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Performance of reconciliation: Truth and Reconciliation Commission of South Africa as theatre of justice and legitimation of political system

Abstract

This paper is giving an overview of the work of the Truth and Reconciliation Commission of South Africa through a thesis of congruence between its protocols and elements of theatrical performance. After an introductory survey of the historical context of apartheid, it offers an analysis of TRC's work through two roles it had – the role of a legal instrument, and the one of a tool for facing the past and producing the national historical narrative. This paper analyses the relation between theatrical and performative characteristics, and concepts of transitional and restorative justice; the influence of elements of performance is also studied in TRC's effect on creating national narratives, which are used to legitimate new legal and political order.

Keywords: Truth and Reconciliation Commission, Theatre, Apartheid, Restorative Justice, Legitimation Narratives, Dealing with The Past, South Africa.

Search for justice and new national history

The history of the 20th century was marked by numerous global destructions, conflicts and crimes against humanity, which whole nations had to face to build new systems of peace and coexistence. South African apartheid is one of the most significant crimes against humanity, which marked the previous century, lasting all the way until the early 1990s when the new government sets up Truth and Reconciliation Commission – TRC. Commission's goal was to give the truth around the state's system of racial

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segregation and to make new state system based on racial unity (TRC, 1998). Many authors criticised TRC's efficiency, performance studies being one of many different scientific branches, which gives new light for studying process and results of TRC, examining them through elements of theatrical performance (Cole, 2007: 167). The main idea of this paper is that Truth and Reconciliation Commission, instead of being a legal process that was supposed to give clear facts on crimes and verdicts, became a type of a public spectacle set up to create new national history. The analysis imposes itself as the central scientific question: which elements of theatrical spectacle Commission had, and in which way do they affect the effectiveness of TRC as a legal instrument and instrument for facing the past? The answer to this question is important for scientific areas of international relations and international law because it is essential to have a full view of all TRC's specificities, having in mind the impact this process had, but also the number of similar Commissions around the world. Different forms of bringing justice and facing with grand human rights breaches and crimes committed on the level of state policies are relevant and existent today as well because crimes like these are also present today.

To properly analyse TRC's effectiveness, it is essential to provide a brief overview of apartheid's historical context and time in which the Truth and Reconciliation Commission appeared and started its activity. What continues is the analysis of TRC's work through the idea of similarity of its procedure to the elements of theatrical performance, and also the study of real achievements and repercussions that Commissions judgements had on South African society, especially on apartheid victims. An important distinction in the analysis of TRC's work lies in the two roles it had, the part of the legal process and the process of facing the past and producing the national narrative. In the analysis of the efficiency of the TRC as a legal instrument, the focus will be on the relation between theatrical and performative characteristics on the one side, and the concepts of transitional and retributive and restorative justice on the other. With the other function, the paper will tackle concepts of historical and national narratives, the way in which TRC participates in their creation, and also what their role in the legitimation of actual political system is.

The historical context of apartheid and the creation of Truth and Reconciliation Commission

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One of the main difficulties with approaching the topic of apartheid is determining the historical frame in which racist and segregation politics in South Africa started and was institutionalised. According to a traditional historiographical position, "apartheid was explained by the unhappy history of virulent racism, primarily of Afrikaners, which was born on the frontier of the early Cape colony and transported inland by the great Trek to resurface in the catastrophic National Party victory of 1948" (Worden, 2012: 2). Development of racist tendencies goes back to "the first migration of white settlers in the mid-seventeenth century" (TRC, 1998: 40). From the early beginnings of colonisation "Europeans had defined a hierarchical set of legal rights based on race" (Clark, 2017: 1005). But South African problem goes more in-depth, and primarily lies in racial segregation whose "underlying principle was the enforced separation, not just subordination, of blacks and whites in the spheres of work, residence and government," and has first roots in the 19th century, while it reaches institutionalised form during first 30 years of 20th century (Worden, 2012: 81). One of the essential legal forms of segregation, which Commission didn't encompass in its work, but it marks the beginning of the separation, and legal discrimination of African non-white population is the 1913 Land Act. This act restricted the ability of the native population (that made majority of the population) to own land, de facto destroyed their agricultural economy and forced African people to massive emigration (TRC, 1998: 27).

