

3 “IF YOU ARE STRONG, LET’S MEET OUTSIDE. I WILL SHOW YOU”: THE DARK SIDE OF THE NATIONAL RECONCILIATION COMMISSION IN GHANA

Saibu Mutaru¹

INTRODUCTION

Reconciliation commissions have been used widely in many parts of Africa as transitional justice mechanisms, although concerns have sometimes been raised, including the question of whether “new laws can be applied to past atrocities”.² Notwithstanding the legal contestations surrounding this concern, many governments in Africa have constituted truth and reconciliation commissions (TRCs) to deal with post-conflict issues that threaten national peace and cohesion.³ In Ghana, one such commission was instituted in the year 2001, following the end of a long political regime of former President Jerry John Rawlings.

Shortly after assuming office in 2001, President John Agyekum Kufuor announced his government’s intention to set up a National Reconciliation Commission (NRC) to heal a nation whose people were seen to be grappling with bitter memories of past wrongdoings and atrocities, especially those committed during regimes of military rule. Subsequently, in December 2001, the government, through the Parliament of Ghana, passed the National Reconciliation Commission Act, 2002, to concretise its intentions.⁴ The Act stated the Commission’s goal as to:

seek and promote national reconciliation among the people of this country by recommending appropriate redress for persons who have suffered any injury, hurt, damage, grievance or who have in any other manner been adversely affected by violations and abuses of their human rights arising from activities or inactivities of public institutions and persons holding public office.⁵

In a country that remained a signatory to many international human rights charters and thus “engaged in fostering a culture of respect for fundamental human rights

1 Lecturer in Anthropology, Department of Sociology and Anthropology, University of Cape Coast, Ghana.

2 Kaminski MM and Nalepa M. 2006. “Judging Transitional Justice: A New Criterion for Evaluating Truth Revelation Procedures”, *Journal of Conflict Resolution* 5(3):387.

3 Examples include the Truth and Reconciliation Commission (South Africa); Truth, Reconciliation, and Reparations Commission (Gambia); The Truth, Justice, and Reconciliation Commission of Kenya (Waki Commission); Truth and Reconciliation Commission (Liberia); Human Rights Violations Investigation Commission (Nigeria); Sierra Leone Truth and Reconciliation Commission; Truth, Justice, and Reconciliation Commission.

4 National Reconciliation Commission Act, 2002 (Act 611).

5 National Reconciliation Commission (NRC). 2004. “Executive Summary”, 1(ch 1) October:2.

and freedoms, the rule of law, the consolidation and enhancement of democracy, and the strengthening of its governance institutions”,⁶ many Ghanaians favoured the idea of establishing the Commission.⁷ In their view, such a commission would be a panacea to years of hurtful feelings, traumatic remembrances and strained relationships as a result of the misconduct of public officials or their designated representatives, especially those in the military forces.

As expected of any transitional justice mechanism in a post-conflict society, a reconciliation commission should ideally deal with crimes or atrocities that happened during a conflict period and “at a stage where that society is at the cusp of transition from society of conflict to one of democracy and peace”.⁸ This broad view of transitional justice was reflected in the objective of the NRC, which sought to promote national reconciliation among Ghanaians. However, despite the noble intentions of the Commission, many have argued that it was politically motivated and that it did not achieve the desired results.⁹ Critics maintain that the Commission’s proceedings inflamed passions, regurgitated traumatic feelings, and thus made it difficult to achieve the “truth” and desired reconciliation.

Ghana and the NRC are the focus of analysis in this chapter. Ghana is famously cited as the first black African country south of the Sahara to have gained political independence from colonial rule. Although the country has never been embroiled in civil war, it has a long history of military rule and coups d’état, starting with the overthrow of the first postcolonial president, Kwame Nkrumah, in February 1966. The coup that ousted Nkrumah and other subsequent military-induced coups were the prime targets of the NRC, which was itself a product of an Act of Parliament. The Act which established the NRC also spelt out the specific military regimes that were to be covered in the Commission’s work. The regimes under consideration included those in effect from 24 February 1966 to 21 August 1969, 13 January 1972 to 23 September 1979 and 31 December 1981 to 6 January 1993.

In terms of the methodological approach, the paper is based on the analyses and discussions of government official reports, recorded videos of proceedings, and published materials on the NRC. At the time the NRC began its sittings and hearings, I was in my final year as teacher-trainee at the Bagabaga Training College (now Bagabaga College of Education) in the Ghanaian city of Tamale. As teachers under training, we were interested in almost all issues of national concern. As the Commission’s work progressed, we found ourselves discussing the submissions

6 NRC, “Executive Summary”, 3.

7 Gyimah-Boadi E. 2002. “National Reconciliation in Ghana: Prospects and Challenges”, Ghana Center for Democratic Development (CDD) Briefing Paper, 4(1) May.

8 Mobekk E. 2005. “Transitional Justice in Post-Conflict Societies – Approaches to Reconciliation”, in Ebnöther AH and Fluri P (ed). *After Intervention: Public Security Management in Post-Conflict Societies From Intervention to Sustainable Local Ownership*. Geneva: Geneva Centre from the Democratic Control of Armed Forces (DCAF), 261.

9 Asare AA. 2006. “The Ghanaian National Reconciliation Commission: Reparation in a Global Age”, *The Global South* 2(2):49-50.

and cross-examination of particular witnesses, assessing the merits and demerits of their claims. Therefore, part of the discussions and claims made in this paper are drawn from my personal observations and memories of the Commission's proceedings, as well as discussions with colleagues and friends with whom I spent time during our college days.

