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Exploring Universal Morality: An Analysis of Morality and its Connection to the South African Truth and Reconciliation Commission

Abstract

The use of Truth and Reconciliation Commissions as a model for conflict resolution has become increasingly common in recent years. One criticism of these commissions identifies their failure to address broader crimes against humanity and against morality. Thus, this study conducts an analysis of the crimes against morality committed under the apartheid system, as enforced by the Afrikaner National Party, with particular emphasis on three specific tenants of morality. The second portion of this study attempts to understand the degree to which the South African Truth and Reconciliation Commission addressed these crimes and the connection of this to the effectiveness of the Commission as a whole. It is concluded that there is a greater need for the inclusion of morality and crimes against morality in Truth and Reconciliation Commissions in general. Attempting to formulate specific universal standards for morality remained inconclusive, though broad guidelines for morality, as established at the beginning of this study, formed a general definition. Without further studies attempting to form a more specific definition of universal morality, its inclusion in Truth and Reconciliation Commissions, and in the international community as a whole, may remain elusive, thus preventing a more complete reconciliation of global conflicts.

Section I: Introduction

Although I experienced a relatively peaceful childhood, I, like most, have always been aware of the existence of violence both in local communities and globally. In light of the recent tragedies at Virginia Tech and Northern Illinois University, the need for a system of peace and the future possibility to prevent such acts of violence is even more pressing. However, these peace processes are often seen as abstract concepts-ones in which pursuance is seen as difficult and, in many cases, unnecessary. I believe that in order to prevent any kind of violent act and to achieve a working peace process, we must first study the many facets of peace and then move them from the realm of the abstract to the realm of the physical by studying their applicability in the real world. My interest in peace has most recently focused on the relationship between peace and morality, an interest that I desire to pursue further in the context of this study. I will begin this particular study with an examination of the real world example of South Africa and the country's experience with Truth Commissions, a specific method of conflict resolution. The study of said Commissions is both important and applicable due to their use in current conflicts as well as throughout various regions of the world. The second part of this study will focus on determining the moral questions inherent in the conflicts preceding these Truth Commissions, and the effectiveness of the processes, in addressing these issues. This should lead to an analysis of the existence of universal morality and the importance of such a concept to peace processes, as well as peace in general. This study will be done in an effort not only to understand those actors directly involved in the relationship between peace and morality, but with the broader goal of achieving some sort of total peace in the future. Due to the importance of morality, or

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universal morality, in understanding conflict resolution, what is the relationship between the notion of committing crimes against morality initiated by colonialism and strengthened by apartheid in South Africa, and the need for a specific reconciliation process addressing these issues?

It is necessary first to understand what one should look for when tracing the issue of morality through the history of the South African experience, specifically under the system of apartheid, a system of racially defined segregation. However, it is this very basic understanding of morality that can incite challenging and diverse perceptions that complicate this argument from the very beginning. The issue of morality and the concept of universal morality are issues, though separate, that have been discussed and analyzed jointly by academics for centuries. Although it is important to acknowledge the concept of universal morality at this point, further discussion about the topic will occur later in this study. Many complications and facets of morality make formulating a definition difficult, resulting in its continued existence as an abstract rather than tangible concept. Furthermore, vast research has been done studying the issue of morality and its connection to a multitude of subjects. Within this wealth of research there are a few main approaches that have relevance to this study: religious, philosophical, and biological. C.S. Lewis analyzes morality from a religious and specifically Christian perspective, one that has validity even for this study specifically in connection with the numerous religions represented within South Africa.[1] In terms of the philosophical approach, Sterba takes the common criticism of the abstract nature of the issue of morality and creates a formula to explain the concept. This also argues for the existence of universal morality, but it also contributes in formulating an actual definition of the seemingly abstract notion of morality.[2] Blachowiscz also

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[1] Lewis, Mere Christianity, 17 – 39.
[2] Sterba, Ethics: The Big Questions, 93 – 98.

belongs in this broad philosophical classification. His research on the differences between positive and negative morality and how these notions contradict research from the biological framework provide background for a working definition of morality.[3] In contrast to these approaches, the biologically based research on morality uses naturalistic explanations of moral action. Darwin addressed the issue of morality himself, and many following academics have used his studies as a foundation for their own work on morality from a biological or evolutionary framework.[4] While all of these approaches to the study of morality contribute to a general understanding of the concept as a whole, few actually provide a workable definition of the concept itself. This kind of definition is necessary when attempting to identify examples of moral actions or crimes against said morality in the case study of South Africa.

Literature has also reflected three primary philosophical theories of morality on which political, economic, and social decision-making are based. Aupperle acknowledges these three different explanations of morality in his research, explaining the complex and overlapping premises underlying "moral utilitarianism, moral rights, and moral justice."[5] The first of these, the most widely accepted, relies on the notion of "the greatest good for the greatest number of people." This inherent emphasis on majority over minority may actually serve to violate moral principles in certain incidents. For example, the conflict in Rwanda reflects the ability of the majority group to violate moral principles while still, though questionable, following the moral utilitarianism model. In terms of South Africa, to be discussed in depth later, apartheid directly violated this moral utilitarianism model by allowing for a small minority of the country to oppress the majority. The moral rights perspective emphasizes many of the premises of the Bill of Rights within the Constitution of the United States reflecting that people have certain

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[3] Blachowicz, The Beginning and End of Negative Morality: An Evolutionary Perspective [online].
[4] Darwin, Origin of Species.
[5] Aupperle, Moral Decision Making: Searching for the Highest Moral Value, 3 – 4.

unalienable rights.[6] Thus, any action violating these rights for a particular person would be in violation of morality. Moral justice argues that "benefits, rewards and hardships" should be "allocated in a fair, equitable and impartial manner," suggesting that only actions violating this principle would be a violation of morality.[7] It is acknowledged that the use of these perspectives often occurs simultaneously. Although these perspectives offer broad definitions of morality, they fail to encompass when actual physical or mental harm is done to a person or a society and how this may also have moral implications.

For the purpose of this study, morality can broadly be defined as a public good that maintains human dignity, political pluralism, and cultural diversity for which individuals, organizations, states, or any other unit are responsible.[8] It is logical and practical to understand a crime against said morality as any violation of said premises taken by the actors listed above. Furthermore, it is important to acknowledge that a violation of these principles may not necessarily follow an action, but may also occur as a result of a failure to act.[9] Most literature does not distinguish between crimes against humanity and crimes against morality, thus allowing their interchangeable use throughout this study. As mentioned previously, much of the literature discussing morality includes an analysis of the connection of religions to this concept, and authors such as C.S. Lewis write at length on the subject. The proposed definition does not directly acknowledge the importance of religion in morality; however, this is an important aspect that should be addressed further in a future study on universal morality. This inclusion of human dignity is of particular importance for this study, and the South African experience, and also falls within the scope of the political pluralism and cultural diversity tenants of morality. Political

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[6] Constitution for the United States of America.
[7] Aupperle, 5.
[8] Said, Morality Lecture.
[9] Wink, Jesus and Nonviolence: A Third Way.

pluralism and cultural diversity and their connection to crimes against humanity and morality will also be discussed individually.