The term of apartheid itself is tied to already mentioned government of the National Party, which starts with 1948 election victory. It appeared precisely in the context of elections, as a political slogan that aimed to gather the electorate that believed in Afrikaner nationalistic ideology (Worden, 2012: 95). Apartheid went from being a political ideology and campaign slogan to becoming a globally important term, especially when it "has become a new species of international crime and is included in the definition of a war crime in the 1998 Treaty on an International Criminal Court" (Abegungrin, 2002: 31–34). Even before this new definition, apartheid found its place in the terminology of international law and repercussion in the international community, notably when the UN General Assembly adopted 1973 Convention on the Suppression and Punishment of the Crime of Apartheid (Andrassy, 2010: 380). South Africa ignored

the instructions of the UN, and isolated itself from the international community on a general level, precisely because of its apartheid policy (Andrassy, 2010: 388).

Considering that this paper focuses on the Truth and Reconciliation Commission's effectiveness, it is crucial to precisely determine legal mechanisms, which were used by the new South African government to establish the legal system of apartheid. TRC's Report states in its historical overview, which is given at the beginning of the first volume, that apartheid relied on two pillars set up by the Parliament of South Africa after 1948. The first pillar is legislative and the second is "a huge internal security apparatus and armed it with awesome legal powers to crush opposition generated by the first" (TRC, 1998: 30).

The Report lists a few legal acts that entered into force in the period between 1949 and 1959, which made South Africa a state of systematised racist segregation. The fundamental law, which represents the base for racial division, is the 1950 Population Registration Act. This act brought the infamous division of population in "four racial categories: white, coloured, Asiatic (Indian) and Native (later Bantu or African)" (Worden, 2012: 105). The rest of the laws divided the country into zones (homelands) for particular racial groups, with public spaces also being divided according to use and allocation for separate groups. The acts also forbade marriages and sexual relations between members of different racial groups, while the education of African (native) population had been separated and made inferior, based on the racist idea that "blacks needed only to be educated (...) 'in accordance with their opportunities in life'" (TRC, 1998: 32).

It's important to mention that white people's resistance to the apartheid policy, even though quite quiet and limited in practice, was legally barred and sanctioned (Conway, 2016). This legal framework allowed state forces to violently quell every form of resistance, which resulted in a significant number of victims. The Report also states that "while only some 21,300 persons filed gross human rights violations petitions with the Commission, apartheid was a grim daily reality for every black South African", and violence perpetrated by state apparatus is "referred to as institutional or structural violence" (TRC, 1998: 34–40).

The apartheid system starts to weaken slowly and dissipate in the 1980s, and finally, the winner of the 1994 elections is the African National Congress (ANC), with Nelson Mandela becoming a president. In 1995 Mandela signed the Promotion of National Unity and Reconciliation Act, forming the foundation for formation and mandate of the Truth and Reconciliation Commission (Worden, 2012: 163). With that, the TRC's work commences, under the leadership of Archbishop Desmond Tutu who took the role of the Chairman and lasted until the publication of the final report in 1998. South African Truth and Reconciliation Commission is not the first legal body of that kind in the world, but there are some legal features that make it universal.

TRC's two specificities important for this paper, highlighted already in TRC's Report, are: a) this was first Truth and Reconciliation Commission that could grant amnesty, b) public nature of the TRC, i.e. public display and transmission of the hearings and results of its work (TRC, 1998: 54). Commission acted through two central bodies – Amnesty Committee and Human Rights Violations Committee. Their roles were “facilitating the granting of amnesty to persons who make full disclosure of all the relevant facts” and “establishing as complete a picture as possible of the causes, nature and extent of the gross violations of human rights which were committed during the period from 1 March 1960 to the cut-off date” (TRC, 1998: 55).

