . [but also from] any other major political players,' including foreign governments.

In South Africa, donors gave the TRC this freedom. Willie Greyvenstein, Finance Director at the Commission, characterises donors' attitudes towards the TRC as 'extremely flexible' (personal communication, March 8, 2000). One donor, Austria, made a 'general' donation to the Commission, allowing the TRC to decide how the money should be spent (K. Hoosain, personal communication, March 24, 2000).¹⁹ All other donors preferred to fund specific projects proposed by the Commission and required a work plan from the TRC before funds were disbursed. However, donors invariably accepted requests for midstream reconfigurations of these projects.

Even when the TRC patently failed to implement a project agreed to with donors, the latter showed understanding. As previously discussed, the TRC Investigation Unit (IU) had undertaken to acquire five seconded officers from Southern Africa using EU funds. Whether for lack of time or interest, the IU's attempts to recruit these officers were flaccid; a few high commissions and embassies were contacted, but little follow-up was pursued (Goosen, 1997). The EU threatened to reclaim the money earmarked for foreign investigators if the TRC did not expedite their hiring (Fouréré, 1997). Nonetheless, the Commission decided to abandon the project, ostensibly because further contact with diplomatic missions in Pretoria turned up no suitable candidates from former front-line states. Despite its previous threat, the EU quickly turned around and allowed the Commission to redirect funds designated for foreign investigators into the hiring of sixty South Africans to work on low-level corroboration (Hoosain, 1997).

Finally, donors constantly extended the duration of their financing agreements with the TRC, to accommodate the Commission's numerous prolongations (K. Hoosain, personal communication, March 24, 2000).

For donors such flexibility was absolutely reasonable. They understood that the TRC was an unpredictable process and adjustments in its financial needs were to be expected (F. Dronnet, personal communication, April 18, 2000).

Troublesome delays

The only serious problem the TRC experienced with international funding was nothing so dramatic as meddling donors; it was domestic red-tape (K. Hoosain, personal communication, March 24, 2000). The Commission was initially under the impression that it could accept international donations directly. However, the State's legal advisors

indicated that all 'donations received by the Commission had to be formally approved by the Department of State Expenditure through the Reconstruction and Development (RDP) Fund' (TRC, 1998b, vol. 1, chap. 11, Finance Department Management and Operational Report, sect. 36). This Fund is the central mechanism for donor coordination within South Africa and all donations to government bodies must pass through it (Ameringen, 1998, p. 3).

Hoosain (personal communication, March 24, 2000) explains that, nevertheless, the RDP Fund was 'not at liberty' to refuse proposed donations to the TRC:

Technically, they could have said no we are going to use this money for something else. But what inevitably would have happened is that the donor funding country would say "sorry" then we won't make the money available.

The RDP's stamp was, however, required before international funds could be released to the TRC and this could take an excruciatingly long time. 'We got money from donors and it sat in the RDP Fund for a year,' laments Hoosain (personal communication, March 24, 2000). Eventually, as the TRC 'developed a relationship' with staff at the RDP Fund this turn-around time decreased from 'a year to three months'. But the damage had been done. The TRC (1998b, vol. 1, chap. 11, Finance Department Management and Operational Report, sect. 37) explains that the RDP Fund's:

[B]ureaucratic procedures resulted in a number of delays in the launching of projects for which the Commission had obtained donor funding. The net result of these delays was that the Commission was not able to extract optimum value from the various projects funded by donors.

This is clearly illustrated by the Designated Statement Taker (DST) Programme (K. Hoosain, personal communication, March 24, 2000). The project was meant to have run for a full six months, but because of a delay in receiving funds, actually ran for three (TRC, 1998c, p. 4). This undoubtedly contributed to the relatively disappointing number of statements collected (4,000 of an anticipated 27,000). Moreover, it ensured that the quality of the statements, in terms of their logic and factual content, suffered, since less time was available for DST's to sharpen their skills and for poor statement takers to be weeded out (P. Pigou, personal communication, April 20, 2000).

The lesson is clear. Because of their short life spans, truth commissions are especially vulnerable to the negative effects of delays in anticipated donor funding. Future commissions and donors should invest early in a system to expedite the receipt of aid, so that important projects are not left floundering in a bureaucratic morass.

Chapter VI. Lacunae in International Support to the TRC?

Having explored foreign support received by the TRC, it appears that the Commission benefited significantly, if not always optimally, from international secondments and financing. It seems, by extension, that future truth commissions are likely to benefit from such aid as well. This assessment of foreign assistance to the TRC would not, however, be complete without some consideration of international support that might have been.

There appear to be three noteworthy avenues of international support to the TRC that, for various reasons, have been forsaken. Firstly, foreign governments provided very little evidence to aid the Commission in its investigations. Secondly, no international agreement was reached to uphold the amnesty provisions of the TRC. Such an understanding might have encouraged more perpetrators to come forward, since many may have been deterred for fear that their amnesty applications would lead to extradition. Finally, foreign governments have lacked both the will and the ability to back the implementation of the TRC's critical recommendations such as compensation for victims.

Evidence from Abroad: Limits to an Ideal

As discussed in Chapter II, the provision of evidence has been highlighted as a key means by which foreign governments can support truth commissions in post-conflict and transitional states. Hayner (1996b, p. 26), for example, has identified discovering how truth commissions 'might gain access to information' from foreign governments as a priority for future research. Interestingly, however, the largest truth commission to date - the TRC - hardly sought any cooperation from foreign officials with respect to collecting evidence.

The inactivity of South Africa's truth commissioners on this front contrasts markedly with the struggle waged by their equals in El Salvador and Guatemala. Why truth commissions in El Salvador and Guatemala would lobby a foreign government, the United States specifically, to provide considerable evidence seems clear: the Americans were heavily involved in the conflicts of these respective countries and so were highly likely to have information pertaining to past atrocities. But why would South Africa's truth commission not seek equivalent foreign cooperation?

Unlike the Salvadorean and Guatemalan cases, in South Africa there was little motivation to seek foreign evidence to better understand atrocities that had occurred inside the country (N. Rousseau, April 5, 2000). External actors were not seen to have played a major role in the perpetration of gross human rights violations within South Africa. Moreover, with its ambitious collection of victims' statements and amnesty applications, the TRC felt it had enough evidence to cope with concerning internal violations. 'We never suffered from a shortage of material,' says former Research Director, Charles Villa-Vicencio (personal communication, April 6, 2000), 'Our main problem was too much material'.