It is also necessary to acknowledge the differences in this definition of morality and crimes against humanity and morality and the ways in which the South African Truth and Reconciliation Commission (TRC) defines these concepts. The South African Promotion of National Unity and Reconciliation Act of 1995 establishes the fundamentals of the TRC and details the purposes and aims of the Commission as a whole. Reports issued on the TRC from 1998 to 2003 clarify the points made within the Act of 1995, while addressing problems inherent in the processes and workings of the TRC. Particular attention was paid to the issue of the victim and perpetrator and the accusations that the limited definition of victim was a result of the TRC being "perpetrator friendly."[10] Gibson acknowledges the problems inherent in the definitions provided for by the Act in its handling of "gross violation of human rights" and "severe ill treatment," some of the same criticisms that the Commission Reports addressed.[11] The Act explains that these are the issues that fall within the jurisdiction of the TRC and ones that it will address for its citizens. Although the Act only once mentions crimes against humanity, it is clear that some of the "gross violations of human rights" and "severe ill treatments" fall within the scope of the provided definition of morality. These "gross violations of human rights" are defined as:

> *…the violation of human rights through—(a) the killing, abduction, torture or severe ill-treatment of any person; or (b) any attempt, conspiracy, incitement, instigation, command or procurement to commit an act referred to in paragraph (a), which emanated from conflicts of the past and which was committed during the period 1 March 1960 to 10 May 1994 within or outside the Republic, and the commission of which was advised, planned, directed, commanded or ordered, by any person acting with a political motive (section 1(1)(ix))[12]*

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[10] Report of the Chief Executive Officer, 738 – 739.
[11] Gibson, Does Truth Lead to Reconciliation, 205 - 216.
[12] Promotion of National Unity and Reconciliation Act 1995, [online].

It is evident that this more narrowly defines this issue than the definition of crimes against humanity and morality provided previously, but later analysis will determine whether either of these fully acknowledges the issue of morality within South Africa and the complications in reconciling said issues.

The other concept addressed by the TRC, and as a result defined in its establishment that is pertinent for this study, is the notion of a "victim" of apartheid. This term falls within the definition of "gross violations of human rights" and was the source of much debate within the Commission Report. Gibson explains the importance of the consistently narrow definition of "victim" provided by the Commission.[13] The Act provides a specific definition of a victim of apartheid as persons who "individually or together with one or more persons, suffered harm in the form of physical or mental injury, emotional suffering, pecuniary loss or a substantial impairment of human rights."[14] This definition involves two tenants: those as a result of "gross violation of human right" or as a result of "an act associated with a political objective for which amnesty has been granted." Although the first portion of the definition could be extended to a great number of people, the subsequent restrictions serve to limit the scope of the "victim" of apartheid as well as the jurisdiction of the TRC in resolving issues involving "victims." As mentioned previously, the Act and the following reports only mention crimes against humanity once without further addressing its relationship to apartheid. Within the Act's provided definitions, both the "gross violation of human rights" and the acknowledgement that apartheid, in general, can be explained as a "crime against humanity" apply to the notion of crimes against humanity and morality discussed in this study.[15] The TRC does not specifically address this comment any further, but its importance for this study lies within the connection of this

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[13] February and Jacobs, Madiba's Magic is Slowly Dissipating, 1.
[14] Promotion of National Unity and Reconciliation Act 1995, [online].
[15] Ibid., [online].

statement to crimes against morality that were committed under apartheid and the need for a specific process to handle these issues. Although the TRC does not address the broader scope acknowledged by the provided definition of morality and crimes against humanity and morality, this study will serve to examine these issues specifically in addition to those acknowledged by the TRC as established by the Act.

Furthermore, it is vital to understand the specific reasons for choosing South Africa as a case study in this particular analysis of morality and universal morality. The importance of the South African experience lies in their impressive achievements attained in the relatively short time period compared with the system of oppression prevalent within the country for almost fifty years.[16] The policy of apartheid officially ended with the defeat of the Afrikaner National Party by the African National Council in 1994, only approximately fifteen years ago, and the establishment of the TRC occurred only in 1995 with the Promotion of National Unity and Reconciliation Act. This success merits further analysis of the system, and an understanding of the reasons behind said success may facilitate the use of South African approaches for future efforts of conflict resolution. Additionally, the nature of South Africa's establishment of the Truth and Reconciliation Commission provided a distinct system of full amnesty granted for disclosure of one's crimes. Though not unique, the TRC offered a form of conflict resolution reflecting the "need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for ubuntu but not for victimization."[17] This approach resulted from the detrimental effects of other methods in their use of punishments and enforced reparations, and the realization of leaders such as Archbishop Desmond Tutu and Nelson Mandela that these methods would contradict the South African mentality. As a result of the TRC, many of the

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[16] Mamdani, Amnesty or Impunity, 215.
[17] Promotion of National Unity and Reconciliation Act 1995, [online].

crimes committed under the implementation of the apartheid system are documented and readily available to the public. Thus, in an analysis of the nature of crimes against morality, direct accounts of those present serve as the basis for which any conclusions are made. The final reason that South Africa applies as a case study is due to the use of the South African model of reconciliation for countries such as Albania, Liberia, and North Ireland.[18] In these cases, Archbishop Desmond Tutu was invited to these countries to advise and council them on the South Africa model and the applicability of it to these countries' particular conflicts. Thus, the implications of the South African TRC expand far beyond the reach of the country's borders, affecting how conflict is addressed and managed around the world. However, it is important to address issues such as morality when addressing the effectiveness of the TRC, and future adjustments to this model in applying it to future conflicts.

Section II: Evidence

As previously mentioned, human dignity plays a vital role in the concept of morality, and the violation of this human dignity can be defined as a crime against morality. In attempting to understand actions that actually violate human dignity, first an analysis of specific examples of actions taken under apartheid will occur followed by an assessment of the TRC's approach to these violations, if found to exist. Finally, a concluding discussion of the existence of reconciliation with regards to said violation will be addressed. Due to the nature of the South African experience and the system of apartheid and the particular personal violations felt from it, issues and incidents will be addressed from both an individual and communal perspective.[19]

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[18] Dickerson, South Africa Lecture.
[19] Joyi, Personal Interview.

Furthermore, an acknowledgement of a potential universal violation of morality will be addressed in a later portion of this study. Violations of human dignity occur in a variety of ways and forms, including both physical and mental experiences. The Rome Statute of the International Criminal Court defines one aspect of war crimes as "committing outrages upon personal dignity, in particular humiliating and degrading treatment," enforceable as of July, 1 2002.[20] Although the mental effects can be difficult to determine, the prevalence of personal testimonies provide necessary information to determine the psychological impacts of actions taken during apartheid. A primary example of a violation of human dignity is the enforced submission upon the native South Africans first by the European colonizers and on those defined as "blacks and coloureds" by the Afrikaner National Party and the system of apartheid.[21]

Literature conveys the prevalence of submission within South Africa beginning with the colonization of the country by Europeans. In this situation, submission can be defined as negative submission, an experience that occurs when one group completely submits to the authority of the group in power as opposed to a joint submission, a concept reflecting compromises made from both parties. It is this negative or forced submission, reflecting the enforced unequal relationship between citizens of the same country, which pertains specifically to this study. Under the given definition of crimes against morality, the negative submission enforced on the natives of South Africa by the colonizers reflects a violation of human dignity, and therefore a violation of morality. Many have cited colonization as the beginning of broad issues of submission and mass crimes of morality against the populations in the area, and therefore it is an appropriate time in which to begin the study of submission in South Africa as a crime against morality. Furthermore, it is also widely held that the rise of apartheid within the

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[20] Rome Statute of the International Criminal Court, [online].
[21] Scheper-Hughes, Mixed Feelings: Spoiled Identities in the New South Africa, 347.

country directly resulted from foreign interest in South Africa and the colonization by European powers such as the British, French, and Dutch. In her article, Scheper-Hughes explains the tribal identities of black South Africans before colonization and before the institution of apartheid governed the country. She also describes the colonizers' perceptions of these native people and their "stereotypic descriptions" of the different tribes and their various languages.[22] However, when Europeans colonized the country and discovered the many raw materials and precious metals, most importantly gold, present, they began to create their own colonies and use the natives as a source of cheap labor. In fact, this desire and need for cheap labor helps explains the rise of the apartheid system from an economic standpoint.[23] Thus the establishment of the forced submission of the natives enforced by the European colonizers began in conjunction with the European presence in the country. The mere existence of an unequal relationship such as this may not appear to violate human dignity itself, but the relationship between the colonizers and the colonized was also characterized by a feeling of white supremacy and general discriminatory feelings and actions. This is clear when looking at documents written by European colonizers about the natives they encountered within South Africa. Once again Scheper-Hughes analyzes the language used in these documents in an effort to understand the feelings characterizing the submission of the natives to the colonizers.[24] The experiences of the natives under colonial rule from the establishment of the first settlement in 1652 until the end of the Boer War in 1902, when the British gained control over the country, contrast sharply with their experiences under British authority. Although the natives still experienced this notion of submission during this period, restrictions and discrimination were lessened.[25] Discussing this period is difficult in general due to the lack of literature from the time period or from the perspective of the natives.