Truth and Reconciliation Commission as a public spectacle and a rebuild of the nation – operational analysis

Many authors noticed the similarity between legal procedures and theatrical forms, just as the presence of legal proceedings in the history of drama, and they do so primarily because of a notable dramatic structure of legal processes (Cole, 2007; Bharucha, 2014; Boraine, 2000). It is highlighted that from the era of the ancient Greek tragedy until contemporary dramatic works, “juridical proceedings have always had latent if not blatantly manifest dramatic value” (Cole, 2007: 167). Therefore, we can recognise a historical tendency of analysing and judging legal processes through lenses of theatre, dramatic suspense and, in the end, a spectacle for the public. What makes truth and reconciliation commissions, in all of their versions around the world, unique is the fact that they are not only juridical processes of determining the truth, the perpetrator and the victim, but they are also mechanisms for confronting the past and creating a new chapter in history – the official story that allows the society to move forward. In the following, this paper is going to look at the influence of the elements of theatrical performance on these two segments of the Truth and Reconciliation Commission of South Africa. However, before that, it goes through an introductory overview of the recent history of theatrical motifs' interference in the study of legal proceedings, the elements of theatre in the Commission we are analysing, and ways in which theatrical terminology can contribute to the field of study of these specific legal mechanisms.

As I stated already, the tradition of observing the legal processes as performances and using their dramatic value (or the capacity to create a structure of dramatic suspense necessary for a classic play) in plays goes back to ancient history; however, in the 20th century, it gains a new dimension. More intense use of the terms of theatre and performance is tied to emergence of the “field of transitional justice in the late twentieth and early twenty-first century,” while the term transitional justice represents new legal principles needed for confronting the crimes that constitute a precedent because

of their nature and scale, with the new category of crime against humanity being the central point (Cole, 2007: 167–168).

Besides the term of transitional justice, it is essential to clarify the difference between the principles of retributive and restorative justice, which is vital in defining the legal nature of the Truth and Reconciliation Commission. Retributive justice is a traditional concept, a foundation for most of the legal acts in Western societies, which states that a perpetrator “deserves to be punished and, for justice to be re-established, has to be punished in proportion to the severity of the wrongdoing” (Wenzel, 2008: 375). The alternatives to that approach to legal matters represent the forms of restorative justice. There is no unified opinion on the exact definition of the concept of restorative justice, but the emphasis is always on “healing rather than punishing: healing the victim and undoing the hurt; healing the offender by rebuilding his or her moral and social selves; healing communities and mending social relationships” (Wenzel, 2008: 376). It is clear from the definitions that truth and reconciliation commissions are based on the restorative justice principle because their goal is to overcome the crimes committed by state systems and suffering of big groups of people, to build a healthier society by successfully facing the past.

First examples of transitional justice are usually recognised in trials for Nazi crimes, especially the Nuremberg process. Among other, Hannah Arendt, the famous author of the sociology of power and law, described them as theatre. Arendt notices the need for “didactic functions” of the trials, but she “saw theatre in opposition to the law” (Cole, 2007: 169). On the other hand, we have the Truth and Reconciliation Commission, which also enters the category of transitional justice, and it “generally tends to be read *as a performance*” (Bharucha, 2014: 122). Moreover, there is a claim that it “embraced performance as a central feature of its operation” (Cole, 2007: 167). That is primarily visible in the publicity of TRC, which is, as is mentioned already, officially recognised as specificity in the TRC Report. What was publicly transmitted were the public hearings of the victims in the domain of the Human Rights Violations Committee, but that was only a part of the TRC’s activity. However, because of the omnipresence of the hearings, a big part of the general public considered the public hearings and the TRC itself the same thing (Cole, 2007: 172). The hearings are the element with the most prominent performative or theatrical character, what can be analysed from the victims’ testimonies and the way the hearings were set up. The most commonly noted theatrical elements of hearings “include ‘emotional expressiveness and volatility’, ‘communication through the dense registers of embodiment’, ‘moments of direct conflict and confrontation between perpetrator and victims’, with the live audience serving as ‘a kind of Greek chorus’” (Bharucha, 2014: 125). There is also the important theatrical element of direction or choreography of hearings, because “participants had to perform, and they had to perform in a certain way” (Cole, 2007: 178).

