

**Making the *Intractable* Conflict *Tractable*:
A Critical Discourse Analysis of the Philosophy Underlying the South African
Truth and Reconciliation Commission.**

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*A thesis submitted in partial fulfilment of the requirements
of Nottingham Trent University For the
Degree of Doctor of Philosophy*

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Dedication

This thesis is specially dedicated first to the Glory of God and

My Darling Wife,

Denike Micheal,

Who stood solidly behind me like the rock of Gibraltar through thick and thin to ensure that I get the PhD on the staunch belief that persistence and perseverance inevitably lead to success.

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Thesis Abstract

The world is still groping under the yoke of seeking lasting solutions to some stubborn international conflicts that have resisted myriad resolution attempt with no solutions still in sight. This is despite the imposing presence of the UN and the growing sophistication in the art and science of conflict resolution. The compelling fact necessitating this research is that the world has classified such age-long conflicts as “intractable” giving the impression of fait-accomplis. Excitingly, the 1994/95 collapse of the 48years Apartheid conflict, which was hitherto regarded as one of the world’s worst intractable conflict, was a contradiction of this idea of intractability. Hence South Africa Blaise the trail that these so-called intractable conflicts are tractable after all.

This research aims at identifying the totality of instruments employed by South Africa to achieve this success. While operating within a multidisciplinary purview of the intersection between, Politics, International Relations, Philosophy as well as language and Communication. The methodology of Critical Discourse Analysis (CDA) and Giorgio Agamben’s “Exclusive Inclusive Philosophy of the Homo Sacer”, were applied in the analysis and interpretation of the emerging narratives from the TRC report. The purpose is to discover the underlying theories and principles that animate the mediation process in order to understand this South African recipe for intractable conflict.

Emerging from the above processes is the discovery that the South African success story rests on a home-grown intervention process. That which involves negotiations that ultimately led to the emergence of a new constitution and the Institution of the Truth and Reconciliation Commission, which is vested with the responsibility of dealing with the atrocities of the past, in a manner that creates no winner or loser.

The findings further reveal, that underlying these negotiations and operation of the TRC is the fundamental principle of “deconstruction of absolute ideas”. Emanating from this were a set of seven paradoxical couplets upon which the South African success story was brewed. These Seven paradoxes constitute a significant contribution to knowledge. They include Peace without Reconciliation, Unification without Harmony, Healing without Forgetting, Confession without Remorse, Amnesty without Forgiveness, Tolerance without Friendship, and Truth without Justice.

List of terms and abbreviations

TRC – Truth and Reconciliation Commission

SA – South Africa

RSA- Racial South Africa

TRCR- Truth and Reconciliation Commission Report

CDA- Critical Discourse Analysis

UN-United Nations

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Chapter 1 Introduction to Thesis.

1.0 Goals of the Study

The fundamental problem necessitating this research is the observation that between 1994 and 1995, a conflict that had fiercely ravaged South African society for almost five decades was ‘resolved’. This was a dramatic turn of events for a conflict hitherto labelled as ‘intractable’ (Jones 2015) for the singular fact that it had stubbornly refused resolution and mediation for nearly 48 years. With such a revolutionary turn-around - following many failed interventions - the need to fully understand the factors that underlay South Africa’s transition appear compelling. The driving impulse behind this research has been to identify the theoretical principles that underlay the ‘when, why and how’ of this conflict de-escalation. The thesis examines the mediation processes and nation-building mechanisms deployed to identify and isolate the fundamental elements and underlying theoretical principles (both explicit and implicit) employed in the construction of a new democratic South Africa. It is hoped that identifying the instruments and properties at the base of the South African success story can help in understanding the fragile dynamics under which peace was attained.

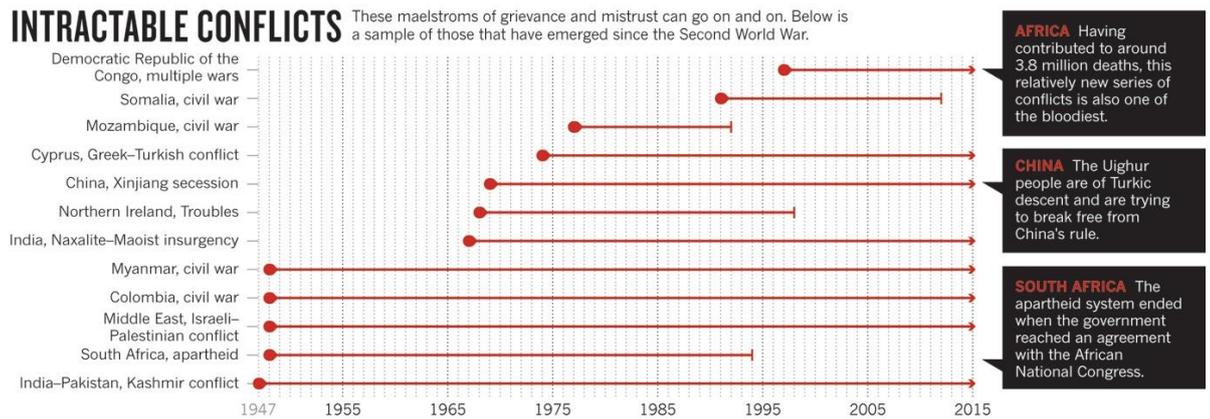
The South African peace process was actualised via the establishment of an unprecedented and quite remarkable ‘Truth and Reconciliation Commission’ whose operation can be justifiably credited with preventing South Africa spiralling into civil war. It seems a reasonable proposition to suggest that what happened in South Africa was as a result of a novel approach, method and strategy of conflict resolution (i.e. TRC). This dissertation seeks to explore this proposition and identify the constituent elements that made peace possible. It argues that underlying the physical process of negotiation and reconciliation initiated by the TRC are rigorous theoretical principles that can be credited with its success and stability. However, the dominant themes at play here are complex, contradictory and need of deconstruction. This thesis argues the way forward to understanding is found through a discourse analysis of TRC evidence twinned with a theoretical framework that utilises Agamben’s philosophy of the *Homo Sacer*. It is Agamben’s positioning of “exclusive inclusion” that help point towards themes of ‘complimentary contradiction’ at the heart of this project.