Unlike many works on TRCs, which tend to overly focus on the success stories, this paper highlights the dark side of such commissions, exemplified in the Ghanaian version. In this chapter, I suggest that the dark side of the TRCs has largely been overlooked. I specifically relate the argument to Ghana's NRC. I argue that the limited success of the NRC is largely attributable to its over-reliance on foreign religio-legal elements of justice and the limited presence of local content.

TRUTH, RECONCILIATION AND TRANSITIONAL JUSTICE

In the past few decades, the issue of transitional justice has become very important and has received increasing attention from scholars and practitioners.¹⁰ The concept of transitional justice has come to embody varied mechanisms during the period of transition and reconstruction. The mechanisms include judicial prosecutions, truth and reconciliation commissions and payment of reparations to victims, among others. Development practitioner, Martina Fischer, suggests that the concept of transitional justice is a product of the international human rights movement.¹¹ The term was first used to refer to "the judicial process of addressing human rights violations committed by dictatorial or repressive regimes in the course of democratic transition".¹²

In many post-conflict contexts, external intervention has augmented local efforts in the transitional process. Notwithstanding the fact that there are often wide-ranging transitional justice mechanisms to choose from, some have argued that it is especially important to pay attention to local ownership of these mechanisms.¹³ Post-conflict countries and societies saddled with past records of military excess settle for reconstruction and peaceful co-existence through various transitional justice mechanisms. Transitional justice becomes even more pressing when a post-conflict society attempts to "come to terms with a history of violence and war, oppression and human rights".¹⁴

In Africa and other non-Western societies, truth and reconciliation commissions have come to dominate the transitional justice process. In the literature on transitional justice, reconciliation has emerged as one of the key concepts to deal with. Although the concept may appear a bit nebulous to some, reconciliation has

10 See, e.g. Fischer M. 2011. *Transitional Justice and Reconciliation: Theory and Practice*; Berlin: Berghof Foundation; Mobekk, "Transitional Justice in Post-Conflict".

11 Fischer, *Transitional Justice and Reconciliation*.

12 Fischer, *Transitional Justice and Reconciliation*, 407.

13 Mobekk, "Transitional Justice in Post-Conflict Societies" (emphasis mine).

14 Fischer, *Transitional Justice and Reconciliation*, 406.

been seen to be the ultimate aim for almost all societies undergoing post-conflict reconstruction processes.¹⁵ Conflict and peace expert, Eirin Mobekk, describes reconciliation as “acknowledgement and repentance from the perpetrators and forgiveness from the victims, as non-lethal co-existence, as democratic decision-making and reintegration, and as encompassing four concepts namely truth, mercy, peace and justice”.¹⁶

While all these concepts are key to the analysis of post-conflict situations, the concept of “truth” has gained currency in the discourse of reconciliation. It has been noted that there cannot be successful reconciliation without establishing the truth. In other words, truth-telling has been identified as one of the necessary conditions for reconciliation. Ghanaian political scientist Emmanuel Gyimah-Boadi, has noted that true and meaningful reconciliation cannot happen when truths about past atrocities are not told or deliberately hidden. He argues that truth-telling “encourages the verification of past repressive actions and incidents committed by individuals and government ... [but] may also challenge stories widely but inaccurately circulated in the public domain”.¹⁷ However, notwithstanding the fundamental role truth plays in the reconciliation process, some scholars have drawn attention to its disputatious nature. Sceptics of truth maintain that the concept is a complex one, and it needs to be approached with caution. As Mobekk points out, “Truth, in the form of narratives, is never simply uncovered, but is partially constructed and affected by numerous processes and actors. At best it is subjective”.¹⁸ It is the subjectivity associated with truth that makes the work of truth and reconciliation commissions difficult and acrimonious, as will be seen later in this chapter.

In *Dilemmas of Transitional Justice*, South African lawyer and law scholar Paul van Zyl outlines what he calls the four basic obligations that a state must fulfill under international law in matters relating to transitional justice. The state, Van Zyl notes, is required to fulfill the following obligations:

1. Take steps to establish the truth regarding gross violations of human rights, including the fate and whereabouts of victims, and the identity of those directly or indirectly responsible for human rights abuse.
2. Take steps to reform state institutions to ensure that human rights abuse does not reoccur.
3. Take steps to provide victims with reparation for the harm they have suffered.
4. Punish perpetrators of human rights abuse.¹⁹

While Van Zyl's points are well founded, it is a legitimate concern to ask whether (or even how) all these could be fulfilled if there is no willingness on the part of

15 Mobekk, “Transitional Justice in Post-Conflict Societies”, 262-267.

16 Mobekk, “Transitional Justice in Post-Conflict Societies”, 264.

17 Gyimah-Boadi, “National Reconciliation in Ghana”, 2.

18 Mobekk, *Transitional Justice in Post-Conflict Societies*, 265.

19 Van Zyl P. 1999. “Dilemmas of Traditional Justice: The Case of South Africa’s Truth and Reconciliation Commission”, *Journal of International Affairs* 52(2):657.

individuals and institutions to admit wrongdoings, welcome accusations, and accept the "truth". This pushes the discourse to the irresolvable problem that characterises all truth and reconciliation commissions – which truth? For all reconciliation commissions, this is a difficult question to deal with as those claiming to speak the truth (victims) and their contenders (alleged perpetrators) are often lodged in a fierce competition to be recognised as truth speakers.

The use of transitional justice mechanisms, including truth and reconciliation commissions, is hinged on certain justifications. Transitional justice proponents argue that the concept promotes reconciliation and psychological healing and also fosters respect for human rights and the rule of law.²⁰ Advocates of truth and reconciliation commissions, in particular, "generally take the view that some form of recognition and disclosure of past offences is necessary if new democracies are to distance themselves from the past and thus establish their legitimacy".²¹ However, for the Canadian political scientist, Rosemary Nagy, "the question today is not whether something should be done after atrocity but how it should be done".²² She bemoans the worrisome tendency of the international community to impose decontextualised solutions on post-conflict societies that may be unworkable for such societies. By and large, the problem with transitional justice is the tendency to portray it as a "global" project, sometimes overlooking the context-specific realities.