The value of this specific approach of using the terminology and elements of theatre lies in “capacities of ‘embodiment’, ‘affect’, ‘corporeality’, ‘kinesthetics’, and ‘reflexivity’ are more palpable than what is found in the social sciences, enabling a different kind of analysis” (Bharucha, 2014: 128). All of these analyses are putting the accent on terms of embodiment and corporeality, which represent the specificity and the essence of theatre art because theatre always asks for the presence of a living body, a performer who expresses and embodies transmitted ideas and experiences. Because of their stage likeness, choreography and encouragement to express emotions, public hearings within TRC represent the extremely theatrical form. In this form, with their presence and experience reconstruction, victims are embodying the suffering and loss of South African people under the apartheid. Based on presented conclusions of TRC hearings’ analyses, we can already say that Truth and Reconciliation Commission, in its most public segment of the Human Rights Violations Committee, really was a type of public spectacle. However, we still have to see in which way this performativity influenced the effectiveness of TRC in its primary tasks.

The effectiveness of the TRC as a legal instrument

The real legal power of the Commission was limited in several ways. According to the Mandate that was a foundation for the TRC’s work, main tasks were determining the facts and circumstances of apartheid sponsored crimes, suggesting the financial reparations to apartheid victims and granting amnesties to perpetrators who admitted their crimes and helped clarify the details of the regime (TRC, 1998). As we can see, the Human Rights Violations Committee, which today defines the TRC in public eyes, could only suggest reparation to the victims and collect information. Additional limit lies in the reach of the TRC’s activity, and the TRC was aware of that, as we can see in the Report. This limit is apparent in strict definitions of investigated human rights violations and in the defined analysed time limit that starts only with 1960. Because of that, the Report states that the TRC encompassed probably the worst apartheid crimes, “but providing a picture that is by no means complete,” (TRC, 1998: 29) which reflects the awareness of the inability to completely encompass the scale of committed crimes. However, the problem that we put in the centre of this paper’s attention is the relation between performance aspects of the TRC, which were described in the previous chapter, and the legal effectiveness of the TRC.

As Hannah Arendt considered theatre opposed to an effective judicial process in her critique of Nazi trials, many critics of the TRC consider that highlighted performativity and emotional register of hearings “raise[d] questions about the TRC’s legitimacy” (Bharucha 2014: 125). That results in a common image of the TRC as “*a performance* whose overall emotional *affect* tends to supersede, if not overwhelm, the actual

effects of social transformation” (Bharucha, 2014: 122). The participants of the TRC’s work had different views on this specific theatricality, and they commonly used theatrical images to describe the hearings, so for example “commissioner Pumla Gobodo-Madikizela, for instance, touted the public hearings because they put the victims ‘centre stage” (Cole, 2007: 175). Deputy Chairman Alex Boraine describes first hearings with theatrical motifs of curtain, drama and ritual:

At last the curtain was raised. The drama which was to unfold during the next two and half years had witnessed its first scene. The ritual, which was what the public hearings were, which promised truth, healing, and reconciliation to a deeply divided and traumatized people, began with a story... (Boraine, 2000: 99).

The Chairman himself, Archbishop Desmond Tutu, in several occasions, confronted theatricality that spurred in the form of spontaneous audience reactions, deeming it will turn the TRC in a show and diminish its legitimacy; from different uses of theatrical metaphors, it is visible how these terms are used ambivalently in both positive and negative context (Cole, 2007: 176). However, despite opposing theatricality in principle, due to the nature of the Chairman’s role, Tutu’s actions represented a notable element of theatricality and ritualistic character of hearings: he “would be seen to weep openly at critical moments, apart from praying, lighting candles, and bursting into song” (Bharucha, 2014: 125). Despite all the critiques of the hearings’ theatricality, we can conclude that “far from being the source of ‘misrepresentation’ or ‘distraction’, performance is what makes the TRC intelligible,” (Bharucha, 2014: 129) or, in other words, “affective and experiential registers of human experience (...) were an essential vehicle for communicating the density of the profound experiences of human suffering that the TRC brought to light” (Cole, 2007: 179). Therefore, the element of theatre enabled the content that was brought up within the TRC to reach the general public, and for the general public to understand it.