The need to investigate the elements that accounted for South Africa's success seem important for at least three main reasons: first, because there may be lessons to learn that can be useful in the mediation of other conflicts; second, a clearer understanding of the underlying philosophical principles and mechanisms upon which the peace process was built can aid the future management and sustainability of post-apartheid South Africa; and three, because understanding the reasons behind South Africa's story should help articulate and identify the generic principles upon which age-long conflicts can be successfully de-escalated. This, in turn, could also open up room for further research towards potent instruments for de-escalating other similar global conflicts. The research objectives of this thesis are hence:

1. To subject to interrogation the narratives within the Truth and Reconciliation Commission reports. Which dominant underlying themes and principles underlie the instruments of negotiations and institution of the TRC that informed moves from apartheid to democracy?
2. To demonstrate how Critical Discourse Analysis (CDA) can help unpack the understanding of the South African transition from apartheid to majority rule. To what extent can CDA provide a coherent framework for understanding conflict analysis in post-apartheid South Africa?
3. To show how Agamben's theory of exclusive inclusion of the *Homo Sacer* can be usefully applied to the rhetoric and narratives that ultimately resolved the apartheid conflict. How can Agamben's theory of exclusive inclusion provide a coherent explanation for the complementary and contradictory narratives that together account for the transition from warring to a peaceful society?

1.1 Rationale and Structure

This research was originally provoked by the recognition that there are some conflicts in the world believed to be irresolvable. We tend to label such conflicts as 'intractable' largely because myriad efforts have been made at resolving them but to no avail. Some such conflicts are identified in the table below:



A cross-section of a diagram showing examples of intractable conflicts
 By Dan Jones (2015:148-149)

Bercovitch (2003) argues that intractable conflicts are amongst the most dangerous conflicts in the world because they threaten not only their immediate locality but the entire globe (e.g. ‘spill-over’ terrorism). According to researchers such as Bremer (1992), Goertz and Diehl (1992), these conflicts accounted for about 45% of all militarised disputes between the years 1816-1986 and half the wars since 1816. Parakrama (2001) argues that despite the end of the Cold War there are approximately 900 million people (one-sixth of the world’s population) belonging to disadvantaged communal groups in or on the verge of conflict. In a similar vein, Isseroff (2003) concludes that seemingly intractable conflicts often end with a series of failed accords and resolutions as evidenced by the Israeli-Palestinian conflict. The original driver of this thesis was thus on the one hand, to identify the causes of ‘intractability’ in societal conflicts in general; and on the other, to identify how such intractable conflicts could become tractable. After an investigative literature review, however, it was decided that the best way forward (i.e. it was more do-able) be to identify one intractable conflict and use it as a case study. Studying the case of South Africa revealed two major features to this researcher. First, South Africa had embarked on a series of genuine negotiations that were entirely homegrown without external mediation; second, the institution of the Truth and Reconciliation Commission, founded upon both implicit and explicit principles, appeared by nature ‘paradoxical’ in order to compute the complexities of apartheid atrocities, human right violations and injustices of the past. By ‘paradoxical’ it is argued that the TRC was vested with the responsibility of granting amnesty to perpetrators who publicly confessed all atrocities. This truth commission seemed quite novel compared to ‘traditional’ War Crime Tribunals such

as Nuremberg (Philips: 2008). Also, this originality led this researcher to wonder what elements in the negotiation and mediation processes may help explain this. It was speculated there must be some fundamental constructs and theoretical bias upon which both the spirit and letter of the negotiations and the institution of the TRC was based right from its conception, constitution and implementation. Moreover, it was determined that these could only be comprehended if there were a careful study and rigorous analysis of the elements and processes involved in order to identify the underlying theoretical principles at play.