Where the TRC had cause to seek foreign cooperation was in the investigation of apartheid-related atrocities committed outside South Africa.

The [TRC Act](#) mandated the Commission to investigate gross human rights violations committed during the course of the apartheid conflict either 'within or outside the Republic' (Promotion, 1995, sect. 1(1)(ix)(b)). No prioritisation was given to atrocities committed on South African soil versus those that occurred abroad.

Once established though, the Commission made a clear distinction between violations inside and outside South Africa, devoting the lion's share of its resources to investigate the former (J. Daniel, personal communication, March 29, 2000).²⁰ Initially, the TRC had planned to hold hearings in former 'front-line' states like Botswana, Lesotho and Namibia that had been the scenes of apartheid-inspired terror. This idea was abandoned, however, for

lack of time, resources and amenability amongst the old front-line states ('Truth commission in quandary,' 1997). Likewise, the Commission made virtually no attempt at collecting victims statements outside South Africa. It did receive approximately two hundred statements from citizens of neighbouring states alleging violations by the apartheid regime outside South Africa. These victims were able to access the Commission because they were present in South Africa to submit their statements (J. Daniel, personal communication, March 29, 2000). Nonetheless, the Commission, 'lacking the resources and time to address such claims,' declined to make findings on these statements or recommend reparations for these purported victims (TRC, 1998b, vol. 5, chap. 8, sect. 113).

Arguably, the failure of the TRC to deal vigorously with apartheid-era atrocities in former front-line states bodes ill for regional reconciliation in Southern Africa. This compelling issue will have to be dealt with elsewhere. Suffice it to say, it is understandable that the TRC chose to sideline 'outside' violations. As has been shown above, the TRC barely had the resources to deal with atrocities inside South Africa. The question of reparation for victims greatly complicated matters as well. According to Commissioner Randerer (personal communication, April 11, 2000), the TRC feared that if it found non-South Africans to be 'victims', it would open the 'floodgates' on demands for international reparations from South Africa. The Commission was already having a distressing time generating enthusiasm for the compensation of South African victims. Randerer recalls:

We [Commissioners] simply could not imagine how we could deal with the reparation issue in regard to Zimbabweans and Swazis and Basothos; so people just sat tight. Out of practicality we decided just not to go there.

The TRC did not completely neglect investigating violations outside South Africa, but few resources were allocated to this gargantuan task. The responsibility for this probing fell predominantly on two research consultants. John Daniel dealt with violations of the former state outside South Africa, specifically in Southern Africa and Western Europe. Janet Cherry investigated atrocities of the liberation movements, including those occurring in front-line states, notably at ANC training camps and detention centres (C. Villa-Vicencio, personal communication, April 6, 2000). The Investigation Unit also scrutinised a handful of high-profile cases outside South Africa such as the assassinations of former ANC representatives in exile (D. Ntsebeza, personal communication, April 6, 2000).

The TRC inquiries on 'outside' violations were based primarily on information in (South African) victims' statements and amnesty applications.²¹ The Commission also benefited from a wealth of secondary material, some of which was assembled by two independent Dutch research bodies (which had previously been anti-apartheid NGOs) that were funded by the Netherlands to conduct work on behalf of the TRC (J. Daniel, personal communication, March 29, 2000).

It was exceptionally rare for the TRC to seek international cooperation during its investigations of violations outside South Africa. Indeed, the examples of the TRC asking a foreign government for help with evidence can be counted on one hand.

From the United Kingdom (UK), the TRC sought and received permission to interview a former South African military operative, jailed in England on a drug offence, who provided

the Commission with a 'very important statement' on the Kassinga massacre (J. Daniel, personal communication, March 29, 2000).²²

France provided the TRC with copies of the files of the judge who investigated, but could not solve, the 1988 assassination of Ms. Dulcie September, the ANC's Chief Representative in Paris (TRC, 1998b, vol. 2, chap. 2, sect. 308). Perhaps not surprisingly though, French intelligence, which stands accused of abetting the murder, refused to cooperate with the TRC (J. Daniel, personal communication, March 29, 2000).

Namibia assisted the TRC in investigating the 1989 assassination of Advocate Anton Lubowski, then the Secretary-General and highest ranking white member of the South West African People's Organisation (SWAPO). Lubowski's killing was allegedly the work of the Civil Cooperation Bureau (CCB), a covert hit squad of the South African Defence Force (SADF as the military was then called), but his murder in Windhoek remained unsolved (TRC, 1998b, vol. 2, chap. 2, sect. 141). Namibia's Attorney-General handed his file on Lubowski over to the TRC and several Namibian judicial officials were interviewed by the Commission in connection with the case (J. Daniel, personal communication, March 29, 2000).

Finally, cooperation was sought on two occasions from Zimbabwe, but was both times rebuffed. First, the TRC requested the Zimbabwean Police file on the 1981 murder of Mr. Joe Gqabi, the ANC's Chief Representative in Harare, apparently by South African agents. However, this request was systematically ignored. Secondly, the Commission sought to take testimony from four erstwhile agents of the CCB jailed for life in a Zimbabwean prison. All were white Zimbabweans convicted for a 1988 bombing of a house used by the ANC in Bulawayo. One of them, Kevin Woods, applied for amnesty to the TRC on the grounds that he was South African (with dual Zimbabwean citizenship). Commission members knew they could not secure Woods' release and simply wanted to talk with him as well as his former colleagues (J. Daniel, personal communication, March 29, 2000). Nonetheless, 'all attempts by the Commission to gain access to Woods and other agents gaoled in Zimbabwe were blocked by the Zimbabwe government' (TRC, 1998b, vol. 2, chap. 2, sect. 300).

There were three interrelated impediments to the TRC seeking foreign cooperation in its pursuit of evidence.

First, the costs of such cooperation were generally too high. The TRC simply did not have the time to constructively engage foreign governments, especially their slippery intelligence structures, in a search for evidence (N. Rousseau, personal communication, April 5, 2000; C. Villa-Vicencio, personal communication, April 6, 2000). Nor did the Commission have the budget for such work. No funds were available, for example, to pay visits on foreign officials or for necessary translation of documentation from abroad (J. Daniel, personal communication, March 29, 2000). According to its head - Dumisa Ntsebeza (personal communication, April 6, 2000) - the Investigation Unit 'never even touched' the file it had been given from France on the Dulcie September killing because the IU had not managed to get it translated and none of its members read French.