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[22] Scheper-Hughes, Mixed Feeling: Spoiled Identities in the New South Africa, 346 – 351.
[23] Apartheid Museum, Understanding Apartheid, 13.
[24] Scheper-Hughes, 346 – 351.
[25] Gobodo-Madekizela, A Short History of Apartheid,143 – 148.

Further analysis of the extent of submission enforced on natives by European colonizers is incomplete without such information.

In contrast to the lack of information from both sides pertaining to the notion of submission during colonialism, a wealth of literature exists from the apartheid period in South Africa. In 1948 the Afrikaner National Party (ANP) won the general election and remained in power until 1994. Although the implementation of apartheid policies began before this date, this victory represents apartheid's establishment as a political strategy. It is important for this study to understand the specific ways in which the apartheid system established submission within the country and the degree to which this resulted in a loss of human dignity. In order to establish segregation and to create organization within the system, the ANP established three main racial groups into which they categorized South Africans: "whites, blacks, and coloureds." The ANP maintained complete control over determining the basis for these groups creating tests with no scientific backing such as the "eyelid test," which determined racial groupings based on the color of the back of a person's eyelid. [26] Furthermore, these groupings constructed by the ANP emphasized color as a determinant, and one's mere appearance as "fairer" than another person would merit greater opportunities and privilege within South African society. In terms of those defined as "coloureds," this system even served to separate members of the same family into different categories. In one instance, Fortune rejects her brother's invitation to a movie because she was not as "fair as [her brother] and Susan."[27] These racial categories were used to assess one's position within society as well as to facilitate the forced of negative submission of those considered "non-whites," thus creating a relationship of oppressor-oppressed within the country that continues to shape South Africa today.

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[26] Apartheid Museum.
[27] Fortune, The House in Tyne Street, 117.

These forced groupings and the emphasis on physical complexion effected South Africans within all categories in a variety of ways, both detrimental and beneficial. When discussing the concept of "white," it is necessary to acknowledge the variety of people that belong under this classification. However, for the purposes of this study "whites" will refer to those that identify themselves as Afrikaners. The "whites" living in South Africa are important in any discussion of South African identity for several reasons. The first of these is the fact that this group instituted policies that racially segregated and discriminated against the majority of the South African population. Furthermore, Freedberg notes that whites in South Africa are a minority, constituting "just under ten percent" of the population of South Africa.[28] It is clear that the perception of "whiteness" under apartheid policies maintained a certain level of prestige and power that justified, for them, the acts committed under the apartheid system and a notion of superiority in their relationships with "native" South Africans. A specific language, Afrikaans, and religious institution, the Dutch Reformed church, characterized this position in society. The history, prestige, language, and religion that defined the white identity in South Africa before 1994 were "strengthened by the apartheid state."[29] These identification factors greatly influenced the establishment of the unequal relationship within South Africa, as Afrikaners forced those considered "non-white" to submit to their rules, establishments, and general authority. However, in the post-apartheid South Africa it is clear that these previous ANP groupings have resulted in a backlash against "whites" and have had a negative impact on those comprising this classification, as well as altering this notion of submission prevalent through the country with regards to social structure. Freedberg describes the end of apartheid within South Africa as a "shattering assault on white identity" and explains the necessary "psychological adaptation" of

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[28] Freedberg, The End of Whiteness, 325.
[29] Ibid., 329.

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whites to a society led by those against whom many of them discriminated.   Without the protection of the Afrikaner National Party, whites in South Africa have had to rely on other methods of identification, and it is clear that this identity has, if anything, become more varied.[30] In the case of South Africa, the system of apartheid clearly helped define and maintain the notion of "whiteness" and the characteristics associated with people from this group. The erosion of "white identity" that has occurred within South Africa as a result of the shift to a democracy conveys some lasting effects of the apartheid system. As a result of these, one can cite the connection between the establishment of the white identity and the relationship of forced or negative submission on those considered "others" or "non-whites." This forced or negative submission in itself violates human dignity, removing equality while creating an oppressor-oppressed relationship between the citizens of a country. The breakdown of this system led to remarkable shifts in power, authority, and control visible in all aspects of South African society, challenging the standard notion of forced or negative submission entrenched in the country's culture for hundreds of years.

More obvious crimes against humanity and morality, as embodied by the condition of submission enforced by the ANP and established, in one manner, through racial categories, appear within the group defined as "blacks" under apartheid. With this identity came specific attachments determined by the Afrikaner National Party and instituted by apartheid including general discrimination, segregation, economic limitations, and an overall lack of individual choice or self worth. Scheper-Hughes explains the effects of apartheid on original "black" identities as "spoiled identities."[31] In her novel, Ngcobo reflects the importance of tribal loyalties but shows the breakdown of this identity under the dominance of apartheid, within rural

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[30] Ibid., 333 – 334.
[31] Ibid., 360 – 361.

communities, due to the nature of the system as a whole.[32] Throughout her novel she makes reference to communal ties of religion, language, and economic means. However, we see these ties depleted as the government takes control of all of these aspects of the people's lives. With the depletion of these personal ties came the enforcement of government-sanctioned groupings, in this case as "blacks." As with the "white" categorization, this "black" identity came with certain restrictions and the highest level of repression under the apartheid system. "Blacks," as determined by their physical appearance rather than any other means, were segregated into townships away from urbanized cities. They faced considerable discrimination with regards to employment and were prohibited from participating politically. Ngcobo explains the complete control the ANP maintained over the "black" rural populations even replacing their tribal leader with someone under their direct influence.[33] The policies established by the ANP specifically and instituted by the racial categorization system clearly removed those considered "blacks" from the real of "normal society." Ngcobo's example of lack of political power also translated into a general prohibition from participating in national elections, thus permitting the ANP to remain in power from 1948 to 1994.[34]

However, these political controls were far from the only dimension of South African life that the ANP controlled through forced or negative submission particularly with regards to the "blacks." Economic prosperity and employment remained in the hands of the government, and "black" South Africans found themselves limited in their economic pursuits. Some theories even emphasize this economic control as a central reason for the establishment and persistence of the apartheid system within South Africa. The Apartheid Handbook identifies the "Radical Approach," explaining the rise of apartheid through economic means, specifically emphasizing

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[32] Ngcobo, …And they didn't Die.
[33] Ngcobo.
[34] Dickerson, South Africa Lecture.