This thesis identifies the methodology of Critical Discourse Analysis (CDA) as the instrument that can be most effectively used to prosecute the intended research agenda (see Chapter Two for a detailed discussion). Critical Discourse Analysis is used precisely because it is capable of supporting a rigorous analysis of text and language that goes beyond explication and implication in order to give rise to interpretation and meaning. Some of the main themes that CDA addresses include: social problems; power relations as discourse; discourse constitutes society and culture; discourse as ideology; discourse as history; the link between text and society is mediated; discourse analysis is interpretative and explanatory, discourse is a form of social action (Fairclough and Wodak 1997: 271-80). A number of alternative mixed method quantitative and qualitative approaches have been previously deployed by researchers (Guelke, 2005, Asmal, Louise and Roberts.1997, Gounden and Solomon,2001, Huyse, 2001, Lansing and King,1998, Mamdani, 2002, Minow, 1998 etc) in the analysis of the problem of Apartheid. The most useful of these scholars is probably Moon (2006) who believed understanding could not be founded on anyone else, but Foucault. According to Moon, “Foucault’s work facilitates an account of reconciliation as an intrinsically political project that is constitutive of power, truth, and subjectivity. Reconciliation discourse, by constituting its objects, subjects, concepts, and strategies, governs the production of knowledge and statements of ‘fact’ and ‘value’ and maps out the relations of power between those subjected to and constituted by, its disciplinary force” (Moon, 2006:265). What Moon provoked through this observation is the recognition that this research should embark on a rigorous examination of TRC documents, using the methodology of critical discourse analysis, to dissect the documents with a view of identifying the main themes and dominant narratives that animates the mediation process in South Africa. In her analysis, Moon argues that the

TRC negotiated the relationship between the real violent conflict and the imaginary future reconciliation by narrating a causal and linear relationship between them. She further maintained that its narrative was roughly organized around the following landmarks namely: a past conditioned by violent conflict, a present characterised by the confessional, as well as testimonial, and a future of reconciliation. She then undertook a cursory look into three main sections of the TRC's Report where it emphasised that South African history is overwhelmingly conditioned by violence and the law the relationship between them. It seems reasonable to argue, therefore, among the factors that made the South African conflict last for so long, was the use of the wrong form of conflict management technique in seeking resolution. This suitably underscores the fact that using the appropriate methodology is key to achieving results. Indeed Bercovitch and Derouen (2004: 1) are of the view that age long conflicts such as those of Apartheid South Africa could only have persisted for so long because of the use of wrong approaches which explains why they argue that "internationalized ethnic conflicts are generally acknowledged as the most difficult and complex conflicts to manage. These conflicts too can be de-escalated, or be made less violent, especially if the right form of conflict management is chosen" (2004:1). Lederach (1997) and James et al. (2001) similarly argued that 'In recent years, researchers investigating conflict resolution processes have developed various problem-solving workshops...as a result of the belief that conventional methods of third-party intervention in international disputes were not very successful. They argue that in order to make progress, there is a need to move from "pre theories" to "theories of conflict and its resolution" which is precisely what this thesis attempts with CDA. This is important because of successful isolation and identification of the combination of the complex elements that changed the South African course of history open up room for further research into finding means of de-escalating other similar conflicts on the globe. Similarly, successfully identifying the secret behind the de-escalation of the South African apartheid conflict (after about 48 years of fierce struggle) throws light on why the elements had remained resistant to interventions for such a long period. This inevitably creates room for a further understanding of not just the consequential history of such intractable conflict but also the colouration of contemporary socio-political problems of the society that emanated from such long history of violence as well as possible futuristic problems that could arise from the rubble of such unfinished business. To clarify: this thesis is not seeking solutions to intractable conflicts per se.

Rather, it acknowledges the fact that South Africa effectively found a solution to its intractable conflict and so seeks to understand how and why this was so using CDA. CDA is quite appropriate for this agenda in that it analyses the underlying theoretical foundations of conventional approaches; it moves beyond traditional diplomacy with top-level leaders and short-term objectives to holistic and integrated approaches. It also emphasises multiple levels of actors, long-term objectives, and the healing of relationships and people through integrated frameworks for sustained peace-building and reconciliation. The use of CDA as a methodology for investigating, analysing, and interpreting the dynamics at work in the transition of South Africa from a deeply divided society to a peaceful democratic state where powers reverted from the white minority to the black majority is an original contribution to knowledge.