Bharucha questions certain oversights made by the Commission in its treatment of the victims, and the impact it had on their lives. One of his examples is the ethical omission that occurred in the way the Commission’s task of giving reparations to the victims was executed. Fulfilment of that duty was provided only after all the hearings were finished, with a significant time delay, because of the process of granting by third committee – Reparation and Rehabilitation Committee. In the end, the solution was “meagre one-time payment of 30 000 rand (US\$ 3 900 in 2003)” (Bharucha, 2014: 129).

Bharucha also questions the effectiveness of exposing personal stories in reconciliation; event though the Commission highlights the importance of telling personal, narrative or emotional truth that is given by victims during hearings, it is clear that these testimonies did not serve as proofs for the official truth, which the TRC published in the end, because they were considered unreliable (Bharucha, 2014: 132).

As a proof of the questionable effectiveness of the victims' hearings in healing their traumas, a few statements from later interviews with the victims who testified in front of the TRC are given. One of the witnesses, not long after her hearing, to one of the members of the Commission Piet Meiring's question "Was it worth it?" replied with "Oh yes, sir, absolutely! It was difficult to talk about these things. But tonight, for the first time in sixteen years, I think that I will be able to sleep through the night" (Bharucha, 2014: 130). The other example is Nomonde Calata, who left a lasting trace in the TRC's history because her wail left as an expression of pain and emotional breakdown during the retelling of her experiences is considered "an emblematic moment in public memory" (Cole, 2007: 178). In an interview published in 2007, years after the TRC's work was concluded, Calata stated that "the act of expressing her pain during her hearing made her feel 'a little better'" but that her suffering is still present and that she has no one to talk to about it. The fact that a confession in public hearing brought short-term relief to the victims, but the most of them still "not being able to heal or put closure to their memories", is confirmed by the Commission's member Yasmin Sooka (Bharucha, 2014: 131).

Given examples and statements point to the conclusion that the moments of performance realised by the victims during their hearings bring relief and, to an extent, provide the restorative function of the Truth and Reconciliation Commission. However, restorative function in the sense of helping the victims to overcome their trauma and helping the society to heal is not entirely accomplished in a long-term perspective. Moreover, legitimacy and justification of the mechanisms used by the TRC to reach its goals were called into question. Reparation payment resulted in minimal amounts after years of waiting, and the victims' hearings, which stayed in the consciousness of both South African and global public as the most notable trace of the TRC, weren't used in the final version of the official truth published by the Commission in its report.

The important point in studying the impact of theatricality on the TRC's effectiveness in the legal segment is paying attention to the part of the TRC's activity that wasn't directly transmitted, and, at a glance, didn't share theatrical traits with the victims' hearings – the Amnesty Committee. This committee's processes were "constrained by courtroom protocol (...), the commission did not require perpetrators to express contrition or remorse" (Cole, 2007: 174). The processes in question were hearings (or legal procedures) that resembled usual judicial proceedings, but without encouragement to emotional expressivity that was present with the hearings within the Human Rights Violations Committee.

Formally, "the amnesty process mimicked a court but did not use standard legal rules," which was described by Bernard Nhoepe, the judge in charge of the amnesties, with: "I can tell you that I find it strange that I as a judge should listen to the gory details of how someone killed, cut the throat of another person and then ask

that I let him go” (Wilson, 2001: 19–20). Hearings of the Amnesty Committee didn’t ask for theatrical elements of ritualistic details, emotional expressions and experience embodiment, but the performance element is present in this case as well: it is the imitation or the performance of a usual legal procedure but with entirely different legal principles and goals that will be discussed in the next subchapter.

