

Research Notes...

Addressing alleged human rights violations: The truth, reconciliation and national unity process in Seychelles

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This Research Note provides an introduction to the subject area I am pursuing for a Doctor of Philosophy in Management Sciences (Peacebuilding) with the Durban University of Technology, South Africa.

The research is at an early stage but has the advantage of being able to draw on 'live' data from an ongoing process of truth and reconciliation in Seychelles.

Introduction

Seychelles gained its independence from the British on 29th June 1976, after which Mr. James Richard Mancham became the founding president of the Republic of Seychelles. The following year, on 5th June 1977, Mr. Mancham was overthrown in a coup d'état that led to a new socialist government with Mr. France Albert René as president. More than 40 years after the coup, many people are still suffering in one way or another from incidents that happened then and since. In order to re-build a peaceful and united society, it is necessary for the people of Seychelles to come to terms with their past.

The transition from oppressive societies to democratic ones is a phenomenon that several countries across America, Europe and Africa have experienced. In these circumstances, the transitional justice concept is widely used by countries that are emerging from violent conflict and human rights violations, including genocide and crimes against humanity (Heyns and Steffiszyn, 2006). The concept has led to a variety of institutions and mechanisms set up to redress past wrongs, such as tribunals and truth commissions (Buckley-Zistel *et al.*, 2014).

To achieve a just society, more than punishment is required. Documenting the truth about the past, restoring dignity to victims and embarking on the process of reconciliation are all vital so

that it does not impede the consolidation of democracy and the creation of a human rights culture.

(Heyns and Stefiszyn, 2006)

Seychelles is currently following the example of other countries by seeking to face the past, shed light on the truth, peacefully reconcile its people and become a united country. In theory, this seems to be a simple and achievable task for a small island developing state but in reality, the process is lengthy, complicated, politically sensitive, and controversial.

What is the best way for Seychelles to come to terms with the past and peacefully transition into a united society? Is it sufficient only for victims to give their accounts and for the perpetrators to confess and seek forgiveness? Will the victims be truly able to forgive and move on? Or will the process simply renew painful memories? There is also the question of whether there should be provision for financial compensation.

Forming a commission

Since the coup, there has been a constant struggle for truth, justice, peace and reconciliation. This has been a wish for the victims who are fighting for justice; a need for truth activists; and an agenda for politicians who are seeking to re-build the country. Overall, the people of Seychelles have long been waiting for a process to right the wrongs of their past and bring back hope to the country.

On 2nd November 2016, the National Assembly of Seychelles proposed the setting up of a Truth, Reconciliation and National Unity Committee. After vigorous debate, the House unanimously agreed to the proposal.

The Committee's mandate was to:

- ◆ listen and record the grievances of those affected since the Coup;
- ◆ conduct a comparative analysis of reconciliation processes in other countries;
- ◆ provide the government with recommendations on a suitable process for Seychelles;
- ◆ ensure that the truth is revealed so that the people of Seychelles can achieve peace and national unity.

(National Assembly of Seychelles, 2018)

The duly established Committee invited the general public to lodge their complaints through the filling of a grievance form, which details their name, complaint and remedy sought.

Over a period of 31 days, some 315 alleged human rights violations against persons, life, property, liberty and security were submitted to the Committee.

The Committee decided to categorise the complaints as follows:

- ♦ Illegal arrest, assault, detention, imprisonment, kidnaping, disappearances, murders or exile
- ♦ Wrongful termination from work or other work-related issues
- ♦ Witnesses to events of and following 5th June 1977 or psychological trauma and persecution
- ♦ Medical malpractice or miscellaneous
- ♦ Loss of movable, immovable property or business

(National Assembly of Seychelles, 2018)

On 22nd April 2017, the Committee organized a symposium to inform the public about the Seychelles reconciliation plan and the method which could be adopted based on international best practices. The public were invited to engage with the Committee and share their suggestions in an attempt to help guide the process. All inputs received were compiled in a report that was presented to the National Assembly and subsequently to the President of the Republic of Seychelles, Mr. Danny Faure, on 14th June 2018 (State House, 2018).

Through the enactment of the Truth, Reconciliation and National Unity Act, Seychelles established its first ever truth commission on 9th May 2019 with the swearing in of a Chairperson and four Commissioners. The mandate of the Truth, Reconciliation and National Unity Commission (TRNUC) is to: 'receive complaints in respect of alleged violations, to gather, collate and analyse information and evidence with respect thereto, and to make decisions' (Truth, Reconciliation and National Unity Commission Act, 2018). Exactly four months later, on 9th September 2019, the TRNUC held its first hearing sessions, which represented a milestone for the reconciliation and national unity process in Seychelles.