the exploitation of cheap labor provided by the blacks in South Africa.[35] This approach acknowledges the importance of gold as a major natural resource present within South Africa, and the control of this resource by those who colonized the country. In order to extract this raw material, significant amounts of physical labor were required, labor that could be inexpensive if migrant "native" South Africans were employed for lower wages. Rand lords controlled these economic ventures, and the need for a constant flow of cheap labor led to the prevalence of discrimination and eventually to the system of apartheid.[36] These economic controls only served to reiterate the notion of submission that existed within the country between the "white" Afrikaans and the "black" natives. As the end of apartheid drew near after the release of Nelson Mandela from prison in 1990 and the African National Congress reemerged, a banned party for most of the apartheid period, preceding the elections of 1994, Afrikaners watched in fear as the possibility for "black" governance of South Africa became more likely. For many of these Afrikaners, the forced separation from "blacks" and "coloureds" as well as this notion of submission that had established them as the dominant, and authoritative rulers, developed into a fear of a reversal in this relationship that was both hard to conceive and incited confusion and concern. Some of them even doubted the capacity of "blacks" to effectively lead a country, specifically one in which they had been oppressed for over sixty years.[37]

Regardless of the situation before apartheid in South Africa, it is clear that this system served to "fill people of all races with feeling of disgust and self-loathing."[38] This statement in itself reflects the violation of human dignity that occurred from the relationship of submission initiated by colonialism and strengthened by apartheid. An analysis of the racial categorization system enforced through apartheid and responsible for maintaining an unequal relationship of

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[35] Apartheid Museum, 13.
[36] Ibid., 15.
[37] Ibid., 16.
[38] Scheper- Hughes, 360.

oppressor and oppressed among citizens remains incomplete without the inclusion of those defined as "coloureds" and their forced submission to the apartheid policies and those who implemented them. This group falls in between the previously mentioned "whites" and "blacks," often serving to confuse and complicate the identities of these people. Linda Fortune offers insight into this group explaining her own experiences as a "coloured" person in South Africa during apartheid. In one instance, Fortune rejects her brother's invitation to a movie because she was not as "fair as [her brother] and Susan."[39] This example this shows the ability of apartheid to separate common identities even within the same families, while also enforcing an awareness of color and self and a qualification of self worth and dignity paralleled with the restriction and/or benefits that came with this color or "race;" this all served to damage human dignity. Within the "coloured" communities, the lighter the skin color, the more privileges were permitted by the government as well as society. Therefore, as the example reflects, the value of one family member could differ greatly from another, strictly based on these artificial groupings established by the apartheid system. However, Fortune's book only mentions ethnicities or race a few times, and these are mostly with regard to different religions living in her community.[40] Rather, the book focuses on telling a story about the identity of this community, District Six, instead of the identity imposed upon its citizens by apartheid. Once the government began to relocate the inhabitants of District Six, the identity of this community was replaced with the imposed "coloured" classification.

Current issues for this "coloured" identity are many, and Scheper-Hughes explains the difficulties inherent in the "in-betweenness of South African coloureds."[41] Many of those previously associated with this group have accepted an identity as "black," a grouping that

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[39] Fortune, The House in Tyne Street, 117.
[40] Ibid., 65.
[41] Scheper-Hughes, 361 – 362.

acknowledges the shared discrimination and submission to the authorities of the dominant group, the "whites." However, the "coloureds" of South Africa continue to remain a category that lies in between the authoritative and the submissive group, treated with, in some cases, continued resentment from "blacks" with respect to the greater benefits they received under the apartheid system. Thus, an analysis of forced submission would have to acknowledge the persistence of this lack of human dignity as a result of forced submission to authority and the dominant group. Furthermore, Scheper-Hughes acknowledges that unlike the "blacks," these people have no connection to political groups that may help to unify them.[42] Thus, the former "coloureds" have found themselves without a political backing in which to help define and defend their new role in South African society. In dealing with this predicament and their continued submission to the authority of others, the "coloureds" of South Africa have coped in one of two ways: either through supporting the former Nationalist Party, or by identifying themselves as "blacks."[43] In the first approach, the former "coloureds" have supported the former Afrikaner Nationalist Party out of a lack of their own political party. Facing continued submission, now from the blacks, these "coloureds" are returning to support the system which once held authority over them. One explanation for this support is that the "coloureds" did maintain some authority and benefits under the apartheid system, at least relative to those classified as "blacks." The other approach of many "coloureds" in the shifts of the post apartheid period, one which contrasts with the political support of the ANP mentioned previously, is aligning themselves with the renewed "black" identity within South Africa.[44] This approach comes from a shared oppression under the apartheid system and a common submission to the regulations and authority of the apartheid system as well as a concept that this shared history of oppression may be used to form a better

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[42] Ibid., 365.
[43] Dickerson.
[44] Joyi.

South African nation. Furthermore, by aligning with the current group maintaining power, the "coloureds" escape some of the negative connotations of their perceived benefits and authority under the apartheid system while allowing themselves to become a part of the renewed and energized group leading South Africa currently. Thus, it is clear that many of the implications of the forced submission of "coloureds" by Afrikaners resulted in lasting effects on the perceptions of the groups that they forced into these submissive roles. The "coloureds" in South Africa continue to deal with some of these effects today as they strive to overcome the consequences of the apartheid system, calling into question the effectiveness of institutions such as the TRC in resolving some of these broader implications of the apartheid system, and arguably the ones with the lasting consequences.

As outlined above, the impacts of Afrikaner forced submission on those defined as "non-whites" had an effect on those of all racial categories residing within South Africa both during the period of apartheid and today. Furthermore, this forced or negative submission, as defined previously, resulted in a destruction of human dignity by creating unequal relationships between people of different skin colors.[45] The very nature of the apartheid system in establishing and maintaining these unequal relationships violates the premises of morality as defined at the beginning of this study. What is left to be explained is how, if at all, the institutions set up to reconcile the conflicts resulting from the apartheid system dealt with these broader violations of morality within South Africa, particularly demonstrated by the TRC, and if more needs to be done in the future to address them. However, these violations of morality as seen by the apartheid system are not encompassed solely by violations of human dignity, but also include political and general cultural concerns. These issues, like those connected with human dignity, merit greater analysis and understanding. It is important also to recognize the connection of all

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[45] Aupperle, 3 – 9.

of these issues related to violations of morality, and their tendency to overlap in a case study such as South Africa.

In studying the violations of human dignity within South Africa forced or negative submission is seen as the main cause, but issues related to political plurality do not fall into one, organized category. The clarity of the cases in which the apartheid system, and those involved in its implementation, violates this notion of maintaining political pluralism is greater than those comprising violations of human dignity, though some may entail violations of human dignity as well. This clarity results from a greater ease at defining the concept of political pluralism, one which transfers easily across a variety of cultures and nations. Maintaining political pluralism would involve fostering the existence of a variety of political parties, and relies heavily on the values emphasized in a democratic society.[46] This is not to say that the only manner in which a country, person, or institution can provide for this political plurality is through a democratic process. Additionally, in a society maintaining this concept, it is necessary that voting rights be universal in nature, as well as protected by the state.[47] These voting rights also merit greater analysis in their connection with human dignity, discussed previously. Any action taken by a nation, institution, or individual that violates either the ability for a variety of political parties to exist or this notion of universal suffrage would qualify as a barrier to political pluralism and a crime against morality.