As we can see, authors give somewhat opposed judgements of the TRC’s effectiveness. Bharucha believes that the emotional expressions overpowered the real effects of transformation of South African society, where the TRC was supposed to be acting as a legal foundation. In comparison of the two central TRC’s committees he noticed irony, because on the one hand, there are victims who waited for years to receive a minor reparation, and on the other, “most of the perpetrators of violence have merely consolidated their old roles as the beneficiaries of the South African global economy or security system” (Bharucha, 2014: 130). Cole, on the other side, states that “hearings were *affective*, and consequently they were *effective* in facilitating, however imperfectly, a transition from a racist, totalitarian state to a nonracial democracy”; in the end, she concludes cautiously that the theatrical and performative elements of the hearings “potently expressed both the power of the TRC as well as its severe limits in truly grappling with the magnitude of the violations of human rights in South Africa’s past” (Cole, 2007: 179). If we apply the legal principles described in the previous chapter we come to a conclusion that both authors are placing the Truth and Reconciliation Commission in the context of restorative justice, but the critique given by Bharucha mildly leans towards the principle of retributive justice in its element of a proportional reparation to the victims and an equal punishment to the perpetrators.

TRC as an instrument of facing the past and creating a history

The aspect of victims’ confrontation with the past and traumas caused by apartheid systematic crimes was already tackled in the previous section, in the context of the Commission’s effectiveness in the field of restorative justice. Therefore, this subchapter will be dedicated to the official confrontation with the past on the communal level and conclusion of national history’s chapter. We will analyse the function of concluding one chapter of history and creating a new national narrative of reconciliation in relation to the theatrical and performative categories of the TRC. The term of national narrative stems from the idea that all of the histories are some sort of narrative, or story, which tends “to legitimate a present order of political and social power” (Conner-ton, 2011: 1). In this case, we have a conclusion of one part of national history by facing atrocities of apartheid and creating narrative of reconciliation and “rainbow nation”, as Archbishop Tutu described the idea of harmonious cohabitation of different racial groups, which were strictly segregated in the previous political regime (TRC, 1998: 23).

Legitimation theory of the origin of historical narrative is divided into two versions, as it is summarised by Paul Connerton: affirmative and critical (Connerton, 2011: 1). According to the affirmative version of legitimation thesis, historical narratives are universal phenomena stemming out of the state's authority, and they represent the knowledge crucial for understanding the state's system of laws. In that case, history only naturally depicts the order of tradition, on which the state system is based. On the other hand, the critical version also claims that historical narratives are created to legitimate a current political system, but in a way that the segments that don't fit in the narrative scheme suiting the government are selectively and viciously excluded. Contemporary theories of knowledge and history most commonly accept the critical version. Connerton's key contribution to the discussion is the idea that historical narratives can develop not only from the legitimation function but also as a result of mourning, which was disputably applied to the example of the South African Truth and Reconciliation Commission.

The first obstacle in the study of the TRC as a mechanism for the systematisation of the South African history is an argument given by a few critics that "the task of the Report was not to write history" (Bharucha, 2014: 129). I already highlighted that the TRC, in the final report, distanced itself from the ability to create a complete picture of historical events, but one of the tasks provided by the Mandate was creating the most complete image of events as possible. Moreover, the Report is filled with traces of rhetoric best described by Archbishop Tutu's plea "to close the chapter on our past" (TRC, 1998: 23). The inclination towards finalising the chapter of a story, and the task that stands in the basis of the TRC's work, are apparently suggesting that there is a tendency to create an official unified narrative about the state regime in the period of apartheid.

Next problem we encounter here is the question of a reach that various sources have. The official document, which serves as a medium for conclusion and publication of the TRC's findings, is the Report of TRC, and it consists of seven volumes written in formal and authoritative tone while being "one of the most under-read and over-priced documents of its kind" (Bharucha, 2014: 129). Because of that "most South Africans experienced the commission not through its final report but through its hearings, and specifically through the media representations of these" (Cole, 2007: 173). What is visible is here is a discrepancy between an official document that published state commission's conclusions about the truth of a last few decades and media transmissions of just one segment of the TRC.