ESTABLISHING THE NATIONAL RECONCILIATION COMMISSION

In Ghana, the National Reconciliation Commission (NRC) was established within the framework of both national and international law. It was constituted on the basis that both "international and domestic law oblige governments to protect their citizens from human rights violations and abuses, and to provide redress for those who suffer such violations".²³ The establishment of the NRC was hailed as important because it marked the nation's "historic elections of December 2000, which witnessed, for the first time in the country's post-independence history, a change of constitutionally elected government effected not by violent means but by popular vote".²⁴ This election received much international attention; hence, much was expected of Ghana in terms of its commitment to democratic rule and good governance.

20 Thoms ONT, Ron J. and Paris R. 2008. "The Effects of Transitional Justice Mechanisms: A Summary of Empirical Research Findings and Implications for Analysts and Practitioners" CIPS Working Paper, April. Ottawa: Centre for International Politics, University of Ottawa, 329-354.

21 Allen J. 1999. "Balancing Justice and Social Unity: Political Theory and the Idea of a Truth and Reconciliation Commission", *University of Toronto Law Journal* 49(3):315.

22 Nagy R. 2008. "Transitional Justice as Global Project: Critical Reflections", *Third World Quarterly* 29(2):276.

23 NRC, "Executive Summary", 1.

24 NRC, "Executive Summary", 1.

Since Ghana attained independence in March 1957, the country has been hit by several successful and unsuccessful coups d'état, and all these events "have occasioned extensive human rights violations and abuses".²⁵ While unconstitutional regimes superintended over massive and serious crimes and violations regarding the rights of citizens and foreigners resident in Ghana, civilian regimes, to some extent, also abused the rights and freedoms of citizens. These military and civilian excesses – violations and abuses – have not been officially acknowledged, investigated and addressed. Hence, this omission resulted in "considerable pain, anguish, bitterness and divisions ... in Ghanaian society".²⁶ The establishment of the Commission was thus "a clear testimony to the strong desire of Ghanaians to live under conditions of democratic accountability and to forge a society firmly grounded in respect for human rights and the rule of law".²⁷

On assumption of power in January 2001, President John Agyekum Kufuor's government described itself as a government committed to the realisation of the rule of law. In order to be truly associated with this principle, the government was keen to provide redress and healing "for those who were hurt in the past by serious human rights violations and abuses in the nature of killings, abductions, disappearances, torture, detentions, seizure of property and ill-treatment".²⁸ In fulfilment of this goal, the government, through Parliament, established the National Reconciliation Commission Act, 2002, to heal wounds and reconcile the country. The Act, passed in December 2001, came into force on January 11, 2002, when it was gazetted.

The initial euphoria that greeted the establishment of the Commission was high. From the outset, the Commission's work was seen as a unifier and a major development imperative for the country. The conciliatory and reparatory intentions embedded in the Commission left many Ghanaians convinced that social and emotional wounds would be healed, dark memories would be erased and unity in diversity would eventually be attained. However, as will be seen later in this chapter, the Commission's work demonstrated that long after these alleged crimes were committed, some of the perpetrators were still in denial of their alleged crimes, making it extremely difficult to establish the "truth". There were denials, claims and counterclaims during the Commission's sittings. This posture only stifled the efforts of the Commission toward promoting and achieving the expected reconciliation and unity. Besides, the Commission's overly legalistic approach to its work, without incorporating some elements of local content, affected truth seeking and reconciliation.

²⁵ NRC, "Executive Summary", 1.

²⁶ NRC, "Executive Summary", 1.

²⁷ NRC, "Executive Summary", 1.

²⁸ NRC, "Executive Summary", 2.

COMPOSITION OF THE COMMISSION

In compliance with the 1992 Constitution of the Republic of Ghana, and in keeping with the provisions of the NRC Act, all the Commission's members were appointed by the President of the Republic in consultation with the Council of State. In appointing the Commission, the president was guided by relevant provisions of the NRC Act, which placed emphasis on consideration of members' integrity and sense of fairness and ability in the discharge of their duties toward fulfilling the national reconciliation objective.²⁹ The composition of the Commission itself became a matter of public discussion and debate.³⁰ As variegated as the composition of the Commission was, it attracted scathing criticisms. The Commission was criticised for specifically targeting the immediate predecessor of John Agyekum Kufour, former President Rawlings and members of his party, the National Democratic Congress (NDC) and his erstwhile regimes, the Armed Forces Revolutionary Council (AFRC) and the Provisional National Defence Council (PNDC).

While some Ghanaians lauded the president for bringing on board professionals of diverse backgrounds, others criticised him for offering appointments to people whose sympathies lay with the ruling government without any regard for relevant expertise or experience in matters relating to the work at hand. The Commission was entirely made up of educated elites, some of whom were lawyers, academics and religious leaders. Apparently, the inclusion of one traditional leader in the composition of the membership was to demonstrate a sense of local content. However, such a gesture was more of a symbolic one than a concrete expression of local content and local ownership of the process.

MANDATE, POWERS AND LIMITATIONS

The NRC Act establishing the Commission clearly stated its mandate and granted it the relevant powers required to undertake its work. The cardinal purpose of the Commission was to seek and promote national reconciliation, thereby fostering unity amongst the people of Ghana. Seeking and promoting reconciliation amongst citizens was to be achieved by pursuing the following activities, as enshrined in the Commission's final report.³¹

- a. Educating the public on the purpose, mandate, functions, powers, and activities of the Commission.
- b. Giving prospective petitioners an opportunity to make a statement outlining the substance of their claims of human rights violation and abuse.
- c. Establishing the accuracy of the claims through investigations.
- d. Offering petitioners an opportunity to tell their story to the Commission.

