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Seeking Truth Through Reconciliation: The Life and Times of Elleck Nchebaleng

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By Teresa C. Yates

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Good morning everyone.

Since I arrived back in New York, it seems that everyone that I encounter wants to know something about the Winnie Madikizela-Mandela debacle that is being reported in the *New York Times* every other day.

The day after I arrived in New York I attended a friend's wedding and a woman cornered me at the reception. She wanted to know whether I thought that Winnie was guilty or whether she was the victim of some plot to destroy her political career.

I was in Atlanta giving a talk at Emory Law School and several students and professors wanted to know whether I thought that Winnie was guilty of the crimes she is being accused of committing.

And on Thanksgiving day my eighty-year-old uncle wanted to know, 'What they tryin' to do to Winnie Mandela?'

My first instinct is usually to say that I've been focusing on land tenure, not the Truth and Reconciliation process. But that would not be entirely true. Indeed I, along with thousands of other South Africans, read in the papers and hear on radio and television the revelations of past suffering and abuses under the old government almost every day. So I've decided to talk today about the quest for reconciliation through truth because almost every aspect of South African policy-making, whether it is land reform or housing or water, is in some way going through a process of trying to come to grips with the past.

Indeed, South Africa's past is like a demon that is possessing the country.

The South African government is spending a lot of money on a range of commissions whose task it is to exorcise the demon of the past. For example:

The Gender Commission costs the government about one and a half million dollars;

The Youth Commission costs the same;

The Commission on Restitution of Land Rights comes in at just over 2 million dollars; and

The Truth and Reconciliation Commission tops them all at 10 million dollars.

The primary task of all these commissions is to try to help their target groups

overcome the vestiges of past discrimination and abuse. It is a monumental task.

An experience that Peter Martin had when he visited South Africa earlier this year and the story of a friend help to illustrate just how monumental the task is at hand.

When Peter visited South Africa earlier this year he stayed at a small bed and breakfast in Pietersburg. We all know how good Peter is at the art of conversation, so it is no surprise that he managed to get Mrs. Venter, one of the owners, to confess. She confessed that she didn't know about *any* of the human rights atrocities now being reported nearly every day to the Truth and Reconciliation Commission. She told Peter that "we just did not know." Peter asked her what she would have done if she had known and she responded that she would have done something to make sure that "they" were educated. "They," of course, meaning black South Africans.

My friend Elleck Nchebaleng knew what was happening to African National Congress activists.

Elleck was born in 1958 in Apel village in Sekhukheneland in the Northern Province. He was recruited into the ANC underground when he was 17 years old. But his family prepared him for this life long before that.

Elleck's father was Peter Nchebaleng. Peter Nchebaleng was active in the ANC throughout the 1960s, 70s and 80s. He was imprisoned on Robben Island from 1963 to 1971 for his participation in ANC activities. When Peter was released from Robben Island he was "banned" and sent back to Apel village, where he remained an active ANC member.

In 1976 he was arrested again, this time on charges of recruiting for the ANC and storing arms in his home in Apel. Several other activists from Apel were tried along with Peter on the same charges, including his son Elleck. One year after his arrest Peter was acquitted and sent back to Apel. Elleck was not as fortunate.

For an entire year Elleck refused to give evidence against his father to the police. After one year of solitary confinement and continuous torture, Elleck was sent to Robben Island where he spent six years.

Elleck's refusal to give evidence to the police saved his father and several other activists from prison. One of his co-accused, Nelson Diale, admits that "the person who saved us from death was Elleck. He refused to give evidence throughout the year."

When Elleck went to prison he was eighteen years old. When he was released from prison in 1983 he once again became active in the ANC underground.

His father was at this time the president of the United Democratic Front in Sekhukhuneland. He was also covertly active in ANC activities in the area. The police tried on several occasions to kill Peter. They once placed a bomb in the school report card of Elleck's younger brother. That letter device was discovered before anyone was hurt.

By 1986 the police had become increasingly frustrated that they could not prove that Peter was storing guns and banned printed material in his home. In April of that year the police came to the Nchebaleng home in the middle of the night and arrested Peter. Elleck was in Pretoria that evening.

His mother and brother told him later that 'they started beating him before they got him out of the house.' His mother wanted to give him clothes, but the police took him away in his pajamas, saying that he was going to die. She believed them.

The next day the family got the news that Peter had died of a heart attack while in police custody. Peter Nchebaleng had never had a heart problem. The family knew what really happened to Peter, as did the twenty thousand people who attended his funeral.

Peter Martin's host, Mrs. Venter, and other white South Africans claim that they never knew to what lengths the state was going in order to protect their privilege. Indeed, you would be hard-pressed to find any white South African who is willing to admit that he or she knew anything about the activities of the past government, let alone condoned them.

The Nchebalengs and millions of other black South Africans knew what was happening to their husbands, wives, sons, daughters and friends. Elleck's mother knew that the police were serious when they told her that they were going to kill her husband and the father of her six children.

But black South Africans also knew that apartheid would not last forever.

And when the ANC came to power in 1994 they wanted vindication. They wanted the state and the perpetrators to admit the crimes that they committed. They wanted to see justice.