We have to go back to the elements of theatrical performance, which give us an insight to a discrepancy between the sources, especially when it comes to segments of incorporation and expression of personal experience. Performance necessarily contains many different individual experiences, because the specificity of theatre is

precisely the presence of an individual, irreplaceable living body and voice on the stage. This principle of individuality of experiences that are presented during a performance is in direct opposition with an ambition to create a unified official narrative. Which is proved by the fact that the official truth in the TRC's Report is entirely not based on "personal or narrative truth (of victims, but on) factual or forensic truth" (Bharucha, 2014: 132). Here we can come back to the legitimation theory of history and notice policy of selection and exclusion of story segments in an attempt to create a unified narrative of apartheid. A single fact that from more than 21 000 victims' appeals less than 10% were elected for a public hearing (Cole, 2007: 172) points to the conclusion that it is practically impossible to create a single unique narrative about the regime's crimes. The moment of performance, personal reconstruction and re-experiencing through retelling emphasises the fact that a historical narrative is inevitably fragmented.

Connerton applied his idea of the birth of historical narrative from the spirit of mourning on the Truth and Reconciliation Commission, and he deems that its most exciting characteristic is the creation of ritualistic procedure that intends to make a better society and brighter future through mourning their losses. He also believes that the Commission made space for giving a "public apology" to right the wrongs (Connerton, 2011: 26). From the analysis provided so far, it is clear that the TRC's work didn't aspire to give a one-sided apology as much as to clarify the circumstances of the events to enable moving on in a new social system, which wants to create a unity of the nation. The difference in the theatricality of two types of hearings and an apparent absence of a demand for repentance of perpetrators are limiting Connerton's thesis. An idea of ritualistic mourning that serves a purpose of going towards a better future is a good description of the healing purpose of the public hearings of the victims, but it doesn't explain the role of creating a complete truth and a rounded narrative in the context of the actual regime.

Therefore, we are going back to the legitimation theory, and one of its forms is offered by Richard Wilson, who thinks that commissions for truth are "a national history lesson", which "play a vital role in fixing" fractionality of the national memory and "institutionalizing a view of the past conflict" (Wilson, 2001: 13–20). South African Truth and Reconciliation Commission intended to "construct a new national identity" by using rhetorics of human rights and "manufacture legitimacy for state institutions, and especially the legal system." Finally, Wilson sees in the amnesty hearings "a theatricalization of the power of the new state", which brings to a conclusion that "truth commissions are transient politico-religious-legal institutions which have much more legitimizing potential than dry, rule-bound and technically-obsessed courts of law" (Wilson, 2001: 13–20). This thesis incorporates all the various elements and functions of the TRC, from its political function of creating a stable regime, the aspect of reli-

gious, ritualistic motif of reconciliation and healing wounds through purifying testimonial and the purpose of legitimation of the new legal system.

By clarifying the legitimation origin of truth commissions and their roles in the state systems we acquire a new perspective that goes to a deeper level than just superficial observation of the commission's procedure, it explains its role in a consolidation of a new judiciary system and in an attempt to retain peace by creating a new national identity. Furthermore, it explains the difference in ways two TRC's Committees adopt theatrical elements and complement each other in TRC's different functions. That a clarified and uniformly concluded history has a significant role in South Africa we can see from its constitution from 1993, where it is emphasised that

this Constitution provides a historic bridge between the past of a deeply divided society characterised by strife, conflict, untold suffering and injustice, and a future founded on the recognition of human rights, democracy and peaceful co-existence and development opportunities for all South Africans, irrespective of colour, race, class, belief or sex (PSA, 1993).

Conclusion

Critical analysis of the structure and the results of the Truth and Reconciliation Commission of South Africa from the perspective offered by theatre and the presence of its elements in the Commission's hearings are based on a wide range of approaches to the theme. The simplest approach are descriptions of the TRC by theatrical metaphors usually based on a long tradition of comparing legal procedures to theatrical phenomena, but also on easily noticed performative aspects of the hearings. Here we also have common criticisms of effectiveness and legitimacy of the TRC because of the performative elements, such as highlighted emotional expressions, which were considered accountable for bringing objectivity and legitimacy of the TRC into question.

Most complex contributions are not so common works that are trying to analyse and judge mechanisms of the Commission through their theatrical, dramatic and performative value, and recognise the way these values influenced the efficacy of achieving the goals of TRC. By going back to our central hypothesis, it is simple to conclude that the Truth and Reconciliation Commission was a type of public spectacle with an abundance of theatrical and dramatic elements. However, it is impossible to leave out entirely its legal importance.