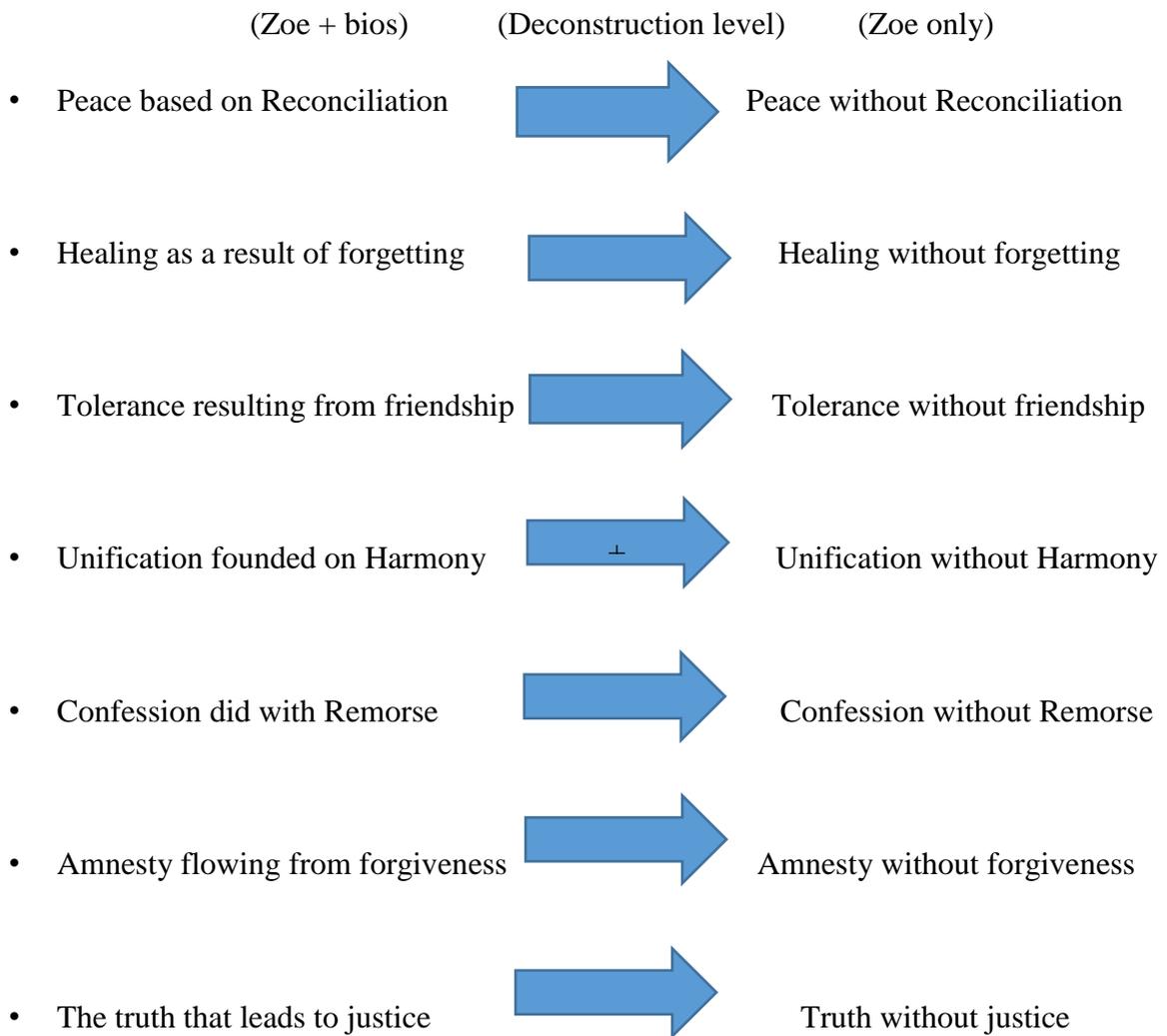
1.2 Applying Agamben's *Homo Sacer*

This thesis argues that the theory to best explain the harmonisation of the underlying contradictory elements at the base of the South African negotiations, as well as those of the Truth and Reconciliation Commission, is Giorgio Agamben's philosophy of exclusive inclusion of the *Homo Sacer*. It is a theory that situates 'couplets of contradictions' in an 'inconsistently consistent' manner. It finds harmony in disharmony, unity in disunity, and negates absolute ideas in favour of relative ones. Agamben describes these relationships in terms such as "zoe" and "bios", "exclusive inclusion", "Homo Sacer", "bare-life", "state of exception" "indistinction", and a host of others. These ideas are considered in detail in chapter two. The interpretation, application and adaptation of Agamben's philosophy to South Africa, is an original contribution to knowledge. It helps to explain certain policies and actions as well as the justification of such in the mediation process.

Using Critical Discourse Analysis, the themes that animate the mediation and nation-building process in South Africa are identified and subjected to "Agamben-esque" interpretation in order to identify the rhetoric at the base of the peace process. The thesis determines that underlying the success of the Truth and Reconciliation Commission is a number theme that, fused in couplets of compliments and contradictions, that are paradoxical. It also reveals that the revolutionary change in the fortune of South Africa, from a deeply divided autocratic society to a democratic society can be logically explained within the interplay of these paradoxes. The thesis

argues that there are seven paradoxes at the base of the peace process in South Africa that emerge and fuse in couplets, of some sorts to ultimately de-escalate the South African conflict. The narratives reveal that not only were the narratives docile, but the emerging ideas also were actually in flight, in transition, and to use the Aristotelian or metaphysical term, they are in “the state of becoming”. These couplets are identified in the diagrammatic form below:

Theoretical Model Underlying the TRC’s Report of South Africa



The above translates into four distinct chapters. Chapter 4 deals with the paradoxical couplets of “Peace without Reconciliation and Unification without Harmony”. In chapter 5, we have another set of two couplets; Healing without Forgetting and Confession without Remorse. Chapter 6, has “Amnesty without Forgiveness and Tolerance without Friendship and the last of the couplets in Chapter 7, is “ truth without Justice” while Chapter 8 is the concluding chapter.

At this point in the Introduction, it may prove helpful to refresh the memory of the South African context. Historically, South Africa is a multi-ethnic society with about 53 million people with a variety of culture, languages and religion. It is this pluralism that made the country’s constitution recognise eleven official languages. Eighty per cent of this multi-ethnic society is black. The remaining twenty per cent spreads among whites, Asians, and other fair-skinned people of other ethnic backgrounds usually referred to as “coloured” (Giliomee and Mbenga 2007). The country runs a parliamentary system of government that recognises nine provinces. Even though it is one of the few countries in Africa that has never had a military *coup d’état* it remained largely undemocratic for nearly half a century. The society was ruled mainly by the white minority ethnic group known as the “Boers”. Mixed-race elections were taboo in South Africa until 1994. Racism dominated and dictated the socio-political and economic life of the people. The constant racial, social and political strife between the white minority rulers and the black majority ruled was the central contradiction that activated forces of antagonism. A new development of the South African conflict was instituted in 1948 when the white minority ruling National Party instituted apartheid, which is a system that officially institutionalised racial segregation and discrimination. The term ‘apartheid’ is thus often used to designate practices of governance and control originating 300 years ago as well as referring, more usually, to the laws and policies inaugurated by the National Party from 1948. The effect of this dual usage, as similarly argued by Aletta Norval (1996: 1) is primarily to make the history of apartheid ‘coincide’ with that of South Africa.