In understanding South Africa's experience with the concept of political plurality during the apartheid period, first one must acknowledge the political organization of the country prior to this relatively recent period. Although the colonization of South Africa by Europeans starting in the seventeenth century introduced western political concepts, some sense of political

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[46] Rummel, Power Kills, 1-10.
[47] Promotion of National Unity and Reconciliation Act 1995, [online].

organization dominated previously and is maintained in some areas of South Africa today. As already mentioned, tribal affiliations dominated much of South Africa and were characterized by leadership that was determined by one's birth into a particular family.[48] Ngcobo, in explaining these tribal units, conveys the chief's influence and accountability to the members of a particular tribe and the sense of political participation and involvement by both men and women.[49] This conveys the sort of positive relationship between citizens and authority before the shift to forced or negative submission associated with the European influence in the country. Furthermore, it is clear that the leadership within a tribe varied between different tribes or even settlements of particular tribes. The importance of religious or medical men within these units also varied and, like the "election" of chief, came as an inherited family position. It is debatable whether this tribal rule maintains any sort of political pluralism, but for the purposes of this study it is only important to acknowledge the political situation within South Africa prior to European influence in the country.

The first permanent Dutch settlement was established near the Cape of Good Hope in 1652, also introducing western concepts, including political ones, within the country. For several centuries, these European settlements relied on orders of their home countries, many ruled by monarchies until the twentieth century. However, with the transitions occurring within Europe in the early twentieth century and the separation of identities of those living within South Africa from their "home" countries, the establishment of political parties, separate from any European backgrounds, commenced. Initially, those of British origin controlled South Africa, defeating the Afrikaners, a mix of Dutch and French.[50] At this point it is important to acknowledge the lack of any political parties representing the "native" South Africans or the

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[48] Scheper- Hughes, 9.
[49] Ngcobo, 69.
[50] Gobodo-Madekizela, A Short History of Apartheid, 143 – 148.

influx of those later to be classified as "coloureds." One exception to this was the African National Congress (ANC), which formed in 1912 and attempted to represent the larger majority of "native" or "black" South Africans from a multicultural perspective.[51] However, this organization was limited in its efforts and support until apartheid actually took full control in the country after 1948. This gave the ANC a unifying goal, and leaders such as Nelson Mandela appealed for greater support from society as a whole. The lack of other political parties representing those considered "black" or "multiracial" resulted directly from the lack of experience with western notions of politics and political parties, leaving the majority of the country without political representation. From this, one could argue that colonization in itself violated political plurality, in its enforcement of their own political systems, alienating those with no understanding of them, while also violating the broader concept of morality. However, of greater interest is the manner in which the apartheid system violated these concepts, if at all. As mentioned previously, the Afrikaner Nationalist Party came to power in 1948, defeating the British political party ruling at that time.[52] With this election came the implementation of several policies that reflect violations in political pluralism and morality as defined previously.

The ANP ruled South Africa until 1994, a period of almost fifty years, as a party reflecting less than ten percent of the population and discriminating against any person outside of this minority. This domination of South Africa by a minority of the population raises, even without further analysis, questions about the promotion of the conditions necessary for political pluralism within the country. As the ruling political unit, the ANP was responsible for fostering both the existence of a variety of political parties as well as guaranteeing universal political participation. After the ANP gained power, the ability for political participation by all those

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[51] Malik, The Meaning of Race: Race, History and Culture in Western Society, 165 – 169.
[52] Ibid., 814 – 815.

deemed "non-white" was strictly limited. Voting existed as a privilege for the "whites" only, and involvement in any forms of political organizations by those outside of this group resulted in impediments to employment and even state punishment.[53] It is also important to acknowledge the violations of human dignity that also characterized this strict prohibition of voting rights for the majority of the South African population. Research conveys the connection between the ability to vote, and identification as a citizen of one's country and a human being. By excluding those considered "non-whites" from voting in elections, the ANP through the apartheid system further enforced their authority and the forced submission of the majority to this, violating "non-white's" human dignity in the process. As the ANP controlled all aspects of South African life, political, economic, and cultural, it was vital for citizens to obey these limitations established by the apartheid system or they faced challenges that could have implications and consequences as severe as death. Not only did the ANP, an institution responsible for guaranteeing these rights, prevent political participation in any form by a majority of its citizens, but it also directly interfered with local political practices. The ways in which the ANP elected tribal chiefs who supported their own policies, as explained previously, conveys again the violations of political plurality by the ANP and the apartheid system as a whole. Much like the failure to provide universal suffrage, this interference in tribal politics served to further damage human dignity by removing a sense of self and the power for a citizen to influence their own life within the political arena.

Furthermore, the ANP directly interfered with the existence of other political parties, a clear violation of the basic principles underlying political plurality and its importance to morality as a whole. With the realization of the necessity of western forms of political policies and the seemingly unchallenged power of the ANP, many "native" South Africans began developing

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[53] Ngcobo, 69 – 75.

their own political parties. The most notable of these was the ANC, an organization backed largely by those identifying with the Zulu tribe of South Africa.[54] Throughout the apartheid period, the ANC progressively began to grow in strength and number, challenging the mounting restraints of the system and the ANP. Nelson Mandela became the vocal leader of the group, encouraging "black" South Africans to join and resist the apartheid system. During this period, what started as the non-violent movement and organization of the ANC, shifted to a practice of civil disobedience. In seeing this organized challenge to their authority, and using the violent forms of resistance as a justification, the ANP banned the ANC in 1960, also arresting Nelson Mandela who was only released from prison in 1990.[55] This banning of a political organization and the arrest of its leaders directly violates the notion of political plurality that the ANP should have fostered and protected in following moral practices.

The examples explained above present only a few of the more basic violations of political plurality demonstrated by the ANP in the period from 1948 to 1994. Their prevention of any form of political participation by those considered "non-white" as well as their intervention in the existence of counter political parties stemmed directly from their desires to maintain complete control over South Africa, also maintaining their authority and the submission of "non-whites" to it. Their representations of a small minority of the country as well as their oppression of the majority of its citizens fostered this need to suppress the basic notions underlying the concept of political plurality, clearly committing crimes against morality in the most basic sense. It is also apparent that the implications of the repression of political plurality continue to affect South Africa today, failing to provide the background necessary for the development of parties representing groups such as those formerly classified as "coloureds" or those currently

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[54] Scheper-Hughes, 9 – 11.
[55] Peron, South Africa's Polarized Politics, 47 – 49.

immigrating into the country.[56] Furthermore, there are few politically backed organizations of protections for minority groups such as homosexuals within South Africa, leaving mass problems such as hate crimes and domestic violence without any political protections or support.[57] Since 1994, when the ANC won by a significant percentage, no other political party has posed a serious challenge to their rule leaving them in power, at this point, for over ten years. Although this could merely be a result of the ANC's broad support throughout the country and their representation of a majority of South Africa's citizens, South Africa's experience with political limitations calls into question some of roots of the continued dominance of the ANC.[58] However, an analysis of its own continuance and guarantee of political plurality must be reserved for a future study on this topic.

Much like the analysis of political plurality and the maintenance of it by an institution, nation, individual, or other party the notion of cultural diversity does not fall into a streamlined category as with human dignity, though the nature of submission, as discussed previously, can also be traced within violations of cultural diversity. The clear definition of political plurality and its universal applicability may not necessarily characterize cultural diversity, taking into consideration all the complicating cultural aspects of a region or ethnic group. At times synonymous with "multiculturalism," Malik criticizes this principle of this awareness of cultural differences and explains its ability to stratify society replacing race in this manner.[59] This debate may be necessary in a later study, but for the purposes of this research, cultural diversity will remain a main tenant of the provided definition of morality. It is important to acknowledge that any definition of cultural diversity would allow for the existence of a multitude of cultural units or identities, as well as provide the legal protections for their existence and perseverance. The

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[56] Ibid., 49 – 50.
[57] Stewart, No Freedom Celebrations for Black Lesbians, [online].
[58] Herbst, Mbeki's South Africa, 134.
[59] Malik, 179.