²⁹ NRC, "Executive Summary", 3.

³⁰ NRC, "Executive Summary", 3.

³¹ NRC, "Executive Summary", 8.

- e. Providing healing to victims and perpetrators through counselling and other support services.
- f. Recommending appropriate redress for the wrongs found by the Commission to have arisen from the “activities or inactivities of public institutions and persons holding public office” between 6th March, 1957, and 6th January 1993.

The Act granted the Commission discretionary powers “to investigate and make appropriate recommendations in respect of any petition alleging similar human rights violations, but which allegedly took place during periods of constitutional rule between 6 March 1957 and 6 January, 1993”.³² The Commission acted within its mandate and powers, and succeeded in receiving 4 240 petitions throughout the period. These petitions covered abductions, torture, killings, disappearances, ill-treatment, detention and seizure of properties suffered by the people at the hands of public institutions or their designated agents.

SEEKING TRUTH AND RECONCILIATION

The essence of Truth and Reconciliation Commissions (TRCs) in all post-conflict societies around the world is to establish the truth and foster reconciliation. The NRC was instituted with a similar objective. As noted earlier, the Commission received over 4 000 petitions. Petitioners were invited to appear before the Commission to narrate their stories. They included both people resident in Ghana and those abroad. There was also a great deal of diversity in the composition of petitioners. As the Commission’s final report noted, “Petitioners came from all walks of life, embracing diverse socio-economic, educational, ethnic, religious and political backgrounds and age groups”.³³ One notable activity of the Commission was the provision of counselling services to petitioners who appeared before it. This played a significant role in the reconciliation process, as the Commission wrote in its final report, “Providing counselling support for witnesses was a major activity of the Commission. This helped victims to come to terms with their pain and move on with their lives; it also helped some of the persons who participated in the abuses to come to terms with their experiences and obtain forgiveness and peace of mind”.³⁴

The Commission’s findings were wide-ranging. It found out that the violations and abuses occurred not only during unconstitutional regimes, but also that some violations and abuses occurred during periods of constitutional rule. The Commission, however, stated that “significantly higher violations and abuses were registered during periods of unconstitutional rule than during constitutional ones”.³⁵ The Commission further noted that detentions, abductions and other violations occurred at a remarkably higher rate during the Armed Forces Revolutionary

³² NRC, “Executive Summary”, 10.

³³ NRC, “Executive Summary”, 17.

³⁴ NRC, “Executive Summary”, 17.

³⁵ NRC, “Executive Summary”, 157.

Council (AFRC) and the Provisional National Defence Council (PNDC) regimes, both under the leadership of former President Jerry John Rawlings. The military, in particular, was noted to be the institution that engaged in violations and abuses the most. The Commission also recorded that about 66.3% of violations and abuses was attributed to the military.³⁶ While the violations and abuses were not limited to unconstitutional governments, it was noted with concern that about 84% of all abuses and other violations happened during the regimes of the AFRC and PNDC.

In the course of the Commission's work, petitioners' expectations and wishes were captured in three categories: persons who requested monetary compensation, persons who sought material compensation, and persons who were seeking for self-gratification upon confessing and establishing the truth. While it was fairly easy to meet the first two expectations, the third was difficult to achieve, primarily because truth is highly subjective and slippery. While many witnesses (victims) attempted to have their truths considered and accepted, their alleged perpetrators were bent on rejecting the so-called truths, describing them as false.

Petitioners who appeared before the Commission were asked to swear – to take an oath – as a commitment to speaking the truth. However, the legal process that underlay the oath-swearing was embedded in religious practice. In particular, Islam and Christianity, the two world religions that predominate in Ghana, also dominated the truth and reconciliation process. An overwhelming majority of witnesses who appeared on oath used either the Quran or the Bible to be sworn in. Apparently, they appeared before the Commission to speak the truth, because truth seeking was a precondition for forgiveness and reconciliation. However, in many cases the truth was difficult to establish. Many deliberately withheld the truth because neither the Bible nor the Quran could help to establish it instantly, and the punishment unleashed by these religions was long-term but also remote in time, since divine punishment would delay until Judgment Day. Here I argue that the Judgment Day religions of Islam and Christianity, which were the foundation for a majority of witnesses, had the effect of sheltering the witnesses, making them immune from instant exposure of possible falsehood in their statements and the commensurable punishments that should accompany such moral and criminal infractions.

Interesting scenes unfolded regarding truth-telling during proceedings at the Commission. There were several instances of what may be referred to as "truth suffocation" which mainly took the form of denial. In many cases, the "truths" which were presented to the Commission by witnesses were subsequently discredited and denied when the alleged perpetrators appeared before the Commission voluntarily or on subpoena. For example, on 15 June 2004, Captain Kojo Tsikata, former National Security Advisor to the erstwhile PNDC administration, appeared before the Commission for the third time.³⁷ Tsikata was at the Commission to

³⁶ NRC, "Executive Summary".