Apartheid succeeded in producing anti-apartheid activism as personified by the black majority party, the African National Congress (ANC) led by Dr Nelson Mandela. This activism sent Mandela and the ANC leaders into incarceration and majority of anti-apartheid voices brought unprecedented pressure on the apartheid regime from all

around the world. In turn, the mechanism of apartheid began to unravel when discriminatory laws became repealed or abolished in 1990. The continuous and constant clashes between these two oppositions led gradually to the collapse of apartheid. 1994 ushered in a new constitution and the first democratic election in South Africa and the release of Mandela after 27 years of incarceration to become the first black majority president of democratic South Africa. Under the new arrangement, it becomes necessary for South Africa to deal with its “dark history” in order to establish a future of peace and stability. To achieve this, South Africa was confronted with two choices: either criminal tribunals or a truth commission. They chose the latter for expedient reasons that will be articulated throughout this research. Whereas the TRC recognised that the inauguration of the National Party in 1948 represented an intensification and formalisation of apartheid, this was not a significant departure from previous practices of governance. The implication of this is to suggest that the success of the NP in 1948 did not constitute a ‘rupture’ to a previously different political order, rather, it represented the continuation of a long history of violent oppression in which the NP was only recent protagonists. This narrative is again intended to downplay the villainy of the perpetrators in order to make reconciliation possible’ (Moon, 2006:265). The details of how this manifested itself in South Africa is what the rest of this thesis is all about.

Chapter 2: Theoretical Framework on Agamben's Exclusive Inclusive Philosophy of the Homo Sacer

2.0 Introduction to the Theoretical framework

This chapter will begin with: i) a clear and well-structured explication of Agamben's discussion of exclusive inclusion in his seminar work, *Homo Sacer*. (Agamben, 1995) ; ii) clear articulation of how the arguments deployed by Agamben can, in principle, be extended to an analysis of concepts or extended beyond the figure of homo sacer to an analysis of a series of concepts derived from the South African Truth and Reconciliation Commission, via Critical Discourse Analysis (CDA).

Agamben's philosophy is by no means straightforward even though, the nature of the argument as presented by Agamben appeared too simplistic and repetitive because of the overlapping nature of the arguments with one factor linking to the other and involving the same geometry of arguments recurring at intervals. The only part of Agamben's philosophy that seem relevant to this thesis is his "exclusive, inclusive" philosophy of the Homo Sacer. This "exclusive, inclusive" philosophy featured prominently in one of his works: namely, *Homo Sacer: Sovereign Power and Bare Life* (1995,1998).

The *Homo Sacer: Sovereign Power and Bare Life* (1995,1998), is a 127 pages book divided into three parts. The first part dealt with what he calls the logic of Sovereignty, the second part dealt with the Homo Sacer, and the third part dealt with what he calls The camp as a biopolitical paradigm of the modern. Our interest is in the second part, which runs between pages 47 and 73. Here Agamben discusses the entire life of the Homo Sacer taking note of the significant landmarks and characteristics of the Homo sacer viz-a-viz his sojourn from the society to exile.

However, details of this Agamben's theory will be dealt with under the different sections set out above. It is sufficient at this stage, to state in a simplified form what this Agamben's philosophy entails.

Agamben's philosophy of the homo Sacer is a transitional philosophy that starts with one element or entity that is composed of two distinct opposing units. In the transformation process, one of the two units necessarily has to be removed because it

was inimical to the success of the entire entity. However, after it was removed, or dropped, the remaining unit which is no longer complete, still had relics of elements of that which was removed or dropped. This is what is excluded yet inclusive but in some limited forms. The other features and characteristics of this entity have paradoxical and seemingly contradictory postures until viewed critically. In this thesis, we found that ideas at the base of the collapse of apartheid shares similar features with that of the Homo Sacer.

In concrete terms, Agamben presented an archaic image of the Roman law in which as a consequence of a serious crime, an individual citizen is stripped of his citizenship and exiled. This action of the Sovereign turns the individual from being a citizen to a Homo Sacer. When he was a citizen, the individual human being has within him two elements whose separability is subject to philosophical debate. However, theoretically, Agamben tries to separate them at least theoretically. These two elements are nature and nurture or what Agamben calls Zoe and bios or the animalistic or biological nature of a man, and his social or political nature. One was acquired at birth as a consequence of being born just like any other animal, while the other was acquired as a result of training, political participation and societal orientation.

However, for Agamben, when a citizen commits a serious crime, the Sovereign protection he enjoys as a full citizen is withdrawn and sent on exile. This ban removed the social nature, through exclusion, leaving just the natural, which is the animalistic nature. This is a quite worthless life which accounts for why the Homo Sacer amount to nothing and cannot be sacrificed to any deity or else, the shrine will be profaned. However, in a strict sense, The social cannot be removed entirely from the natural, having merged at birth. There will always be relics of the social left in the animal as the pure animal is now unachievable.