Second, attempts at eliciting evidence were widely met with resistance from foreign

governments, particularly in Southern Africa. Namibia, while prepared to help with the Lubowski case, made it clear that the TRC was not to dig into other incidents (C. Villa-Vicencio, personal communication, April 6, 2000). Even a diplomatic request by President Mandela failed to convince Zimbabwean President Robert Mugabe to allow the TRC a meeting with Kevin Woods. Similarly, TRC research consultant John Daniel (personal communication, March 29, 2000) says that 'Lesotho, Swaziland, even Botswana didn't want us poking around'.

The broad reasons for this resistance are twofold. Daniel (personal communication, March 29, 2000) contends that apartheid agents penetrated the power structures of front-line states with remarkable success. 'There was an incredible level of collaboration' with South Africa that remains concealed. That is why, argues Daniel 'governments in Southern Africa didn't want the TRC fishing around'. Most of the former front-line states are also very vulnerable in terms of their own human rights records. Zimbabwe, for instance, suppressed all investigation into the conduct of its military during the Matabeleland Massacres of 1983-85. Namibia has refused to 'countenance even an inquiry into human rights abuses during its [independence] war or any investigation of the ill-treatment of SWAPO dissidents' (Kibble, 1998). These countries feared, therefore, that cooperation with a truth-recovery process like South Africa's TRC could be the 'thin edge of the wedge' prying open their own skeleton-laden closets (J. Daniel, personal communication, March 29, 2000).

Beyond a lack of resources and intransigence in former front-line states, the TRC faced a third barrier to foreign assistance over evidence: the threat of violence. While it might have been useful to visit sites in Angola - including former ANC facilities where atrocities occurred - renewed fighting in that country made this impossible (J. Cherry, personal communication, March 30, 2000).

The TRC's experience with foreign cooperation in the sphere of evidence appears, in short, to confirm that this type of international assistance is especially difficult to achieve. It requires a considerable investment by the truth commission concerned, in terms of organisational time and resources. More importantly, countries with useful information are likely to resist sharing it, for fear that their own dirty linen will be exposed in the process.

The TRC's experience also suggests, however, that foreign cooperation with respect to information *can* be highly valuable to truth commissions. As mentioned, the UK, by giving the TRC access to a jailed South African, assisted the Commission in garnering crucial testimony on the SADF. Naturally, it is impossible to say exactly what the TRC might have learned had it secured more foreign support for its investigations, but anecdotal evidence suggests that opportunities were lost. The Commission reports that Zimbabwean stonewalling hampered its inquiry into the Gqabi case (TRC, 1998b, vol. 2, chap. 2, sect. 232). Zimbabwe's refusal to allow the TRC to interview Kevin Woods was also a disappointment. The Commission had hoped that Woods would blow the whistle on the infamous Civil Cooperation Bureau. Daniel (personal communication, March 29, 2000) explains that:

Aside from Woods nobody had come forward from the CCB. So we thought he was a very important source who could tell us how the organisation operated, especially their agents in front-line states.

Unfortunately, Zimbabwean obduracy impeded the realisation of this potential.

A Deal on Extradition: Piercing a Barrier to the Truth?

In its *Report*, the TRC (1998b, vol. 2, chap. 2, sects. 3-4) notes that by the 1980s 'the South African Defence Force (SADF) was involved in various levels of warfare in six Southern African states, while covert units conducted attacks particularly in Botswana, Lesotho and Swaziland'. The Commission concludes in turn that:

The majority of the victims of the South African government's attempts to maintain itself in power were outside of South Africa. Tens of thousands of people in the region died as a direct or indirect result of the South African government's aggressive intent towards its neighbours. The lives and livelihoods of hundreds of thousands of others were disrupted by the systematic targeting of infrastructure in some of the poorest nations in Africa.

As a result of these facts, the TRC made many requests for information to ex-SADF leaders and urged perpetrators of gross human rights violations within the former military to confess in exchange for amnesty. But throughout its life the Commission met with nothing but defiance from members of the former SADF (J. Daniel, personal communication, March 29, 2000).²³ According to Commissioner Denzil Potgeiter, ex-apartheid military leaders:

Did not give the material asked for. Instead they flooded the commission with irrelevant technical detail about military structure. This was very frustrating We were trying to elicit information from people who had no interest in cooperating with the commission. (Gumede, 1998, p. 36)

Another notable obstructionist tactic employed by the former SADF leadership was to raise the spectre of extradition for those who confessed to the TRC. Ex-SADF generals went so far as to advise their ilk against applying for amnesty, ostensibly because evidence presented concerning atrocities during cross-border raids and other operations outside South Africa risked leading to the extradition of amnesty applicants to the countries where violations had occurred ('Only new laws,' 1997).

It is evident that the SADF elite's purported concern over extradition was disingenuous. By and large, diplomatic representatives of former front-line states indicated that they had no desire to extradite apartheid's ex-combatants ('Botswana, Mozambique,' 1997). In any case, it was unlikely South Africa would fulfil requests for such extradition given the potential political fallout amongst whites (F. Randera, personal communication, April 11, 2000). Yet sowing uncertainty over the extradition issue appears to have assisted former SADF generals undermine the truth recovery efforts of the TRC, for very few of the apartheid regime's soldiers confessed to the TRC. Amnesty applications came disproportionately from ex-security police, not the military (J. Daniel, personal communication, March 29, 2000).

This raises an interesting idea for what could have been useful foreign support to the TRC: some form of international agreement or understanding to not seek the extradition of those amnestied by the Commission. This might only be wishful thinking, given the complexities

of international diplomacy. If feasible, however, such an undertaking could have reinforced the attraction of confession to those SADF combatants involved in atrocities. This, in turn, may have enhanced the number and quality of revelations concerning apartheid-era violations outside South Africa garnered by the Commission. While it is too late for such an arrangement vis-à-vis South Africa, it should be considered for future truth commissions that emulate the amnesty-for-truth provisions pioneered by the TRC, since the risk (real or perceived) of extradition will inevitably deter perpetrators from revealing their crimes.