³⁷ Ghana News Agency. 2004. "Capt Tsikata cross-examines NRC witnesses", GhanaWeb.com, 15 June.

cross-examine military squadron leader George Tagoe. Tagoe had alleged that that Captain Sammy Michelle had presented to him a list of thirteen persons (including Tsikata) who were the masterminds of the execution of the army generals in 1979. However, the cross-examination team, led by lawyer Obed Yaw Asamoah, denied Tagoe's claims, thus labelling him a liar. During cross-examination, Asamoah stated that Captain Tsikata was in Luanda, Angola, at the time the said executions took place. He clarified that Tsikata never returned home to Ghana during that time and therefore could not have been one of the masterminds of the executions. In cross-examination, Tsikata stated that he only got to know about the execution of the army generals upon his return to Ghana. However, Tagoe rejected the cross-examination team's claim that Tsikata was not in Ghana at the time of the executions. "It is never true, he was there", Tagoe rebutted. In reacting to a claim made by one of the witnesses, ex-corporal Alhassan Adama Akati, Tsikata denied giving orders that he (Akati) should not be given food and water for two weeks when he was arrested and detained. As the cross-examination progressed, Tsikata denied being present at the Bureau of National Investigations (BNI) when Akati was being interrogated by the BNI officials, but Akati maintained that Tsikata had always been present during his cross-examination and that he often came there in the night.³⁸ In all these encounters, the truth was deliberately hidden despite the fact that all the three – Tsikata, Tagoe, Akati – had taken oaths to speak nothing but the truth. Unfortunately, the Christian religion, to which they all subscribed, has no in-built mechanism to instantly expose lies and mete out immediate punishment.

As the Commission's work progressed and many nasty encounters emerged from its sittings, some Ghanaians had genuine reason to doubt that any meaningful reconciliation would ever be achieved. As the preceding paragraph showed, withholding or unwillingness to speak the truth was a major threat to the achievement of national reconciliation. In the next section, I use one important scenario from the Commission's proceedings to demonstrate the fuzzy, complex and positional nature of truth. Overall, I argue that while it is difficult to reconcile the feuding parties and competing claimants, because establishing "the truth" is difficult, the limited use or even the omission of local, traditional justice mechanisms contributed to the limited success of the Commission's work.

"IF YOU ARE STRONG, LET'S MEET OUTSIDE. I WILL SHOW YOU"

As was noted earlier, most of the violations and abuses occurred during the Armed Forces Revolutionary Council (AFRC) and the Provisional National Defence Council (PNDC) regimes under Jerry John Rawlings. During the Rawlings-led 1981 coup d'etat, one of the military officers who supported the coup was Matthew Adabuga. Adabuga worked in the Ghanaian Army as a corporal in the 1970s. He allegedly participated in some atrocities that accompanied the 1981 coup, which saw the overthrow of President Hilla Limann. Shortly after the coup, Adabuga fell out with

38 GNA, "Capt Tsikata cross-examines NRC witnesses".

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the Rawlings' regime that took power. Subsequently, it was alleged that Adabuga participated in a coup that aimed to overthrow Jerry John Rawlings, although the coup was not successful. Adabuga fled the country when he got a hint that Rawlings planned to kill him. He was subsequently tried and sentenced to death in absentia.

During the work of the NRC, Corporal Adabuga appeared before the Commission as a witness. As a Christian, Adabuga swore an oath as a demonstration of his commitment speak the truth as enjoined by the Bible in Proverbs 6:16-19,³⁹ Ephesians 4:24-25⁴⁰ and Colossians 3:9.⁴¹ He was cross-examined by Riad Hozaifeh, a Ghanaian-based Lebanese Muslim, whom Adabuga accused of taking videotapes of the killings and other atrocities perpetrated by the military under the command of former President Rawlings.

Below, I produce a lengthy transcript of the testimony and cross examination of Corporal Adabuga when he appeared before the NRC in May 2003. The dialogue that ensued during the cross-examination reflects the sort of denials, bitterness and unforgiving spirit that often characterise such processes, making truth seeking, healing and reconciliation difficult to achieve.⁴²

Hozaifeh: I see! I would like to ask you, you have killed some civilians, children with your Mowag [armoured fighting vehicle]. Is that true?

Adabuga: That is wrong!

Hozaifeh: You have killed a border-guard official. Isn't that true?

Adabuga: That is wrong!

Hozaifeh: You want to tell this Commission you have never killed anybody?

Adabuga: If I have ever killed, then it was sanctioned by your boss, Flt. Lt. Rawlings.

Hozaifeh: It was what?

Adabuga: It was sanctioned by him.

Hozaifeh: Sanctioned by?

Adabuga: Rawlings! Flt Lt. Rawlings. Let him come here and answer that.

39 Bible, Proverbs 6:16-19. King James Version. "These six things doth the LORD hate: yea, seven are an abomination unto him: A proud look, a lying tongue, and hands that shed innocent blood, An heart that deviseth wicked imaginations, feet that be swift in running to mischief, A false witness that speaketh lies, and he that soweth discord among brethren."

40 Bible, Ephesians 4:24-25. King James Version. "And that ye put on the new man, which after God is created in righteousness and true holiness. Wherefore putting away lying, speak every man truth with his neighbour: for we are members one of another."

41 Bible, Colossians 3:9. King James Version. "Lie not one to another, seeing that ye have put off the old man with his deeds."

42 Hozaifeh R. 2003. Cross-examination of Corporal Adabuga at a sitting of the National Reconciliation Commission in May 2003. Video transcribed by S Mutaru.

Hozaifeh: Adabuga, I am sorry. I hope the Chairman will not be upset with what am going to tell you. Are you Christian? I saw you swearing with the Cross. Are you a Christian?

Adabuga: Yes! What about you? Are you a Muslim?

Hozaifeh: I am a Muslim. Do you fear God?

Adabuga: Yes! What about you? Do you fear Allah?

Hozaifeh: Inshallah, I do fear Allah.

Adabuga: Ok, I also fear God.

Hozaifeh: You fear God?

Adabuga: Yeah!

Hozaifeh: Then one day you and I, we shall meet before God and then you will have your day.