Interestingly, it is this defective animal-dominant nature that Agamben calls, "sacred". His sacredness lies within two contradictions. One of such contradictions is that he has lost the protection of the state and as such exposed to the danger of sudden death by an attacker who is rightly permitted to do so. On the other hand, his sacredness entails its worthlessness and as such unfit for ritualistic sacrifice.

Interestingly, the complete and so to say “perfect” nature of the citizen under the sovereign, was incapable of societal peace. What could guarantee peace is surprising, this imperfection called sacred. We found equivalent ideas that brought about societal peace in Apartheid South Africa in this relationship between the so to say “perfect” idea and the “imperfect” one.

Although we know that there may be no perfect ideas in the real sense of the word, it only exists in relative terms. Within Agamben’s philosophy, the so-called “perfect”, gave way to the “imperfect” and it should be further reemphasised here, that it was this “imperfection” “ sacred Idea” that was instrumental to the smooth transition in Apartheid South Africa. The Homo Sacer or Sacred man is the impurity that is left after the “complete”, and pure citizen has been excluded.

Agamben developed new interpretations of traditional concepts whose modern meaning, were not initially obscure or ambiguous. For instance, the term “sacred man” or “homo Sacer” is used by Agamben to denote that which can be killed by anyone without committing homicide but cannot be sacrificed in a religious ceremony.

This and many more seemingly contradictory or opposing terms that more often than not appear in couplets, help to unfold the ideas that will be espoused in due course in this chapter. Nevertheless, there are salient facts that seem consistent all through the interpretations of this thesis. For instance, the very idea that there is a complication in Agamben’s ideas was reinforced. The ideas appear in couplets of contradictions, as a matter of fact, they seem at first glance contradictory until subjected to further critical analysis.

Nevertheless, it is imperative for clarity and authenticity to lay out a full explication or description of Agamben’s overall project in HOMO SACER: Sovereign Power and Bare Life, with the additional justification of the arguments from contemporary Agamben scholars. This though, will not take precedence over the original text, yet we may begin with a cursory look at Micheal Peter’s analysis in order to give us a general overview of the entire treatise of Agamben. After this, we shall move on straight to the original text itself under the section, “what is Homo Sacer” where we shall engage with Agamben extensively from his is HOMO SACER: Sovereign Power and Bare Life, to justify first-hand the analysis as they unfold.

However, one of Agamben's scholars Michael Peter (2014) attempted at a panoramic and chronological study of the Agamben's Homo Sacer project where he drew the following conclusion. He maintains that ' The structure of Agamben's project of Homo Sacer which began in 1995/98 and ran through a series of other works, apart from The Homo Sacer: Sovereign Power and Bare Life (1998,1995). The others include State of Exception (2003); The Kingdom and the Glory: For a Theological Genealogy of Economy and Government (2007); The Sacrament of Language: An Archaeology of the Oath (2008); Opus Dei. Archeologia dell'ufficio (2013/2012); Remnants of Auschwitz: The Witness and the Archive (2002); The Highest Poverty (2013, 2011). (Peters, 2014:329) Nevertheless, for this research, the scope of our interest will be mainly limited to the first one which is directly relevant to this research.

It is in the Homo Sacer (1998) that Agamben first examines the logic in the idea of sovereignty, and that of Homo Sacer and famously maintained that the concentration camps are biopolitical paradigms of the modern states which he nevertheless got to round to analyse. He identifies this as a kind of missing link which could only be filled by turning to Hannah Arendt's studies of totalitarian regimes as a form of total domination but quickly maintained that neither of them showed any link with either the camps or its relationship with bare-life.

It is for this reason that Michael Peter (2014:330) rightly argues that Agamben,

traces bare life as the new political subject as implicit in the 1679 writ of habeas corpus and highlights the new centrality of the 'body' in the politico-juridical model: in Descartes and Newton, and in Hobbs' Leviathan but also in the 'thanatopolitics' and eugenics of the Nazis death camp that places it outside 'the normal juridical order' (p. 97) and linked to the concept of state of exception. He concludes with three theses: (1) The original political relation is the ban (the state of exception as zone of indistinction between outside and inside, exclusion and inclusion). (2) The fundamental activity of sovereign power is the production of bare life as ordinary political element and as threshold of articulation between nature and culture, *zoe* and *bios*. (3) Today it is not the city but rather the camp that is the fundamental biopolitical paradigm of the West (p. 102). (Peter, 2014:330)

Hence, the principles and narratives that translate into bringing back peace to apartheid South Africa resonate within the first two above. The precise analysis for the first item above, which is the fact that (1) The original political relation is the ban (the state of

exception as a zone of indistinction between outside and inside, exclusion and inclusion). Hence the essential thing is that Agamben focused on is an obscure figure of archaic Roman law as briefly mentioned above, in which as a consequence of some judicial decisions, a citizen, is put under a ban and as such exiled from the society. This development transformed the citizen from being a citizen to what he calls the Homo Sacer. While within the society, he is a citizen and following the ban that expunged him from society and he now exists outside the society as Homo Sacer. Our interest is in the consequences of the travails of this individual and his relationship with the state or power that banished him. Agamben used some terms in explicating this transition. Some of these terms include state of exception, the zone of indistinction between outside and inside, exclusion and inclusion from being a free citizen in the polis to being bare life in exile.