South African Truth and Reconciliation Commission has set a precedence in this form of transitional justice by opening itself to the public, trying to include nation into the process altogether. Commission was criticised a lot because of granting amnesties and insufficiently retributing the victims, but the principle of restorative justice, which

the TRC is based on, is pointing its focus on reconciliation and renewal of the justice system.

Replying to the central scientific question on the influence of theatrical elements on the TRC's effectiveness, we are reaching some complex solutions. One of the conclusions of this paper is that a division on theatrical victims hearings and non-theatrical perpetrators hearings is not sustainable. The elements of theatre are visible in procedures of the Amnesty Committee as well, though not through highly dramatical emotional expressions, but in the fact that the Amnesty Committee imitates a classic legal process in order to more firmly legitimate the new legal system, which was maybe brought into question by the unusual form of the victims hearings. On the other hand, emphasised and encouraged theatricality of the victims' hearings apparently didn't help in the accomplishment of the legal goal of determination of circumstances, because their statements were not used in the compilation of the official truth.

It is paradoxical how the official narrative given in the Report did not reach the public, while shocking testimonies did, which brought the discrepancy between legally limited official narrative and dispersed public memory. It is essential to understand here that the discrepancy comes primarily from the different modes of utterance production in theatre and the TRC's official report. Theatre and live performances, by the sole presence of a performer, produce a plethora of individual embodiments of experience and result in a fragmented set of narratives that annihilates the efforts to form a unified narrative of truth, which the legal document like the TRC Report tends to be.

However, we cannot say that a high level of theatricality and emotional charge compromised the legitimacy of the TRC. In the beginning, the theatrical element of orientation towards the audience and publicity attracted a high proportion of the population to participate in some way in the TRC's processes through their media representation. Also, theatrical expressive register enabled understanding and reconstruction of difficult and painful experiences that were presented during the hearings. Analysing the influence of theatrical elements of public testimony in the potential effect of treating traumas and healing the victims' psychological wounds brings us to the conclusion that only partial solution was reached. Interviews with the victims and other participants indicate that the public hearings brought short-term relief and that theatricality helps in that segment. However, what was needed to help victims in achieving the goal of recovery was systematic support of the state. The absence of tangible results such as a better reparations system or other forms of support show that the TRC did not wholly succeed in the long-term treatment of the apartheid consequences.

Regarding the function of confronting the past, theatrical elements, especially the component of TRC's publicity, enabled the visibility of the common mechanisms of creating selective legitimation narratives, which are always present in truth and reconciliation commissions. And this is where this paper concludes with a paradox: the

elements of theatrical performance rendered the TRC a developed form of restorative justice by enabling it to be an omnipresent national experience that South African general public could go through; on the other hand, they clearly emphasised the political goal of legitimization of current government system that stands in the basis of the TRC, just as the fact that it is impossible to encompass the whole extremely complex trauma of the nation and society with one official narrative.

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Pomirenje na djelu: Komisija za istinu i pomirenje Južnoafričke republike kao kazalište pravde i legitimacija političkog sustava

Sažetak

Rad analizira djelovanje Komisije za istinu i pomirenje Južnoafričke Republike kroz tezu o kongruenciji između njenih protokola i elemenata kazališne predstave. Nakon uvodnog istraživanja povijesnog konteksta apartheida, rad nudi detaljnju analizu rada Komisije za istinu i pomirenje kroz ostvarivanje njezine dvije uloge – uloge pravnog instrumenta i uloge esencijalnog instrumenta za suočavanje s prošlošću te stvaranje nacionalne povijesne pripovijesti. Rad analizira odnos kazališnih i performativnih karakteristika i koncepata tranzicijske i restorativne pravde; utjecaj elemenata performansi proučava se i u učinku Komisije za istinu i pomirenje a na stvaranje nacionalnih narativa, koji se koriste za legitimiranje novog pravnog i političkog poretka.

Ključne riječi: Komisija za istinu i pomirenje, kazalište, apartheid, restorativna pravda, legitimizacijski narativi, suočavanje s prošlošću, Južnoafrička Republika.