Truth, reconciliation and justice

Transitional justice is a term that stems from the international human rights movement. It is defined as:

A response to systematic or widespread violations of human rights. It seeks recognition for victims and promotion of possibilities for peace, reconciliation and democracy. Transitional

justice is not a special form of justice but justice adapted to societies transforming themselves after a period of pervasive human rights abuse. In some cases, these transformations happen suddenly; in others, they may take place over many decades.

(Buckley-Zistel *et al.*, 2014).

The concept was initially used for judicial processes in the democratic transitions of authoritarian regimes to address past violations of human rights. Then transitional justice was used to process war crimes and widespread human rights abuses caused in violent conflicts. Nowadays, the concept has included non-judicial mechanisms such as truth commissions, reconciliation and settlement of reparations (Fischer, 2011).

Truth is a significant aspect of the transitional justice concept and it helps to establish a historical record of human rights abuses during repressive regimes. It plays a key role in the acknowledgement of events that occurred and is considered as the foundation for rebuilding a divided nation (Buckley-Zistel *et al.*, 2014). The truth is the key throughout this process and it is something that the TRNUC is inviting the victims, witnesses and perpetrators alike to come forward and share with the people.

Nonetheless, societies utilizing transitional justice need to be mindful that the concept should not be used in a manner that contradicts the criminal justice system of their respective country. In fact, transitional justice should be considered as:

A deeper, richer, and broader vision of justice which seeks to confront perpetrators, address the needs of victims and start a process of reconciliation and transformation toward a more just and humane society.

(Heyns and Steffisyn, 2006).

Restorative justice is a term that Albert Eglash first used in the context of criminal justice and he suggested that there are three types of criminal justice: retributive, distributive and restorative (Van Ness and Strong, 2010).

Retributive justice is based on punishment, distributive justice is based on therapeutic treatment of offenders and restorative justice is based on restitution (Van Ness and Strong, 2010). Eglash observed that the retributive and distributive models focus more on the perpetrators and do not allow the victims to participate in the justice seeking process. Contrary to that, the restorative model focuses on the impact of the perpetrator's actions and ensures that both the victim and the perpetrator are actively involved in the process of reparation and rehabilitation (Van Ness and Strong, 2010).

Retributive Justice	Restorative Justice
<ul style="list-style-type: none"> ◆ Crime is a violation of the law. ◆ Violations create guilt. ◆ Justice requires the state to determine blame (guilt) and impose pain. (punishment) ◆ Central focus: Offenders getting what they deserve. 	<ul style="list-style-type: none"> ◆ Crime is a violation of people and relationships. ◆ Violations create obligations. ◆ Justice involves victims, offenders, and community members in an effort to put things right. ◆ Central focus: Victim needs and offender responsibility for repairing harm.

Table 1. Two different views of justice
(Source: Umbreit, 2010)

As a victim-centred process, restorative justice can assist the Seychelles truth and reconciliation process by collectively identifying and addressing the past events and promoting forgiveness and healing. Restorative justice enables the victims and perpetrators to engage in a peaceful process to try to address the situation. Being victim-centred suggests that restorative justice gives precedence to the harm that was done to the victim. It then serves to organize the interactions and dialogue between everyone who was affected in one way or another. However, it is important to note that although the process is victim-centred, it is not victim-controlled (Umbreit, 2010). Therefore, as is the case for Seychelles, the TRNUC will have the final say concerning the findings, decisions and recommendations.

Moreover, the restorative justice model encourages the perpetrators to take responsibility for their actions and apologise to the victims (Wenzel *et al.*, 2008). In the process the victims can participate in their own restoration and the perpetrators can assist the victims in recovering and moving forward (Umbreit, 2010). For the perpetrators, restorative justice allows them not only to become accountable but also to be treated with respect and to be slowly reintegrated in the community.

International experience

Since the early 1980s, many countries have resorted to truth commissions to investigate serious violations of human rights that were committed under previous regimes. This also includes consolidated democracies such as Uruguay and South Korea; and reformist authoritarian regimes like Morocco. By late 2014, thirty-three national truth commissions worldwide had completed their work, two commissions were still ongoing and five

commissions had disbanded without completing their work (Bakiner, 2016).

What is a truth commission?

[It] is essentially a non-judicial body, which tries to investigate the past to determine the full extent of past abuses through truth-telling public hearings. It holds perpetrators of past violations accountable, promotes reconciliation, makes recommendations on reparations, memorializes victims, survivors or historical events and makes proposals for institutional reforms designed to prevent future abuses.