Canadian government went further in defining this concept, expressing concerns of violating cultural diversity specifically with regards to "the persistence of stereotyping; too many instances of negative or inaccurate portrayal; under representation of many groups; unbalanced or negative portrayal on newscasts; and a serious absence of Aboriginal representation on television."[60] Although some of the specifics of this definition apply strictly to the Canadian experience with cultural diversity, such as the mention of "Aboriginal representation," the other concerns including "stereotyping and under representation" have implications for any country or area including South Africa. Other definitions of cultural diversity give six tenants of the concept, narrowing its broad nature much like the Canadian concerns.[61] Whether using a narrow definition as provided by the Canadian Task Force for Cultural Diversity on Television, or a broader one as I initially provided, it is clear that the ANP, through the apartheid system, failed to provide for cultural diversity and in many cases suppressed it overall.

In describing the apartheid system as a whole, it is essential to explain it first and foremost as a system of segregation, or forced separation of people according the some sort of classification system. The very nature of this system in segregating South Africans violates broad notions of cultural diversity as well as narrow ones. Apartheid, as instituted and enforced by the ANP separated citizens based on the racial categories they constructed. These three categories, "white,

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[60] Cavanagh, Best Practices for Cultural Diversity in Private Television, 3.
[61] Dameron, The Good and the Bad: the Impact of Cultural Diversity on Co-operative Relationships, 8.

black, and coloureds," lived and worked in separate spheres of South African society, strictly enforced by the ANP. In justifying this policy of forced segregation, many ANP supporters explained the dangers in allowing people of different backgrounds to mix, and the violence often accompanying mixed cultural contact. Functionalist theory would also explain the utility of separating groups in this manner; however, even within the country there were examples of the fallacies inherent with this mindset.[62] One striking contrast to this perceived danger in allowing these seemingly incompatible group to come into contact with one another, appeared in the existence of District Six on the outskirts of Capetown. Fortune gives a personal account of her experience growing up in District Six as a person classified as "coloureds" by the ANP and the apartheid system. Despite these imposed classifications, District Six maintained a certain degree of cultural diversity including South Africans of a variety of religious and ethnic backgrounds, forming a unique community identity that traces through the entire novel.[63] The existence of this community, especially in a society that emphasized ethnic differences and restrictions based on them, demonstrates the ability for those of different backgrounds to peacefully coexist, discrediting the ANP's claims. This segregation of classified "races" prevented the mixing of cultures and thus suppressing the basic notion of cultural diversity. Furthermore, it also prevented a progression towards miscegenation, or a complete achievement of ethnic mixing

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[62] Dickerson, South Africa Lecture.
[63] Fortune.

through reproduction, by barring contact between people of different ethnic backgrounds.[64] Thus, in violating this principle of cultural diversity, defined either narrowly or broadly, the ANP violated a broader notion of morality, and committed a crime against humanity through the apartheid system it established and maintained.

Furthermore, the treatment of an individual based on his or her racial classification also served to prohibit cultural diversity and violate the concept of morality in the apartheid period. As mentioned previously, certain benefits came incrementally with the color of an individual's skin under the apartheid regulations. Following this principle, "whites," particularly those identifying as Afrikaners, received the greatest advantages maintaining full economic, political and social privileges within South African society.[65] The Apartheid Handbook explain the connection of "whiteness" with the privilege accompanying this status under the ANP and the apartheid system in explaining the second approach of understanding the system of apartheid in South Africa, the "Liberal Approach." Under this approach, the concept of "white supremacy" was the main determinant in the construction and implementation of apartheid policies.[66] Thus, following these concepts, full privileges would be justified through this notion of "white supremacy," and the ANP through the apartheid system guaranteed that economic, political and social aspects reflected this. Following this design of providing full benefits to "whites," benefits decreased and restrictions

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[64] Beard, Perspectives on Intersectionality: Race, Gender and Class in Interaction, [online].
[65] Freedberg, 325 – 327.
[66] Apartheid Museum, 12.

increased incrementally as one's "whiteness" decreased. Thus, "blacks" received the least benefits and most restrictions under the apartheid system, contrasting inversely with their existence as a majority of the South African population. Many of these restrictions have already been mentioned and convey the prevention of cultural diversity through the stratification of South African society based on unequal treatment, while simultaneously violating the first mentioned tenant of morality, human dignity. Thus, the cultural expression and characteristics of many "black" South Africans was suppressed by the ANP and the apartheid system through their direct intervention into the everyday experiences. These interventions included political activities, such as tribal political organizations, economic means, forcing workers to migrate to cities away from their families, and social means, by controlling religious practices in many communities. This interference with everyday activities and structures of "black" South African life served to limit the cultural practices of these communities, thus preventing a broader cultural diversity. An analysis of "coloureds" within South Africa falls between these two groups of "whites" and "blacks," but conveys the same ANP interference in cultural practices as enforced through the apartheid system. The treatment of "coloureds" under apartheid varied, corresponding to the skin color of a particular individual. Following this system, and the preference for lighter skin, the closer a person's skin color to that of a "white," the more benefits received and privileges provided by the state. In the same respect, the darker a person's skin color, the more restrictions and fewer privileges provided by the government.[67] The unique status of the "coloureds" and the divisiveness within their classification based on individual skin color has created a variety of post apartheid effects. Some of these have already

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[67] Fortune, 77 – 78.

been mentioned throughout this study, by the individual case of those considered "coloureds" and their treatment under the apartheid system merits greater analysis.

In acknowledging the difficulty in defining cultural diversity, and in doing this providing only a broad definition, it is still clear that the ANP working through apartheid directly violated cultural diversity. This violation of cultural diversity, in a variety of ways, qualifies as a crime against morality by those involved in the ANP or any person who took part in the crimes listed above. It is clear today that the effects of this prevention of cultural diversity continue to permeate through South African society. Although the country aspired to form a color-blind "rainbow" nation united under the concept of "ubuntu," the disparities between those of different racial categories as defined by apartheid remain vast.[68] Furthermore, tensions between different groups remain largely as a result of the segregation and tensions established by said system.[69] It is clear that some of the problems related to the crimes against morality committed during apartheid have continued consequences today, sparking an interest in the effectiveness of the post-apartheid period in addressing these moral issues. Thus, this necessitates an analysis of the South African Truth and Reconciliation, the main unit for handling conflict resolution within South Africa after 1994.

Section III: Discussion

Although it is clear that the TRC had significant success in achieving some forms of reconciliations, problems related to its failure to address broader issues continue to affect the country in social, economic, and political arenas.[70] The violations of humanity and morality

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February and Jacobs, 1.

[69] Mabuza, Nthabiseng, The Truth and Reconciliation Commission: An Interview, [online].

[70] Reed, South Africa's 'Cappuccino Effect,' [online].

committed by the ANP under the apartheid system and some of the current implications of said violations on the citizens of South Africa explained above produce an interest in their management in the post apartheid reconciliation process. One criticism of these Commissions in general identifies their failure to address broader crimes against humanity and against morality, and the negative impact this exclusion has on reconciliation as a whole.[71] It is clear that some of these criticisms contradict the explanations of the goals of the TRC "to provide for the investigation and the establishment of as complete a picture as possible of the nature, causes and extent of gross violations of human rights."[72] However, this broad scope is limited by subsequent constraints including definitions and those incidents falling into the TRC's jurisdiction. Mamdani argues that the TRC failed to acknowledge even the "bifurcated nature of apartheid as a form of power that governed natives differently from non-natives," an underlying premise of the system as a whole that resulted in many of the crimes against morality that the ANP committed.[73] Each of these criticisms identifies a factor of the TRC that has affected its resolution of the crimes against human dignity, political plurality, and cultural diversity explained above. In its specific jurisdiction, definitions, and physical structure, the TRC served to limit its scope, and thus insufficiently address these broader crimes against humanity and morality taken during apartheid, preventing complete reconciliation of the South African conflict.