What we have found out in this thesis, is that there seem to be a kind of parallel between the ideas underlying the transition of apartheid to democratisation in South Africa and what transpired in the life of the homo sacer during his transition from being a free citizen in the polis to being a bonded person in exile. This parallel is seen in the logic of ideas that were at the base of the resolution of the South African apartheid conflict in the course of its transition from a deeply divided conflict-ridden society to a peaceful and stable one. Our goal in this thesis is to identify these parallels.

It is however critical to state ab-initio that there is no substitute for analysing Agamben's original work itself, yet as a starting point, we have found no better encyclopaedic description and introduction of both Agamben and his work, particularly as relevant to this thesis than the way Michael Peters presented him in the Homo Sacer Project. Hence we are compelled to quote him verbatim in order to give a more panoramic view, as well as a clear and distinct structural beginning for the theoretical analysis of Agamben's work in this thesis. According to him,

Giorgio Agamben, an Italian philosopher who extends the ambit of Heidegger, Benjamin, Foucault, and Schmitt with a breadth of scholarship and reference in metaphysics, aesthetics, ethics and politics, is one of the leading political philosophers of his day. He carries forth the burden of criticism into the very heart of Western law, government and sovereignty. Agamben's analysis of sovereignty became particularly influential after the events of 11 September 2001 and his work has seemingly grown in relevance and stature since the Global Financial Crisis of 2008 with 'state of

emergency' (which as Benjamin says is not the exception but the rule) that indicates how democracy has been tamed and controlled to undermine its radical quality. The Homo Sacer project that began with his analysis of sovereign power as power over 'life' drew heavily on Foucault's concept of biopolitics citing his observation 'For millennia man remained what he was for Aristotle: a living animal with the additional capacity for political existence; modern man is an animal whose politics calls his existence as a living being into question (Agamben, 1998, p. 10); (Peter,2014:227)

The timing here refers to Agamben's principle of exclusion where the exception is made to carry on as if it is the rule, especially where the rule would have been counterproductive and inimical to the existence and survival of the primary goal. This is where peace, stability and tranquillity are threatened, normalcy is suspended for emergency rule to operate, and such emergencies operate as if it is the standard rule. It is enough at this stage to merely mention that this is precisely one of the operating dynamics in the return of peace to apartheid South Africa. For instance, the standard procedure for reconciliation would have been "peace with reconciliation". Unfortunately, that will not fly under emergency rule. Hence, exclusion had to take place. Reconciliation was excluded with the result that what emerged was an exception, It is "peace without reconciliation", and this carried on as if it is the rule and it began to materialise and actualise itself in the unfolding of the narratives upon which peace emerged in the RSA.

Hence our analysis shall be tailored after the following outline:

1. Exposition and Explication of Agamben's philosophy of the Homo Sacer
2. Extension and Application of the theory of the Homo Sacer to the ideas Underlying the resolution of apartheid conflict in South Africa.
3. Critique both of Agamben and the application to South African conflict.

2.1 Exposition and Explication of Agamben's Philosophy of the Homo Sacer

In this work, the central ideas relevant to this thesis is espoused under the following significant subheads; 1. Homo Sacer 2. The Sacred Life 3. The ban. (the State of Exception as a zone of indistinction) In this chapter we dealt with what the Agamben's philosophy entails, taking note of some of the critical terms and phenomenon that are central to the activation of the narratives that ensued.

2.1.1 What is Homo Sacer?

Giorgio Agamben in the original text; *Homo Sacer: Sovereign Power and Bare life* (1995:47-48) gave a vivid and extensive account of the contradictions in the term “Homo Sacer” as well as a graphic description of the paradoxical complications and complexities involved in the phenomenon. This detail is so important as a foundational text to prepare the ground for our analysis; hence we are compelled to quote him extensively. According to him,

“Pompeius Festus, in his treatise *On the Significance of Words*, under the heading *sacer mons* preserved the memory of a figure of archaic Roman law in which the character of sacredness is tied for the first time to a human life as such. After defining the Sacred Mount that the plebeians consecrated to Jove at the time of their secession, Festus adds:...The sacred man is the one whom the people have judged on account of a crime. It is not permitted to sacrifice this man, yet he who kills him will not be condemned for homicide; in the first tribunitian law, in fact, it is noted that "if someone kills the one who is sacred according to the plebiscite, it will not be considered homicide." This is why it is customary for a bad or impure man to be called sacred. The meaning of this enigmatic figure has been much discussed, and some have wanted to see in it "the oldest punishment of Roman criminal law" (Bennett, "Sacer esto", p. 5). Yet every interpretation of *homo sacer* is complicated by virtue of having to concentrate on traits that seem, at first glance, to be contradictory. In an essay of 1930, H. Bennett already observes that Festus's definition "seems to deny the very thing implicit in the term" (ibid., p. 7), since while it confirms the sacredness of a person, it authorizes (or, more precisely, renders unpunishable) his killing (whatever etymology one accepts for the term *parricidium*, it originally indicated the killing of a free man). The contradiction is even more pronounced when one considers that the person whom anyone could kill with impunity was nevertheless not to be put to death according to ritual practices (*neque fas est eum immolari*: *immolari* indicates the act of sprinkling the *mola salsa* on the victim before killing him). In what, then, does the sacredness of the sacred man consist? And what does the expression *sacer esto* ("May he be sacred"), which often figures in the royal laws and which already appears in the archaic inscription on the forum's rectangular cippus, mean, if it implies at once the *impune occidi* ("being killed with impunity") and an exclusion from sacrifice? That this expression was also obscure to the Romans is proven beyond the shadow of a doubt by a passage in Ambrosius Theodosius Macrobius *Saturnalia* (3.7.38) in which the author, having defined *sacrum* as what is destined to the gods, adds: "At this point it does not seem out of place to consider the status of those men whom the law declares to be sacred to certain divinities, for I am not unaware that it appears strange [*mirum videri*] to some people that while it is forbidden to violate any sacred thing whatsoever, it is permitted to kill the sacred man." Whatever the value of the interpretation that Macrobius felt obliged to offer at this point, it is certain that sacredness appeared problematic enough to him to merit an explanation.” (Agamben, 1995:47-48)