Backing the Commission's Call for Reparations

Chapter II underscored that the efficacy of most truth commissions has been eroded because governments systematically fail to implement commissioners' recommendations. It was further suggested that international action could reverse this trend, at least in certain cases.

Depending on how one counts them, there are some two hundred and fifty recommendations in the TRC's *Report* (Shea, 2000, p. 61). A detailed examination of the issues surrounding the implementation of these recommendations is far beyond the scope of this study. Nonetheless, to understand international support to the TRC from start to finish, it is important to briefly consider what foreign governments are doing to see the Commission's recommendations through to fruition. The short answer is both a lot and little at all.

'A lot' because many recommendations of the Commission are so broad that they necessarily encompass objectives towards which donors are working. For instance, the TRC (1998b, vol. 5, chap. 8, sect. 21) recommends that the Government enhance South Africa's human rights culture by recommitting itself 'to regular and fair elections'. Similarly:

The Commission recommends that government accelerate the closing of the intolerable gap between the advantaged and disadvantaged in our society by, *inter alia*, giving even more urgent attention to the transformation of education, the provision of shelter, access to clean water and health services and the creation of job opportunities. (TRC, 1998b, vol. 5, chap. 8, sect. 14)

'Little at all' because on the most crucial of the Commission's recommendations, even donors that gave generously to the TRC are clearly cautious in their approach.

The main proposal that bears on this point is the 'final' reparation of victims. As it was mandated to do, the Reparations and Rehabilitation (R+R) Committee announced its proposed final policy on 23 October 1997, which was subsequently submitted to Parliament as part of the TRC's Report in October 1998.

The Committee recommends a number of symbolic measures to atone for the suffering of victims such as the renaming of streets, initiating a day of remembrance and erecting monuments (TRC, 1998b, vol. 5, chap. 5, sect. 28). Far more controversially, however, the Committee also calls on the Government to make 'individual reparation grants' (IRGs) to those identified as victims by the TRC. The R+R Committee justifies the IGRs as an:

Acknowledgement of a person's suffering due to his/her experience of a gross human rights violation The individual reparation grant provides resources to victims in an effort to restore their dignity. (TRC, 1998b, vol. 5, chap. 5, sect. 68)

The Committee notes that, when asked what compensation they required, only the minority (38 percent) of victims requested financial assistance, while the vast majority (90 percent) asked for access to services such as education, medical care and housing (TRC, 1998b, vol. 5, chap. 5, sect. 68). The Committee opted to push for IRGs on the rationale that cash grants would allow victims to access the services they desired while simplifying the administration of reparations (W. Orr, personal communication, April 11, 2000).

The maximum IRG would total R23,023 per annum for a six-year period. The exact amounts would vary according to the number of dependants/relatives of the victim and would differentiate between rural and urban-dwelling victims (based, for instance, on the assumption that accessing health services is 30% more expensive in rural areas). All grants are to be disbursed through the 'President's Fund', previously established by the Government to make urgent interim payments to victims. The projected budget for the six years is R2,864,400,000 (TRC, 1998b, vol. 5, chap. 5, sects. 69-75).

The Government's response to the Commission's proposal has disappointed many. It has taken more than two years for the Government to make any formal pronouncement on reparations, and it appears that it is prepared to disburse a maximum of R824 million, against the TRC's recommended figure of almost R3 billion (Merten, 2001).

The Government's lassitude regarding reparations has been a major liability for the TRC. The Commission, it must be recalled, conceived of itself as a 'victim-driven' process. It hoped to temper amnesty that served perpetrators with truth-telling and a reparations policy to serve victims. Due to government inaction on reparations, 'an essential counterbalance' to amnesty has been weakened (TRC, 1998b, vol. 5, chap. 5, sect. 3), and the TRC appears to have become more 'perpetrator-driven' than it would have preferred. Not surprisingly, this has created frustration amongst victims identified by the TRC, who feel short-changed (Matlou, 2001). Ironically, the present consternation of victims appears to have been aggravated by the TRC's Commissioners, who asked victims at hearings to describe specifically what compensation they sought. In fairness, this may have been necessary for the Commission to propose a reparation policy sensitive to victims' needs, but it has had an unfortunate side effect: raising the expectations of victims for reparation - expectations that have since been dashed (Graybill, 1998, p. 121). As its Vice-Chairperson, Alex Boraine, has admitted, 'The gap between hearings and actual reparations is a major weakness of the TRC' (Hamber & Kibble, 1999, p. 17).

So what could donor governments have done to help the TRC out of this reparation conundrum? The Commission's answer: give money. Foreign donations, it was hoped, would set a positive example for the national government to get moving on reparations, and might have inspired South African businesses to give as well (M.-A. Antonietti, personal communication, April 26, 2000; 'Tutu calls,'1997). This was deemed necessary because, says Commissioner Wendy Orr (personal communication, April 11, 2000), after about a year of the TRC's life 'it became apparent that Government was not really terribly enthusiastic about allocating money to reparations'. The issue came to a head over the

question of funding for urgent interim payments to victims. According to Orr, the Government agreed to give the funds required for urgent reparations, but was extremely non-committal regarding any further disbursements:

That is when we began to sense that this [funding issue] was going to be very problematic and requests for foreign donations to the President's Fund moved higher and higher up the agenda.

This is echoed by Paddy Clark (personal communication, April 6, 2000), Assistant to the TRC Vice-Chairperson: 'At the end, Dr. Boraine worked extraordinarily hard on seeking foreign donations to the President's Fund. But we didn't do as well as we had hoped for'.

Indeed, only three countries gave to the President's Fund: Denmark gave R1.5 million; Switzerland R3.3 million; and, the Netherlands R3.7 million (Hoosen, 2000). For the latter two, this appears to have been done as much out of deference as desire; the Swiss and Dutch gave only in response to requests made by a figure no less prominent than Nelson Mandela, during visits with their respective State President and Minister for Development Cooperation (M.-A. Antonietti, personal communication, April 26, 2000; A. Haspels, personal communication, March 24, 2000).