In establishing the TRC, the Promotion of National Unity and Reconciliation Act provided basic guidelines for which cases to accept into the TRC hearings. In doing so, the new post-apartheid government was allowing the TRC to address particular issues fully without overextending itself. Mamdani also identifies an important factor for the limitations in cases

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[71] February and Jacobs, 1.
[72] Promotion of National Unity and Reconciliation Act 1995 [online].
[73] Mamdani, Amnesty or Impunity.

accepted by the TRC for hearing in that the "leadership of the TRC was eager to make the story of apartheid—especially the lessons of reconciliation—universally available."[74] Four major aspects limited those crimes which were eligible for hearings under the TRC: those committed from the period of March 1, 1960 until May 10, 1994, ones taken with a political motive, ones emanated from "crimes of the past" and those falling under the definition of "gross violation of human rights."[75] These factors narrowing the incidents under the jurisdiction of the TRC limited the degree of resolution of crimes against humanity and morality including those against human dignity, political plurality, and cultural diversity, committed during apartheid. The ways in which the time restriction and those "emanated from the past" limit the inclusion of these crimes is straightforward, but the "political intent" requirement requires further analysis. Crimes against human dignity committed during apartheid fall mainly within the categorization of forced or negative submission, as defined previously. The limitation of crimes taken with a "political motive" fails to acknowledge other explanations of apartheid, including the previously mentioned "Liberal Approach's" emphasis on feeling of white supremacy characterizing much of the system as a whole.[76] General feelings of racism and intolerance maintain no place within the scope of this "political motive" requirement, leaving one of the major characteristics of apartheid conflict unacknowledged in the model of conflict resolution chosen for the post-apartheid reconciliation process. These same arguments apply directly to crimes against cultural plurality which emanate largely from racist concepts resulting in segregation. In contrast, when discussing violations of political plurality committed under apartheid, and specifically by the ANP, the "political motive" requirement impacted these violations significantly less than violations of human dignity or cultural diversity. Behind many of these violations lay a political

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[74] Mamdani, 58.
[75] Promotion of National Unity and Reconciliation Act 1995 [online].
[76] Apartheid Museum, 12.

motive, allowing these incidents to fall within the jurisdiction of the TRC as a whole. Once again, in looking at the Apartheid Handbook's explanation of the four generally accepted explanations of apartheid, only one, the "Social History Approach," analyzes apartheid from the point of view of ordinary people. This approach explains apartheid as a result of growing resistance of ordinary people and the need of stricter laws to enforce segregation policies in order to address this resistance, connecting directly to a suppression of political plurality, and crimes taken with a "political motive."[77] This in itself reveals the degree to which the "political motive" limits to the scope of reconciliation of crimes against humanity and morality, showing the acknowledgement of the TRC of only one of the four or more possible motives underlying actions taken during apartheid.

In addition to the jurisdiction restrictions placed on the TRC by the Promotion of National Unity and Reconciliation Act of 1995, certain definitions provided further limitations to the scope of the TRC, thus hindering the reconciliation of broader issues against humanity and morality. An earlier explanation of these definitions explains their specific nature particularly with regards to "victims, gross violations of human rights, and perpetrators."[78] The TRC fails to define those citizens experiencing everyday crimes against humanity and morality as "victims."[79] As mentioned previously, the Act provides a specific definition of a victim of apartheid as persons who "individually or together with one or more persons, suffered harm in the form of physical or mental injury, emotional suffering, pecuniary loss or a substantial impairment of human rights."[80] Although this definition may not appear narrow in itself, the Act goes further in defining the factors within this definition, limiting the scope to specific people victimized by particular actions. Such a limited definition served both to individualize the crimes committed

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[77] Ibid., 13.
[78] Promotion of National Unity and Reconciliation Act 1995, [online].
[79] Gibson, 205 – 216.
[80] Promotion of National Unity and Reconciliation Act 1995, [online].

under apartheid as well as to exclude a large portion of those who suffered under the system but do not merit "victim" status under the TRC. This individualistic approach failed to encompass a majority of the broad crimes against humanity and morality committed under apartheid including those against human dignity, political plurality, and cultural diversity, those crimes that affected South Africa as a whole, and individuals on a daily basis.[81] Of particular concern in respect to this limited definition of "victim" are the crimes against human dignity, as seen through the system of submission established by colonization and strengthened through apartheid, which affected all South Africans on a daily basis. However, this characteristic of the TRC fails to acknowledge those suffering from deeply entrenched social structures that continue to impact the country today. The crimes committed against political plurality, specifically with regards to political participation, also could not be addressed within the TRC as a result of its limited definition of "victim," handling issues on an individual basis, rather than one addressing crimes affecting the majority of the population. General prohibition of citizen political participation including both local and national and voting rights for the majority of the population remains unmentioned within the TRC, or the hearings that comprised it. In fact, as a result of the violations committed under apartheid, mainly by the ANP, one could define all those living in South Africa during apartheid as "victims" of the greater crimes against humanity and morality produced by the system as a whole. The definition given for "gross violations" also served to limit to ability of the TRC to fully address those broader violations of humanity and morality much like those associated with the provided "victim" definition. Although this limited all three areas of violations examined throughout this study, in terms of violations against human dignity these "gross violations" include only a few specific issues which by and large leave no room to address the unequal and immoral relationship between authorities including the ANP and the

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[81] Mamdani, 57 – 59.

apartheid system and those forced to submit to it, those deemed "non-whites." The implications of the deep rooted relationship perpetuated by apartheid and those acting through it could merit its own study, showing traces in the wide spread domestic violence and hate crimes prevalent in South Africa today.[82] Furthermore, the definition of perpetrator, established and acknowledged by the TRC, has caused much debate due to its limited scope and the implications of this scope on responsibility, either individual or collective. In 2003, the Chief Executive Officer (CEO) addressed the challenges to the TRC including accusations of "persecutor-friendly" actions related largely to the limitation of the definition of persecutor and the truth for amnesty policy.[83] Although the CEO defends the position of the TRC as well as its aims, a large portion of South Africans felt, and continue to feel, that the TRC did not provide enough "justice" with regards to punishing persecutors.[84] Both the definition of a persecutor and the truth for amnesty policy raise the question of personal responsibility and its inclusion in Truth and Reconciliation Commissions as a whole. In terms of this narrow definition, many of those who did commit crimes against humanity and morality never fell within the constraints of the TRC, prohibiting any sort of public personal responsibility, and in many cases denial.[85] Furthermore, the truth for amnesty policy raises concerns for a collective responsibility for apartheid and the crimes against humanity and morality committed under it. Without any punishment mechanism, difficulty arises in understanding the degree to which truth is actually achieved as well as guilt or responsibility felt by the persecutors.