Adabuga: I haven't finished with you. Do you remember sending us to Tesano Club? Every morning, we will meet there and then you, we will pick the trail from there and go to these people's houses. Is it right or wrong?

Hozaifeh: Adabuga, you are not here to ask me questions. I am the one to ask you questions.

Adabuga: But I am helping you. I am helping you to get to the point.

Hozaifeh: Adabuga, you just came to this Commission just to lie. You ... sir am very sorry but I have to say this. You have been sentenced in absentia by death or firing squad because you were a criminal.

Adabuga: What criminal? And you were photographing people and videoing people for them to be executed. Is it more criminal than that?

Hozaifeh: You think so?

Adabuga: You stand there and video people and then they torture them and kill them, and then you go and sleep. Is it normal?

It appears from the above that both Hozaifeh and Adabuga had taken entrenched positions. Apparently, what was initially planned as a platform to repair damaged relationships and create peace and reconciliation between the feuding parties had unfortunately turned out to be an endangered encounter, deepening the existing bad relationship. The tone and the kind of words used in their verbal exchanges were far from being reconciliatory. Hozaifeh's unequivocal reference to Adabuga as a liar and criminal suggests anything but peace and reconciliation. The denial, distrust and antagonism between the two are further revealed in the following concluding exchanges:

Hozaifeh: Adabuga, the other day, a lady came here, which you yourself ... you were driving a mowag. You killed her children at Labadi, and I hear her story. Have you set to question yourself? To have mercy to stand and look for those people and say I am sorry?

Adabuga: I am saying that, if I haven't done that, then Mr. Chairman you can correct me, I stand for correction. Whatever I did, I came before the

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Commission and I told them this is what happened. It was an accident. I didn't just drive on them. And I am telling you it wasn't a mowag, it was a pinzgauer [high-mobility military vehicle]. So, you see that you are a liar?

Hozaifeh: Adabuga, you are a criminal and a petty liar, and as I said, a day will come you will have your punishment. Even by me discussing with you, you're too low for me. I ride high. I could not be taken anywhere.

Adabuga: I am not low. You ... I have been to your country for Middle East operations. Do you think anybody can go to Lebanon and do what you did here? You were not having any official position with the PNDC, you were not a soldier, you were not a lawyer, you were not a politician. You just came in, you had stanza by yourself, a bodyguard and a pistol. You remember George Amponsah? And your job was to inform on your fellow Lebanese. If you were in Lebanon, you would have been a dead man by now. You're lucky to be alive. And I hope they are listening. The Asians, you were a traitor to them, and you were a traitor to other people.

Hozaifeh: Adabuga, you're a liar. You're just a liar. Somebody must have taught you to come and speak. A person of your caliber, you will rot in hell, am telling you.

Adabuga: And you will rot in Vienna.

Hozaifeh: No problem, men! We shall see! Am done brother.

Adabuga: Inshaa-Allah

Hozaifeh: Inshaa-Allah

Adabuga: You can't do anything.

Adabuga: Ok, we will meet outside. If you're strong let's meet outside, I will show you.

As this concluding dialogue shows, truth and reconciliation commissions are not always platforms for restoring peaceful relationships and forging reconciliation. The above dialogue between Hozaifeh and Adabuga is one of the numerous instances of antagonistic encounters that characterised the work of the NRC. The heated exchanges, rebuttals and sarcasms that went on between Adabuga and Hozaifeh at the Commission could best be described as rancorous and unhealthy. As a Christian and a Muslim respectively, the claims made by both Adabuga and Hozaifeh were supposedly rooted in Christian and Islamic ideologies, and both religions require their adherents to speak nothing but the truth. However, as the dialogue above shows, the differences, counterclaims and rebuttals pointed to the hidden reality that one of them was certainly not speaking the truth. This is because "truth" is theoretically one. Although the dialogue between the two is just a microcosm of the entire NRC proceedings, it is symptomatic of the bitterness and anger that often characterise reconciliation commissions in post-conflict situations.

The NRC's main aim was to reconcile the nation. This involved creating a platform where victims could tell their stories before the commissioners and the alleged perpetrators, alleged perpetrators could confess to their alleged acts or commissions,

and then the perpetrators could offer the needed apology in a remorseful manner. In many instances of the Commission's work, however, there was no show of remorse, and no apologies were offered. This was essentially because it was difficult to establish the truth. The entire process was highly legalistic, with no room for the incorporation and utilisation of local truth and justice-seeking mechanisms. As can be noted in the above conversation, while Hozaifeh's efforts were aimed at getting Adabuga to admit to certain issues or commissions, Adabuga maintained his innocence and continuously denied what Hozaifeh considered to be true. In a similar vein, Adabuga failed to get Hozaifeh to admit to certain claims he held as "truths". The claim of truth by one actor and its palpable denial by a rival claimant only seem to polarise existing rancorous positions or perspectives. Notwithstanding the testimonies and cross-examinations that were facilitated by the NRC, the "truth" could not be found in many cases, and hence no meaningful reconciliation was achieved.

Truth and reconciliation commissions "treat individual testimony as an opportunity to contribute to healing".⁴³ Political scientist and policy specialist, Nahla Valji, notes that the South African Truth and Reconciliation Commission served as a platform where "public hearings were utilised to provide victims with a space to recount their experiences in their own words and receive symbolic national acknowledgement".⁴⁴ However, much as it provides an opportunity for victims to tell their experiences and pains, a reconciliation commission also has an inherent damaging element, the uncontrolled remembrance of painful and traumatic situations that occurred in victims' life in the past. This is an important and almost universal feature of truth and reconciliation commissions that is often muted in discourses surrounding reconciliation. Consequently, Valji has argued that in a context "where perpetrators and their victims continue to reside in the same communities, reopening of old wounds in the name of truth may not be an effective path to reconciliation and victim healing".⁴⁵ Although this dimension is important in the discourse of truth and reconciliation commissions, it is sometimes not given the needed attention by proponents who seek to focus on their healing potential and reparative content.