(Fombad, 2017)

The TRNUC distinguishes itself from other investigatory entities because as a truth commission, it possesses the following specific characteristics:

1. it is an official body corporate;
2. it is a temporary entity that will work for a period of three years;
3. it focuses on specific past events and conducts enquiries and investigates incidents of violence; and
4. it is required to submit a final report to the President of the Republic of Seychelles.

The final report should include findings, decisions and recommendations.

(Sources: Bakiner, 2016; Truth, Reconciliation and National Unity Commission Act, 2018)

Many societies that have dealt with a difficult past and are contemplating or already engaged in transitioning from an authoritative to a democratic society need to learn from the experiences of other countries (Hayner, 2001). In Seychelles, the National Assembly Committee sought the assistance of international experts who were previously involved in truth and reconciliation commissions in Africa, Asia and Europe especially South Africa, Rwanda, Arusha, Bosnia and Cambodia.

Obstacles in transitioning

Not all truth commissions are able to achieve their objectives. Countries such as Indonesia, United States, Mexico and Turkey have tried to establish truth commissions to no avail. In 2013, attempts to set up truth commissions in Nepal and Bolivia were blocked because of a fear that such mechanisms would allow serious crimes to get amnesties (Bakiner, 2016).

It can be argued that post-conflict societies need to use truth commissions to solicit and hear the voice of those who were impacted by violence. The victims' testimonials need to be broadcast via mass media or ICT technologies that will make their voices heard by as many people as possible (Castro, 2020). The current Truth Commission of Colombia is using the YouTube platform to engage in both Colombia and internationally (Castro, 2020). Similarly, the Seychelles TRNUC conducts public hearings that are broadcast by the local

media houses and the hearing sessions are archived online for future reference on the YouTube platform of the Seychelles Broadcasting Corporation (SBC).

Even though victims are encouraged to speak publicly, the TRNUC also provides them with the option of requesting private hearings or ‘in camera’ sessions only in the presence of the Commissioners. However, some people see this as defying the purpose of the truth commission. The most common reason why victims and witnesses choose private hearing sessions is because of fear. Fear is a factor that is crucial when analysing the different testimonies and putting the puzzle together. Some people may fear political retaliation while others fear workplace and community victimisation. This further demonstrates the impact that past events are still having on their lives even for those who are not even living in Seychelles. In addition to this, some alleged perpetrators are not interested in confessing; and those who come forward are suspected of not giving an accurate account of the events that took place. This challenges the work of the TRNUC and contributes to delays in processing the different complaints lodged.

Reparation is an issue that in itself requires careful consideration because of the potential socio-economic impacts on the Seychelles economy. Amongst the grievance forms that the TRNUC has received, many victims are requesting compensation. The majority of the victims are requesting reparations which the Act refers to as ‘compensation, facility or, concession’ (Truth, Reconciliation and National Unity Commission Act, 2018).

Type of request	Percentage
Seeking monetary compensation	58%
Seeking the return of property	16%
Seeking truth and justice	15%
Seeking apology	10%
Letting the Commission that will be set up decide	1.8%

Table 2. Types of requests from the grievances form
(Source: National Assembly of Seychelles, 2018)

Revealing is healing

What should be remembered, and what should be forgotten, when dealing with a painful past? On the one hand, some people believe that it is better to forget in order to move on because of the psychological and emotional trauma on the victims and their families. On the other hand, others argue that there is a need to remember the past in order to prevent it from ever happening again. ‘Never again’ has become an important slogan that has echoed in several countries worldwide. In order to move on, many victims condition themselves not to forget the event but the feelings and emotions they felt at the time. Hayner argues that, ‘it is often asserted that digging into the truth and giving victims a chance to speak offers a

healing or ‘cathartic’ experience’ (2001).

Remembering is not easy, but forgetting may be impossible. There are a range of emotional and psychological survival tactics for those who have experienced such brutal atrocities

(Bakiner, 2016).

Next Steps

Many political problems in Seychelles are because of problems from the past, especially those that have emerged as a result of the 1977 Coup D’état. This continues to haunt the present generation, which is also seeking truth and justice as well as to peacefully reconcile and unite the people of Seychelles. Seychelles is already on the right track in laying the foundation of re-building its nation and resolving past and present conflicts.

Is national unity a realistic outcome for the people of Seychelles? Will the commission promote reconciliation between victims and perpetrators? How trustworthy are the testimonies of the perpetrators? Will the victims be satisfied with the findings and recommendations? What will be the economic, social and political implications of this process? Even though, the setting up of the TRNUC as a mechanism for post-conflict justice was the first step forward, there is no denying that the whole world is anxiously watching how this process will unfold with so many unanswered questions.

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