By and large, however, donors declined to give to the President's Fund based on the following rationales: (i) it was not appropriate for donors to be paying for reparations - South Africans should take responsibility; (ii) whatever they could give would, in any case, be trivial given the R3 billion cost of reparations proposed by the TRC; or (iii) in the absence of a firm government policy on reparation, it was premature to give to the Fund (A. Haspels, personal communication, March 24, 2000; T. Kjellson, personal communication, March 23, 2000; H. Motshwane, personal communication, March 27, 2000; A. M. Wiig, personal communication, April 18, 2000).

Nor have donors been prepared to put any political pressure on South Africa to implement a reparation policy. Virtually all donors to the TRC indicated that reparation was an 'internal matter' for South Africans to resolve. This reflects, according to Commissioners Mkhize (personal communication, April 26, 2000) and Orr (personal communication, April 11, 2000), a calculation on the part of donors that reparations are not a sufficiently important issue over which to risk good relations with a regional economic and political power like South Africa. Commissioner Randera (personal communication, April 11, 2000) also wonders what pressure donors would have to apply since 'less than 2% of South Africa's GDP comes from foreign aid'.

In sum, there are clear limits to the support foreign governments have accorded the TRC process. In terms of girding the Commission in its daily operations, donors have been generous with both personnel and financial support. In contrast, donors have been of little use in helping the TRC face arguably its greatest challenge: ensuring that the victims of gross human rights violations receive the compensation Commissioners say they deserve.

Chapter VII. Key Findings

In sum, it appears foreign assistance has significantly enhanced the TRC's ability to

accomplish its four operational goals: (i) revealing the truth about apartheid-related gross violations of human rights between 1960 and 1994; (ii) granting amnesty to perpetrators who cooperate with the Commission; (iii) restoring the dignity of victims by recognizing their plight and recommending appropriate reparations; and (iv) recommending measures to prevent future human rights abuses.

International secondments to the TRC

The early arrival of seconded investigators from various European countries enabled the TRC to get moving more quickly. Seconded staff also considerably increased the size of the Commission's Investigation Unit, allowing more extensive probing of apartheid-era atrocities, notably through the verification of both victims' allegations and the confessions of perpetrators applying for amnesty.

More importantly, foreign investigators brought with them skills that improved the Investigation Unit's effectiveness. International investigators with the TRC were able to mentor their less experienced South African counterparts. The administrative expertise of the international staff was also an asset to the Commission. For example, procedures for corroborating victims' statements were designed by a secondee. Moreover, international expertise in the use of crime analysis software was put to good use in helping to evaluate the veracity of perpetrators' amnesty applications.

Unfortunately, however, the TRC failed to choose international secondees with much care. Consequently, a mismatch developed between the seniority of investigators arriving from abroad and the TRC's desperate need to conduct voluminous but very basic investigatory work to corroborate victim statements. The TRC also provided little guidance to secondees, with the result that some secondments turned into paid holidays. Arguably, the TRC would have been better to select fewer secondees, more carefully, for specific skills. The funds saved could have been used by donors to support more pressing needs of the Commission, including the hiring of local junior investigators.

Financial backing to the Commission

It was only with substantial foreign financial backing that the TRC was able to overcome a major cut in its budget by the South African Government. Furthermore, international aid allowed the TRC to quickly resolve an unexpected crisis: being taken off air by an ostensibly cash-strapped South African Broadcasting Corporation. Without donor support the TRC would have been far less successful since three of the Commission's crucial elements - outreach to victims, public accessibility and investigative potency - benefited considerably from foreign aid projects. International aid also sped up the processing of amnesty applications and enhanced the research capacity of the Commission.

Foreign financial donations to the Commission would, however, have been more effective had they reached the TRC more promptly. Sadly, bureaucratic procedures of the South African Government caused delays in the TRC's receipt of donor funding. This cut short the life of some donor-funded projects, such as the collection of victim statements by NGOs.

International support for TRC recommendations

Despite their generosity in terms of secondments and financing, foreign governments have been of little help to the TRC in one critical area: seeing the Commission's call for victim reparations implemented. Foreign governments are not willing to become involved in this thorny post-Commission issue by, for example, making donations towards reparations. The challenge of compensating victims of apartheid-era gross human rights abuses rests squarely in South Africa's hands.

Lessons for future truth commissions

The merits of different forms of assistance to other truth commissions will depend on conditions in the pertinent country. The experience of South Africa's commission suggests, at a minimum, that foreign actors have a role to play in the domestic truth-recovery efforts of post-conflict and transitional states. Truth commissions are prone to being under-resourced. Donors can remedy this and ensure that commissions have sufficient financial independence to investigate domestic authorities, notably governments in power, without fear of being starved for funds. Truth commissions also require staff with top-notch managerial and investigative skills (Hayner, 1996a, p. 23). These skills may be difficult to find in countries emerging from conflict or authoritarianism. This is especially true of investigative expertise, since police forces (if they exist) are likely to have perpetrated atrocities themselves and will thus be unsympathetic towards any truth commission. In such circumstances, international secondees can infuse a commission with vital skills unavailable domestically. External aid should not, however, be foisted upon truth commissions. Commissions must be seen to work without undue influence from any quarter, including foreign governments.

Without operational independence, a commission has no hope of producing legitimate findings. Just as the failure of international actors to answer calls for help can severely hamper a truth commission, so too can unwelcome foreign involvement.

Appendix: Interviews Conducted

All interviews were conducted within South Africa during March and April 2000. Please note that this appendix lists all interviews conducted, including those for which no reference appears in the text above.