OMMISSION OF LOCAL CONTENT IN TRUTH SEEKING AND RECONCILIATION

In the case of Ghana, the word "truth" was not included in the name of the Commission that was established to investigate the human rights abuses committed in the past; however, finding out or discovering the truth was a cardinal objective of the Commission. Largely, it was the inability of the Commission to establish the truth in many cases that made the work of the Commission less successful. This was

43 Valji N. 2006. "Ghana's National Reconciliation Commission: A Comparative Assessment", Occasional Paper Series, September. New York: International Centre for Transitional Justice (ICTJ), 16.

44 Valji, "Ghana's National Reconciliation Commission", 16.

45 Valji, "Ghana's National Reconciliation Commission", 8.

because remorse, repentance and an offer of apology were necessary ingredients for locating the truth. However, where witnesses went into denial and refused to accept wrongdoings and make confessions, seeking the truth was, by and large, something impossible to achieve. It is the position of this paper that the failure of the Commission to recognise and incorporate local or indigenous religio-legal justice seeking mechanisms in its work affected truth-seeking and subsequent reconciliation. Eirin Mobekk has argued that local ownership is a crucial factor to consider when implementing the work of truth and reconciliation commission. As evidenced in the dialogue between Hozaifeh and Adabuga, in many cases, rather than promoting healing, truth and reconciliation commissions may exacerbate already fragile situations and contribute insignificantly to healing and actual reconciliation. This was demonstrated in the case of the South African Truth and Reconciliation Commission (TRC). A poll was conducted in South Africa in the aftermath of the work of the TRC. It was reported "after the end of the Commission's work that two-thirds felt the TRC had fuelled their anger and contributed to a deterioration in race-relations".⁴⁶

Rather than following the highly legalistic approach traditionally designed in the context of Western culture to ascertain the truth – which is often difficult to achieve anyway – and induce reconciliation, this paper argues that pursuing local approaches to truth-seeking and reconciliation could be more relevant and useful to local situations. Local traditional methods of seeking truth and justice are better appreciated by the local population who may, in the heat of excessive provocation, prefer instant justice, compared to the "Judgment Day" approach offered by foreign religions, such as Islam and Christianity. In Africa, traditional methods of justice are both restorative and punitive and have been deployed on many occasions to resolve social conflicts and restore peace.

Local approaches to truth seeking and reconciliation could be more effective than the legal-rational approach adopted by reconciliation commissions. In this chapter, one of the local approaches I want to propose is the use of African shrines or deities to establish the truth. In Ghana, many have called for the adoption of the "instant justice" approach where claimants to the truth approach a deity or shrine to make an oath in relation to a particular claim or allegation. Many Ghanaians have come to recognise that these shrines or deities maintain strict punishment procedure for persons who appear before them on false oath. The argument is that this local religio-justice mechanism does not defer truth seeking or punishment to a "Judgment Day". This local mechanism ensures that the truth contained in a claim is immediately verifiable and the offending liar is sanctioned accordingly and instantly.

In southern Ghana, the Antoa and Nogokpo shrines are some of the well-known local religio-legal mechanisms that can be deployed to immediately seek truth and sanction offenders instantly. Many Ghanaians, including highly placed elites, believe that local shrines dispense instant justice by meting out immediate punishment to

⁴⁶ Mobekk, "Transitional Justice in Post-Conflict Societies", 269.

people who lie or commit other forms of social crimes. In December 2020, one of the popular Ghanaian online news outlets, *Modern Ghana*, published a story titled “Let’s go to swear Nogokpo if you’re not corrupt – Fiifi Kwetey challenges Akufo-Addo”.⁴⁷ Many of the local print media also carried the same news headline. In this story, an opposition politician and a member of the Ghanaian Parliament, Fiifi Kwetey, dared the ruling president Nana Akufo-Addo to submit himself to the famous and fearful deity, the Nogokpo shrine, to prove his innocence in a controversial matter in which he was alleged to have received \$40 000 from an individual in an attempt to influence his office. The opposition party accused the president of hiding behind the Judeo-Christian faith to defraud the state and oversee massive corruption deals. Addressing a press conference in Accra on December 2, Fiifi Kwetey stated,

I come from Nogokpo in the Volta region, you dare not lie. If President Akufo-Addo actually says he is not corrupt, let him come with me to Nogokpo and see whether he can lie there, he will not. Because in the name of this ‘Holy and Holy’, he can swear in the Bible and lie because there is no fear. When it is that you know you cannot escape, you will not be able to lie and we will be able to establish that to you that all the things you are going to see the man”.

Likewise, when I visited the Nogokpo shrine with my anthropology students in April 2022, I was amazed by the interesting stories recounted by members of the community regarding the power of the shrine and how strict it is in dispensing punishment to those who lie and appear before it on oath. “You don’t joke with the shrine. It doesn’t accept lies. It will kill you fast”, the assembly member of the community told me during our conversation.⁴⁸

The belief that local deities or shrines are stricter and more expeditious in the way they discharge sanctions is not limited to one category of people in the Ghanaian society. The poor and the rich, the literate and illiterate and both political and non-political groups subscribe to this belief. While conducting my doctoral ethnographic research in northern Ghana between 2016 and 2017, I heard many stories about how people accused of witchcraft (and their accusers) frequently visit anti-witchcraft shrines to seek spiritual help to separate lies from the truth. One afternoon, while interviewing the *tindana* (earth priest and anti-witchcraft specialist) at Gnani, a group of people arrived from Tamale to seek his help in a witchcraft accusation case. They wanted the *tindana* to conduct a ritual test that would help them to separate the “truth” from the “lie”. After briefly immersing himself into the spiritual realm through the ritual killing of a chicken, the *tindana* emerged with a verdict that established the innocence (truth) of one party and the guilt (lie) of the other party. The verdict was accepted by all except one family member of the person found guilty. Of course, some people doubt the genuineness of indigenous ritual practices

⁴⁷ “Let’s go to swear Nogokpo if you’re not corrupt – Fiifi Kwetey challenges Akufo-Addo”, *Modern Ghana*, 2 December 2020.