Many South Africans wanted a war-crimes tribunal to be set up and they wanted to see the former agents of state terrorism prosecuted.

What they got was the Truth and Reconciliation Commission, the TRC.

Under the Promotion of National Unity and Reconciliation Act, the TRC may grant amnesty to persons who committed human rights violations between March 1st 1960 and June 1994. Applicants had until September this year to file their requests for amnesty. The Commission received more than eight thousand applications. Two thousand five hundred came in just before midnight of the cutoff date.

Under the Act, if persons are to be granted amnesty they must show: that they were a member of the state security forces; or members or supporters of a "publicly known" political organization or liberation movement; that the act for which they are seeking amnesty was carried out to further a political end; and they must make full disclosure of the relevant facts.

The amnesty committee must also consider the motive of

the person in committing the act, the context in which it was carried out, the gravity of the act, its objective, and whether it was aimed primarily at a "political opponent" or against private individuals.

Then there must be further inquiry into whether the violation was carried out with the approval of the organization supported by the person seeking amnesty; and whether there is suitable "proportionality" between the act and its aim.

If a person is granted amnesty under the act he or she is shielded from criminal prosecution.

The TRC was deemed more appropriate for South Africa's healing process than a war-crimes tribunal because tribunals are governed by the stuff of law — the elements of the crimes, the rules of procedure, the dance of witness, lawyer, judge. And that is the ultimate problem with tribunals, they are the stuff of law, and the law can only do so much, and the closer one is to the crime, the less likely "so much" will be enough.

Aristotle said that the pursuit of justice should bring pleasure. Tribunal justice may bring pleasure to lawyers drafting legal documents. It may also bring pleasure to local politicians staking their claims to power amidst shattered communities.

But little satisfaction will come to survivors. Mass murder, rape, torture and other heinous crimes may be tried and a small percentage of the perpetrators may be convicted. International principles will triumph or fail; respect for human rights will expand or diminish. But regardless of outcome, the voices of the survivors will have remained largely unheard and unaddressed.

For survivors of human-rights abuse, storytelling is not a luxury. Apartheid stripped people of control over their lives and erased all sense of volitional past and future. Psychologist Elaine Scarry observed in her book, *The Body In Pain*, that the discourses of torture, rape and other forms of violence teach their targets that they are nothing but objects. The process of telling, and observing one's story being heard, allows survivors to become subjects again, to retrieve and resurrect their individual and group identities.

So when the TRC held hearings in the Northern Province, the Nchebalengs and others came forward to tell their stories.

I asked Elleck whether he felt satisfied with the Commission's work. He said no.

Elleck felt that the process was too one-sided. His family came forward to tell what happened to his father and the impact that tragic event had on their lives. But his father's murderers have not come forward. They have not applied for amnesty. Elleck knows because he knows who they are.

Many South Africans feel that it is not enough for the vic-

tims to come forward to tell their stories. If there is going to be true reconciliation then the perpetrators must also come forward and tell all. Elleck says that if his father's killers come forward and reveal what they did to his father and show true remorse then he will be satisfied.

Therein lies the main problem with the TRC process. Perpetrators came forward and requested amnesty only when they were identified by the survivors. They were willing to tell the truth only when they thought that they might face prosecution. And then they often do not disclose the entire truth. Perpetrators come forward and reveal what they hope is enough to satisfy the amnesty criteria for full disclosure.

This does not advance the cause of the TRC. If there is going to be true reconciliation there has to be a belief by the survivors that the entire truth is being revealed. If not, then I believe that the majority of South Africans will feel bitter, belittled and betrayed.

The Act requires that amnesty applicants make full disclosure of the relevant facts. The Act does not, however, mandate remorse. Desmond Tutu, the Chairperson of the TRC, has stated publicly that a person is "able to tell the amnesty committee that [he or she] is proud of what they did, albeit that it constitutes an offense under the law."

How then is South Africa to find reconciliation?

How is the country to exorcise its demons?

I believe that there is some accuracy to the old saying that "the truth will set you free." There is not going to be a complete disclosure of the entire truth in South Africa. When the Commission's work is finished there will be a published report that will chronicle all 8,000 and more stories of the survivors and the perpetrators.

Yes, there will be gaps in the stories. And yes there will be some survivors and perpetrators who did not come forward with the entire truth. Elleck's family, for example, didn't reveal the names of the policemen who were responsible for his father's death.

Their rationale was that if the perpetrators did not come forward on their own accord to seek amnesty, then the family would have the option to seek criminal prosecution.

Likewise, Elleck didn't apply for amnesty after he learned that some of his former ANC colleagues had applied for amnesty and named him as a participant in certain crimes. Elleck said that he didn't apply for amnesty because he was never going to apologize for any actions that he took to bring down apartheid. He felt that if he applied for amnesty then he would be no better than the others who ran to apply for amnesty only after they were named in someone else's submission.

The ultimate contribution of the TRC will be the documented acknowledgment of past suffering. This will be the monument to those who died during the old South Africa. And that public acknowledgment will be the beginning of reconciliation. □