Name of Interviewee	Function	Institution	Interview Location	Date
Antonietti, Markus-Alexander	Conseiller	Embassy of Switzerland	By phone	26/04
Barnardo, Mike	Witness Protection	TRC	Cape Town	01/03
Börner, Mr.	Second Secretary (Political)	Embassy of Germany	By phone	26/04
Cherry, Janet	Research Consultant	TRC	Port Elizabeth	30/03

Clark, Paddy	Assistant to the Deputy- Chairperson	TRC	Cape Town	06/04
Coetzee, Martin	Chief Executive Officer	TRC	Cape Town	03/03
Daniel, John	Research Consultant	TRC	Durban	29/03
Dronnet, François	Program Officer	Delegation of the European Commission	Pretoria	27/03
Goosen, Glenn	Former National Director of Investigations	TRC	Port Elizabeth	30/03
Granville-Grey, Thulani	Reparations Coordination	TRC	Cape Town	02/03
Greyvenstein, Willie	Financial and Support Services Director	TRC	Cape Town	08/03
Gudenus, Caroline	Minister	Embassy of Austria	Pretoria	22/03
Haspels, André	First Secretary (Political Affairs)	Royal Netherlands Embassy	Pretoria	24/03
Hoosain, Kariem	Former Financial and Support Services Director	TRC	Pretoria	24/03
Johansen, Knud	First Secretary	Royal Danish Embassy	Pretoria	27/03
Kjellson, Thomas	First Secretary (Development)	Embassy of Sweden	Pretoria	23/03
Mkhize, Hlengiwe	Commissioner	TRC	Johannesburg	26/04
Motshwane, Harold	Program Officer	USAID	Pretoria	27/03
Naidoo, Marcella & Yasmin Sooka	Western Cape Regional Manager and Commissioner (respectively)	TRC	Cape Town	07/03
Ntsebeza, Dumisa	Commissioner, Head of the Investigation Unit	TRC	Cape Town	06/04
Orr, Wendy	Commissioner	TRC	Johannesburg	11/04
Parlevliet,	Former Researcher	TRC	Cape Town	05/04

Michelle				
Pigou, Piers	Former investigator	TRC	Johannesburg	20/04
Pinckaers, Joop	Dutch Police Secondee	TRC	Cape Town	03/03
Randera, Fazel	Commissioner	TRC	Johannesburg	11/04
Rousseau, Nicole	Researcher	TRC	Cape Town	05/04
Villa-Vicencio, Charles	Former Director of Research	TRC	Cape Town	06/04
Wiig, Aud Marit	Minister Counsellor	Royal Norwegian Embassy	Pretoria	18/04

References

Ameringen, M. van. (1998). The role of international donors in supporting South Africa's transition. In *Global Communications: Africa* (pp. 1-3). London: Hanson Cook.

Ball, N. & Halevy, T. (1996). *Making peace work: The role of the international development community*. Washington, DC: Overseas Development Council.

Beigbeder, Y. (1999). *Judging war criminals: The politics of international justice*. New York: St. Martin's Press.

Botswana, Mozambique oppose prosecution of former SA soldiers. (1997, April 1). *SAPA*.

Buergethal, T. (1995). The United Nations truth commission for El Salvador. In N. J. Kritz (Ed.), *Transitional Justice: Volume I* (pp. 292-325). Washington, D.C : United States Institute of Peace.

Burying South Africa's past: of memory and forgiveness. (1997, November 1). *The Economist*, p. 22.

Buur, L. (2000). *From the inside-out: a review of how the Truth and Reconciliation Commission's management structure impacted upon the truth*. Manuscript in preparation. Johannesburg: Centre for the Study of Violence and Reconciliation.

Byrne, H. (1999). Background on Guatemala's Historical Clarification Commission [On-line]. Available: <http://www.igc.org/lawg/back.html>. Washington, DC: Latin America Working Group.

Constitution of the Republic of South Africa Act, no. 200 of 1993. South Africa.

Doyle, K. (1999) *Background on the Guatemalan Historical Clarification Commission: Access to declassified US documents* [On-line]. Available: <http://www.igc.org/lawg/declass.html>. Washington, DC: Latin America Working Group.

Dutch detectives in SA to help truth commission. (1996, March 8). *SAPA*.

Fouréré, E. (1997, June 10). [Letter from EU Ambassador, Pretoria, to Alex Boraine, Cape Town]. (EU File, Financial Services Dept., TRC National Office, Cape Town).

Goosen, G. (1997, March 11). [Letter to Kariem Hoosain, Cape Town, 'Implications and implementation of requirements of EU fund']. (EU File, Financial Services Dept., TRC National Office, Cape Town).

Graybill, L. S. (1998) Pursuit of truth and reconciliation in South Africa. *Africa Today*, 45 (1), 103-133.

Greyvenstein, W. (2000, April 26). [Letter from TRC Financial and Support Services Director, Cape Town to report author, Johannesburg, 'Information on donor funding']. Unpublished raw data.

Gumede, W. M. (1998). Military holds out. In S. Dikeni (Ed.), *Siyaya!* (pp. 34-37). Cape Town: IDASA.

Hamber, B & Kibble, S. (1999). *From truth to transformation: The Truth and Reconciliation Commission in South Africa* [Conference Report]. London: Catholic Institute for International Relations.

Hayner, P. (1996a) Commissioning the truth: Further research questions. *Third World Quarterly*, 17 (1), 19-29.

Hayner, P. (1996b). International guidelines for the creation and operation of truth commissions: A preliminary proposal. *Law and Contemporary Problems*, 59 (4), 173-180.

Hayner, P. (2000). Same species, different animal: How South Africa compares to truth commissions worldwide. In C. Villa-Vicencio & W. Verwoerd (Eds.), *Looking back reaching forward: Reflections on the Truth and Reconciliation Commission of South Africa* (pp 32-41). Cape Town: University of Cape Town Press.

Hayner, P. (2001). *Unspeakable truths: Confronting state terror and atrocity*. London: Routledge.

Hearn, J. (2000). Aiding democracy? Donors and civil society in South Africa. *Third World Quarterly*, 21 (5), 815-830.

Hoosain, K. (1997, November 22). [Letter from (former) TRC Director of Financial Services, Cape Town to Ambassador Fouéré, EU Delegation, Pretoria]. (EU File, Financial Services Dept., TRC National Office, Cape Town).

Hoosen, F. (2000, March 02). [Letter from Department of Justice, Pretoria to report author, Cape Town, 'International donations to the President's Fund!']. Unpublished raw data.

Ignatieff, M. (1998). *The warrior's honour: Ethnic war and the modern conscience*. Toronto: Penguin.

Jeffery, A. (1999). *The truth about the truth commission*. Johannesburg: South African Institute of Race Relations.

Kaye, M. (1997). The role of truth commissions in the search for justice, reconciliation and democratisation: The Salvadorean and Honduran cases. *Journal of Latin American Studies*, 29, 693-716.

Kibble, S. (1998, November 24). *The South African Truth and Reconciliation Commission and its relevance for countries to the North of South Africa*. Paper presented at the Churches' Commission on Mission Africa Forum, Catholic Institute for International Relations, London.