The physical structure of the TRC also resulted in limitations of the reconciliation of crimes against humanity and morality. Under the Promotion of National Unity and Reconciliation Act of 1995, the TRC comprised of regional hearings that allowed disclosure of

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[82] Matthews, Every Six Hours and Woman is Killed by her Intimate Partner.
[83] Report of the Chief Executive Officer, 738.
[84] Gibson, 205 – 216.
[85] Nagy, The Ambiguities of Reconciliation and Responsibility in South Africa, 722 – 724.

the experiences of those defined as "victims" and those perpetrators of crimes falling within provided definitions. Once the "truth" of both sides was disclosed, a factor considered necessary for the creation of collective memory, and those presiding over the hearing determined the full "truth" had been heard, full amnesty was given to perpetrators. The Act details the mechanisms and goals of the TRC, though this main structure provides sufficient information for the aims of this study. Though some would argue this policy allowed for a reconciliation of actions without damaging the country through retributions or punishment, these benefits apply only to those actions taken individually and that do not fall within the broad crimes against humanity and morality prevalent in the case of South Africa and their experience with apartheid. However, these kind of universal, expansive crimes against morality were not dealt with as a result of the narrow scope of the TRC, leaving many of the deep problems caused or maintained by apartheid without any form of recognition, let alone reconciliation. Another critical issue with regards to the structure of the TRC briefly mentioned previously pertains to the degree to which the perpetrators actually felt responsibility, and the ways in which the TRC determined this. Mabuza addresses this problem in his interview with Pumla Gobodo-Madikizela when he asks her to explain what happens when perpetrators apologize without really meaning it and how one can measure their sincerity. Madikizela acknowledges the lack of a "moral basis" within the construct of the TRC and the need for one, although she also addresses the difficulty in including aspects such as these.[86] The physical structure of the TRC also sparks discussion about the true degree of reconciliation felt by South Africans following the truth for amnesty process. Although Gibson acknowledges the impressive degree of reconciliation South Africa has achieved in light of the relatively recent end of apartheid, he points to the significant portion of "native" South Africans who do not feel fully reconciled with regards to apartheid and their

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[86] Mabuza, Nthabiseng, The Truth and Reconciliation Commission, [online].

experiences under it. As his statistics show, many of the issues with which this portion of the population does not feel reconciled fall within the categories defined through this study as crimes against humanity or morality.[87] It is clear that the TRC, due to its mental and physical limitations, fails to provide a forum for addressing broader crimes against humanity and morality or for the victims of said crimes to achieve their own individual and collective reconciliation.[88]

Section IV: Conclusions

Many of the problems inherent in the South African Truth and Reconciliation Commission with regards to crimes against humanity and morality pose difficulties for other attempts at achieving some sort of guideline for global actions or reconciliation processes in general. These issues, detailed previously, include ambiguities in defining broad concepts such as morality, an ability to enforce these principles, and a general failure to acknowledge the importance of these larger issues to global humanity and morality. The argument of this study proves the dire need to address crimes of this nature in hindsight and the failure of current institutions, particularly Truth and Reconciliation Commissions, in doing so. However, an inclusion of the concepts of morality as explained throughout this study would only serve to address crimes against humanity and morality after they had taken place. Thus, further legislation would be necessary to establish and implement a general code of morality and those actions constituting crimes against humanity and morality in an effort to prevent them from occurring and to force those committing them to take appropriate responsibility for them.[89]

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[87] Gibson.
[88] Mabuza, Nthabiseng, The Truth and Reconciliation Commission, [online].
[89] Nagy, 721 – 724.

Defining a concept such as morality in specific, literal terms, as opposed to abstract, would significantly ameliorate some of the issues associated with addressing the concept and applying it when needed, and is a necessary step before the prevention and reconciliation of these crimes can be achieved. The Rome Statute of the International Criminal Court recently established some of these tangible guidelines for crimes against humanity and morality, specifically with regards to human dignity. However, the impact it has made on the international community has yet to be seen as a result of its recent implementation.[90]

In terms of preventative legislation preceding the Rome Statute, several documents already existed pertaining to issues of morality and crimes against humanity and morality. However, the vague terminology and lack of enforceability prevented and continue to prevent them from fully incorporating these broader concepts into international policy and order. The Nuremburg trials used to prosecute war criminals from World War II provide a framework that enforced personal responsibility for "crimes against peace, war crimes, and crimes against humanity." However, these standards applied solely to the trials occurring in response to World War II actions, without broader application or institutionalization for crimes committed following. Raskin acknowledges the need for the policies established within the Nuremberg trials to be a functional and permanent part of U.S. policy, advancing his own revisions of the 1947 National Security Act to include these provisions.[91] Although he attempts to resolve many of the issues identified through this study of South Africa and truth and reconciliation commissions, his argument still provides a fairly broad concept of morality, maintaining its abstract nature and fostering continued skepticism. When comparing the Nuremburg Trials to The Genocide Convention of 1948, similar problems and approaches arise. Although established

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[90] Rome Statute of the International Criminal Court, [online].
[91] Raskin, America's Manichean Approach to Militarism, 321 – 332.

in 1948, the United States failed to ratify this agreement until 1986, preventing, to a great degree, enforcement of the policies established through this convention. Many criticisms of the document pertained to the vague nature of the broad crimes being addressed, and the fear of a violation of state sovereignty.[92] From these two cases, it is clear that the ambiguity surrounding crimes against humanity and morality pose considerable challenges to the involvement of notions of a greater humanity and morality in international policy and decision-making.

These examples, in addition to the South Africa case study presented, raise important questions pertaining to the existence of universal morality. The beginning of this study a basic definition of morality and crimes against it was presented, one in which broad principles were used to determine the existence of crimes against humanity and morality during the apartheid period. From this, following arguments revealed that yes, these crimes were committed, and no, the TRC did not fully address these crimes providing for incomplete reconciliation within South Africa today underlying many of their continued struggles. However, it has also been argued that in order for these issues to be addressed, and for general discourse on humanity and morality to be transitioned fully into practice, a more specific definition of these concepts must exist. Thus, a specific guideline for universal morality should be formed in an effort to include these concepts in preventative and reconciliation efforts. Studies of South Africa and its experience with these broad tenants of morality, as defined previously, reveal universal applicability of maintaining human dignity, political plurality, and cultural diversity. It is in defining what specifically constitutes violations of these tenants that universal application becomes difficult, as well as in an acknowledgement of varying religious beliefs in complicating the issue. From this study it remains unclear what a precisely specific framework of universal morality would encompass. Despite this, the applicability of these broad notions of humanity and morality in a

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[92] Power, A Problem from Hell: America and the Age of Genocide, 65 – 67.

universal setting provides significant evidence for the existence of a more specific concrete definition of universal morality.[93] Thus, it is concluded that further research should be done looking at a broader range of case studies in an effort to achieve this tangible definition of humanity and morality, and provide for a framework established in law, and enforced throughout the world.

The South African example reveals the common exclusion of broader issues of humanity and morality from reconciliation processes. Furthermore, the significant degree to which problems stemming from violations of these concepts continue to persist, combined with continued feelings of incomplete reconciliation of these crimes, convey the importance of two options: revising Truth Commissions to encompass these issues and/or providing for another forum in which to address them. The South African example has set precedent for a great number of countries approaching conflict resolution through the use of Truth Commissions, often asking Archbishop Desmond Tutu for guidance in this task.[94] Thus, it is important to acknowledge, in addition to its well-documented achievements, possible areas in which improvements should be made. Including broader crimes against humanity and morality as well as an appreciation of the general crimes apartheid committed against all South Africans living under it serves as an area in which significant improvement should, and must be made, in an effort to provide for a greater resolution of previous conflicts. Countries following the South African examples should recognize these shortcomings of the TRC and include in their own Truth Commissions or other forms of conflict resolution, a system in which these issues of humanity and morality, the deep rooted social problems, can be appropriately addressed. However, it is also clear that a narrow, tangible definition of these concepts, making their

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[93] Sterba, 94 – 98.
[94] Dickerson.

inclusion easier, has yet to be accurately or completely determined. Thus, it is under these imminent conditions that it is necessary that further research developing this definition and framework be completed. The implications of failing to provide for this affect not only those countries currently experiencing conflict or those in the post-conflict stage but for all. The only way in which to fully address the issue is through a comprehensive effort to explain these concepts in a tangible and universally applicable manner, institute them in laws making them both enforceable and preventative, and through inclusions in the post-conflict periods, specifically in the use of Truth Commissions.

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