⁴⁸ An assembly member is a representative of the local people to the Local Government Assembly.

such as the one described above, describing them as fetish, sham and unscientific. But the reality is that many Ghanaians, if not the majority, still find solace in local deities and shrines and their associated practices, sometimes combining such ritual beliefs and practices with the Islamic and Christian faiths.⁴⁹

In Africa, shrines have been with mankind for a long time. They predate colonialism and are rooted in well-established myths and histories. Unfortunately, the colonial influence and Western epistemology have succeeded in reducing the relevance of these shrines used as justice-seeking mechanisms and reconciliation tools. More formal and rational-legalistic approaches, such as TRCs, have come to replace the indigenous ways of truth and justice seeking. As I explained in the preceding paragraph, in northern Ghana, local anti-witchcraft shrines have largely been used to locate the truth.⁵⁰ People who appear before such shrines on false oath are instantly "caught" and sanctioned. The work of religion scholars Elizabeth Ezenweke and Chikaodili Nwachukwu underscores the importance of local shrines in conflict resolution and social control.⁵¹ They bemoan the worrying trend of Western encroachment on African cultural systems and note that "the fast encroaching urbanization and globalization with their accompanying detribalization of cultural systems have, to a large extent, been observed to have disintegrated African social life".⁵² This chapter suggests that the entire approach to the work of the NRC was rational-legalistic. The Commission failed to incorporate local content – such as the use of Ghana's time-tested shrines – in its work. This made it difficult to seek and establish the truth, hence making it difficult to achieve the desired reconciliation for which the NRC was established.

CONCLUSION

In this paper, I have used the Ghanaian version of the truth and reconciliation commission – the National Reconciliation Commission (NRC) – to highlight the point that many discussions on the TRCs often focus on the positive side of such transitional justice mechanisms. This overemphasis on the positive dimension tends to overlook the dark side of these commissions. Contrary to expectations that the NRC would effectively heal the entire nation and reunite a divided population that harbored negative sentiments against certain individuals and institutions accumulated during many years of military regimes, those who established the

49 Mutaru S. 2019. *Naming the Witch, Housing the Witch Living with Witchcraft: An Ethnography of Ordinary Lives in Northern Ghana*. PhD Diss, Stellenbosch University.

50 See, e.g., Mutaru S. 2022. "Access to Land in Difficult Times: An Ethnographic Study of Morally Compromised Strangers in Northern Ghana", *Social Dynamics* 48(2)314-337; Mutaru, *Naming the Witch*.

51 Ezenweke EO and Nwachukwu C. 2017. "The Instrumentality of African Shrines and Sacred Places to Sustainable Development in Africa: A Phenomenological Approach", *African Journal of Arts and Humanities* 3(5):45-56.

52 Ezenweke and Nwachukwu, "The Instrumentality of African Shrines and Sacred Places", 45.

Commission failed to focus on, or even incorporate, local justice or reconciliatory methods into the Commission's work. The inclusion of one traditional leader in the composition of the Commission's membership was insufficient to demonstrate association with local content. The omission of local or indigenous conciliatory and punitive justice-seeking mechanisms, such as the use of shrines or deities, did not help in establishing the truth and achieving the desired reconciliation. On the contrary, the failure to do this actually impeded the process of reconciliation since truth seeking was a precondition for meaningful reconciliation.

As the dialogue between Riad Hozaifeh and Matthew Adabuga shows, truth is a disputatious and complicated moral concept and very difficult to establish. It does not lie in the bosom of a lone actor, and its complexity makes it unsuitable to be subjected to detection through a rational-legal process. This paper has suggested that in order to achieve a meaningful reconciliation, the establishment of "truth" is crucial. But more crucial is the incorporation of local mechanisms – such as the deployment of shrines and deities – to help establish the truth and promote justice and reconciliation. While I make a strong case for the inclusion of local, traditional justice-seeking mechanisms, some are concerned and have problematised the attempts to locate such cosmologies within current discourses of globalisation and modernity.⁵³ The amalgamation of African traditional justice-seeking mechanisms with the Western legal-rational style presents an interesting approach to truth seeking and reconciliation in post-conflict African societies such as Ghana. This phenomenon of religio-legal diversity – couched in discourses of multiple modernities, or more specifically legal pluralism – merits further research by scholars on issues of reconciliation and justice in the African context. While discourses on transitional justice mechanisms highlight the significance of reconciliation, the numerous black spots associated with truth and reconciliation commissions remain under explored. All in all, the dark side of TRCs – which is often overlooked – includes all of the acrimonious, abusive, unforgiving and unremorseful statements and attitudes that witnesses, both perpetrators and victims, display when they appear at such forums. This situation reinforces and continues the trauma instead of achieving meaning healing and reconciliation.

53 Steinforth AS. 2005. "Between Shrine and Courtroom: Legal Pluralism, Witchcraft, and Spirit Agency in Southern Africa", in Sax WS and Basu H (ed). *Law of Possession: Ritual, Healing, and the Secular State*. Oxford: Oxford University Press.