Krog, A. (1999). *Country of my skull*. Johannesburg: Random House.

Matlou, J. (2001, March 16). TRC needs R3bn for reparations. *Mail & Guardian* (Cape Town).

Merten, M. (2001, April 16). Apartheid victims' families still wait for reparations. *Mail & Guardian* (Cape Town).

Minyuku, B. (1997, December 5). [Memo from TRC Chief Executive Officer, Cape Town to Desmond Tutu and Alex Boraine, Cape Town]. (USAID File, Financial Services Dept., TRC National Office, Cape Town).

Minyuku, B. (1998a, July 15). [Letter from TRC to Harold Motshwane, USAID, Pretoria, 'USAID funding proposal']. (USAID File, Financial Services Dept., TRC National Office, Cape Town).

Minyuku, B. (1998b, July 21). [Letter from TRC to Harold Motshwane, USAID, Pretoria, 'USAID Funding Request R1, 500,000']. (USAID File, Financial Services Dept., TRC National Office, Cape Town).

Only new laws can protect SADF from cross border prosecution. (1997, May 7). *SAPA*.

Pauw, J. (1998). Terrifyingly normal. In S. Dikeni (Ed.), *Siyaya!* (pp. 30-33). Cape Town: IDASA.

Pinckaers, J. (2000, March). [Letter to the report author from Dutch police officer seconded to the TRC, 'International Investigators']. Unpublished raw data.

Police support group opposed to overseas police investigators. (1996, March 14). *SAPA*.

[Promotion of National Unity and Reconciliation Act, no. 34 of 1995](#). South Africa.

Sarkin, J. (1996). The trials and tribulations of South Africa's Truth and Reconciliation Commission. *South African Journal on Human Rights*, 12 (4), 617-640.

Sarkin, J. (1998). The development of a human rights culture in South Africa. [Human](#)

Rights Quarterly, 20, 628-665.

Shea, D. (2000). *The South African truth commission: The politics of reconciliation*. Washington, DC: United States Institute of Peace.

Simpson, G. (1998). *A brief evaluation of South Africa's Truth and Reconciliation Commission: Some lessons for societies in transition*. Johannesburg: Centre for the Study of Violence and Reconciliation.

Too much money being spent on truth commission: NP. (1996, August 2). *SAPA*.

TRC and NGOs launch extensive countrywide campaign. (1997, April 1). *SAPA*.

TRC. (1997, January). *Outline of activities and expenditure based on financing agreement No. *96-73200-002 between the European Programme for Reconstruction and Development and the Truth and Reconciliation Commission* (EU File, Financial Services Dept., TRC National Office). Cape Town: TRC.

TRC. (1998a, March). *EU finance agreement No: 96-73200-002, interim report* (EU File, Financial Services Dept., TRC National Office). Cape Town: TRC.

TRC. (1998b). *Report*. Cape Town: TRC.

TRC. (1998c, March). *Report on financial assistance provided by the Flemish Government* (Flemish File, Financial Services Dept., TRC National Office). Cape Town: TRC.

TRC. (1998d, March). *Report on financial assistance provided by the Republic of Austria* (Austrian File, Financial Services Dept., TRC National Office). Cape Town: TRC.

TRC. (1998e, March). *Report on financial assistance provided by the Royal Netherlands Embassy* (Netherlands File, Financial Services Dept., TRC National Office). Cape Town: TRC.

TRC. (1998f, March). *Report on financial assistance provided by the Swedish International Development Agency* (Sweden File, Financial Services Dept., TRC National Office.) Cape Town: TRC.

TRC. (1999a, March). *Report on financial assistance provided by the Danish Government* (Danish File, Financial Services Dept., TRC National Office). Cape Town: TRC.

TRC. (1999b, March). *Report on financial assistance provided by the European Union* (EU File, Financial Services Dept., TRC National Office). Cape Town: TRC.

TRC. (1999c, March). *Report on the financial assistance provided by the Norwegian Agency for Development Co-operation* (Norwegian File, Financial Services Dept., TRC National Office). Cape Town: TRC.

TRC. (n.d.). *Implementation of the Designated Statement Taker Programme* (Flemish File,

Financial Services Dept., TRC National Office). Cape Town: TRC.

Truth body looks at reburying apartheid's victims. (1996, June 13). *SAPA*.

Truth commission faces budget cuts. (1996, November 4). *SAPA*.

Truth commission in quandary over neighbouring states. (1997, May 16). *SAPA*.

Truth commission spends R3 million on car allowances: Omar. (1996, November 6). *SAPA*.

Truth commission warned of possible budget cuts. (1996, September 20). *SAPA*.

Tutu calls for donations from business. (1997, February 26). *SAPA*.

Tutu, Christopher sign R1,8 million USAID deal. (1996, October 12). *SAPA*.

Notes:

¹ Emphasis added.

² This study uses the terms 'post-conflict' and 'transitional' relatively loosely. By 'post-conflict state', reference is made to countries emerging from a period of protracted violent conflict. By 'transitional state', reference is made to countries that are democratizing after the rule of a repressive regime. Some cases, South Africa for instance, straddle the line between 'post-conflict' and 'transitional'.

³ An important caveat is in order here: I make suggestions concerning future international support to truth commissions with no particular case in mind and without the expectation that future commissions will more than loosely resemble the TRC. I do not necessarily advance the TRC, or the role of foreign aid therein, as a model for other transitional or post-conflict states. As Hayner (1996b, p. 175) points out, 'We should expect differences between commissions, as each country must shape a process out of its own historical, political, and cultural context.' Instead, I underscore common challenges facing truth commissions and extrapolate from the South African case to recommend ways international actors can best help overcome them.

⁴ In any case, virtually all of the tangible international support to the Commission - money, technical expertise, and evidence - came from governments.

⁵ This is not to suggest that foreign political approval of the TRC has been unimportant. Archbishop Tutu indicates that such backing has steeled the Commission in the face of domestic critics. He writes (TRC, 1998b, vol. 1, chap. 1, sect. 57), 'A last word to those who have made it their obsessive business in life to discredit and vilify the Truth and Reconciliation Commission. It has been wonderful to see the high regard in which the Commission is held in the international community. Almost without exception, foreign heads of state visiting this country have insisted on paying a visit to the Commission'.

⁶ In the Senate, the idea of having two non-South Africans on the TRC was mooted but the idea never got off the ground (Krog, 1999, p. 15).

⁷ There are only two examples of donor involvement in the genesis of the TRC. First, an influential NGO, *Justice in Transition*, set up by Dr. Alex Boraine in 1994 to facilitate the creation of a South African truth commission, received its entire core funding from George Soros' [Open Society Foundation](#). Two international conferences, organized by Justice in Transition to explore options for a truth commission in South Africa, received substantial funding from the Scandinavian countries (P. Clark, personal communication, April 6, 2000). Second, prior to the drafting of TRC legislation, USAID (United States Agency for International Development) made a small grant available for a delegation of South African policy-makers to visit Chile in order to study the experience of that country's truth commission (H. Motshwane, personal communication, March 27, 2000).

⁸ Under the initial 18 month allocation, the Commission had from December 1995 until June 1997 to complete its work, with an additional three months - i.e., until September 1997 - to submit its report. 'This period was first extended to mid-December 1997 and thereafter to 30th June 1998, while 31st July 1998 was the deadline for completion of the report. In early 1998, however, it became apparent that the TRC would not be able to resolve all outstanding amnesty applications within this period. Its founding legislation was accordingly amended to cater for this difficulty. In terms of these amendments: consideration of amnesty applications was to continue for an indefinite period; the rest of the TRC's work was to be concluded by 31st July 1998; an initial report was to be submitted to the president by 30th October 1998; the president was to reconvene the commission once all amnesty applications had been decided; and, the TRC was then to "complete its final report" for publication to the nation' (Jeffery, 1999, p. 24). The amnesty process was finally concluded in May 2001. The Commission's Report of October 1998 is currently being updated and made 'final' notably by incorporating a volume on amnesty decisions. This final version of the Report is meant to be complete by December 2001, at which point the TRC will be formally dissolved.

⁹ Credit should also go to the United Kingdom (UK) for a further example of technical assistance to the TRC. The UK funded a senior producer of the British Broadcasting Corporation (BBC), 'who had been involved in the making of documentary programmes on Scottish court cases,' to consult with the Commission. This BBC broadcaster assisted the TRC in developing guidelines for the use of television cameras during its hearings (TRC, 1998b, vol. 1, chap. 11, Media and Communication Department Management and Operational Report, sect. 19).

¹⁰ The National Director of Investigations was responsible for the daily management of the IU and reported to the Unit's Head, Commissioner Ntsebeza.

¹¹ The IU indicates that during the first phase of its existence, a major 'problem' it faced 'was the fact that investigative tasks were formulated on the basis of statements which would feature at public hearings. In many instances, the process of selecting statements for public hearings, often at the last minute, meant that little or no investigative work could be done prior to hearings. However, investigators and researchers succeeded to some extent in providing background material, tracing witnesses and taking further statements from

persons wishing to provide evidence to the Commission. The lack of policy at this stage also made post-hearing investigative work extremely difficult' (TRC, 1998b, vol. 1, chap. 11, Investigation Unit Management and Operational Report, sect. 34).

¹² Only a handful of these amnesty applications can be considered 'high-profile' in the sense that they came from high-ranking officials. Instead, confessions were made predominantly by middle-ranking officers, not their bosses. Of the amnesty applications some two dozen have come from ANC leaders. However, no heavyweights from the IFP have applied, and only two apartheid-era cabinet ministers did so ('Burying,' 1997).

¹³ This was the impression given to the author by many interlocutors, all of whom preferred not to be identified.

¹⁴ Though no submission (victim's statement or amnesty application) was made to the Commission concerning the murder of Ms. September, this incident was identified as a priority case for investigation (TRC, 1998b, vol. 2, chap. 2, sect. 308).

¹⁵ Two applications were acquired: (i) *Analyst's Notebooks*, a database and visualization suite used by several police forces globally to organise and schematically analyze evidence; and (ii), *Kortex*, a text analysis and data mining system that allowed the IU to scan unwieldy documents like court trial proceedings, as well as reports of judicial inquiries, and then search them for key words or phrases (TRC, 1998e, p. 5).

¹⁶ In 1996 when donors began spending on the TRC the exchange rate for the Rand was approximately US\$ 1 = R 4. By 1999, when most donor funding ceased, the rate was approximately US\$ 1 = R 6.

¹⁷ One of the motivations for this was to assuage sensitivities within the Commission over the fact that all international secondees to that point had been white Europeans (D. Ntsebeza, personal communication, April 6, 2000).

¹⁸ A perception not aided in the case of the TRC by media attention on the cars driven by Commissioners. TRC Commissioners received a compensation package on par with that of South African Supreme Court judges. This included a generous vehicle allowance. Several Commissioners opted to spend these allowances on luxury European marques, setting off a minor media frenzy over the costs of the Commission ('Truth commission spends,' 1996).

¹⁹ Hoosain recalls that the TRC was pleasantly 'surprised' by this, since the leeway given made it easier for the Commission to allocate the Austrian funds when and where they were needed most; this ended up being the Witness Protection Programme (as noted above, *page* 32).

²⁰ According to Daniel, it was 'inevitable' the TRC would focus on internal violations given the constraints, both temporal and fiscal, that it faced.

²¹ A number of erstwhile security branch police, for example, applied for amnesty in connection with the infamous 1982 bombing of the ANC's London Mission (TRC, 1998b,

vol. 2, chap. 2, sect. 479).

²² The operative, Lieutenant Johan Frederich Verster, an ex-South African Defence Force (SADF) Special Forces officer, apparently hoped his testimony to the TRC would help get him out of British prison. In the event, he provided a detailed statement concerning the SADF's 1978 assault on Kassinga, Angola. Kassinga was a rear base of the South West African People's Organisation (SWAPO), the Namibian independence movement. In the one-day aerial bombardment and paratrooper assault on Kassinga, the SADF killed more than 600 people, many of whom were unarmed civilians, including women and children. This made Kassinga the worst massacre of the apartheid conflict. Verster also provided information on the murder of Anton Lubowski in Namibia (TRC, 1998b, vol. 2, chap. 2, sects. 20-48).

²³ The SADF has been superceded by the SANDF (South African National Defence Force), a merger of the former military and the armed wings of the liberation movements.