Looking closely, what Agamben calls sacred is a state of imperfection. Ordinarily, “sacred” should within that context be relatively a perfect condition. Within Agamben’s philosophy, a complete man who lives in the Polis and has both Zoe and Bios in him is not sacred. The moment this individual loses one of the elements, which is akin to his social nature, he in this incomplete half measure state is considered sacred, and that is the situation of the life of the Homo Sacer. Interestingly, the ideas that are akin to the life of the Homo Sacer in South Africa similarly came in two forms: One has two elements in it, and in the other, one part of the element is lost. It is the partial or half measure one that is in the position of the Homo Sacer. As such, the “sacred idea.” which interestingly, formed the basis of the resolution and peace process in the RSA is not the complete idea but the defective one.

Similarly, Adam Kotsko (2013a) in Michael Peters (2014:330) identifies the example of what “Homo Sacer” is in our contemporary world when he argues that,

During the Bush years, however, Agamben’s investigations of sovereign authority, the state of emergency (or exception), and the concept of ‘bare life’ seemed to speak directly to the most immediate and pressing political concerns of the day: the emergency powers claimed in the War on Terror, the fate of the ‘detainees’ kept in the lawless zone of Guantanamo Bay, and the general reassertion of the kind of state sovereignty that globalization was supposed to be rendering irrelevant. Despite being coincidentally topical, however, there is still much that is puzzling about the political works themselves. Homo Sacer, which infamously claims that the paradigm of all modern politics is the concentration camp, proceeds by way of an investigation of an obscure figure in Roman law — the homo sacer (‘sacred man’) who could be killed with impunity but not sacrificed (Peters, 2014:330)

The above description is that of a contemporary example of the Homo Sacer in real life situation during which as a result of the use of emergency powers in the War on Terror, the fate of the ‘detainees’ kept in the lawless zone of Guantanamo Bay continues to provoke reactions from all over the world and perpetually hunts the ideals of modern democracy. However, breaking this further down, we observed that the word “Homo Sacer” is classically a combination of two words; Homo and Sacer. That

is, “man” and “sacred”. Starting with “Homo” The Merriam-Webster’s dictionary, defines Homo as “any of a genus (*Homo*) of hominids and in this category is modern humans (*Homo sapiens*) as well as several extinct related species such as *Homo erectus* and *Homo Habilis*.

Similarly, the online English Oxford dictionary equally confirms this assertion, by arguing that the genus *Homo* is believed to have existed for not less than two million years, whereas, modern humans (*Homo sapiens*) was first said to have appeared in the Upper Palaeolithic whereas, the Latin origin of the word *Homo* refers to 'man'. This affirmation was further corroborated in the Vocabulary.com Dictionary, which argues that the genus that includes modern humans is called *Homo*. Hence, we can argue affirmatively that "*Homo sapiens*" are modern humans, while our ancestors had names such as "*Homo neanderthalensis*" and "*Homo erectus*." Generally, they all argue that *Homo* is a Latin word that means man, or human. Whereas, when it is used as a prefix, as in "*homosexual*," it comes from the Greek word *homos*, meaning the same.

From the above analysis, it is reasonable to argue that the word “homo” refers to man, what then is “Sacer”? Sacer for Agamben means “sacred” although as mentioned above, Agamben’s conception of the word sacred is different from what we traditionally understand sacred to be. The word sacred for Agamben is a paradoxical word with different components that create a whole lot of problematic complexity and complications. It is simply an intersection between the political and the spiritual. It refers to “that which can be killed politically but cannot be sacrificed religiously as this relates to the extensive sovereign powers of the state over its subjects. Precisely for Agamben, the word sacred means “one who can be killed and yet not sacrificed”.

The operationalisation here goes beyond the intersection between the political and religious, the critical point here is not just the intersection between the religious and the political so much as in the fact that the *Homo Sacer* is denied participation in the socio-cultural life of the polis. Even in this form, the *Homo Sacer* does not enter into any of the economies of the political. Hence, he can be killed without any cost and has not even sufficient value to be sacrificed.

This worthlessness even in the realm of the spiritual is what Agamben was referring to when he further argues that “Sacer” designates the person or the thing that “one

cannot touch without dirtying oneself or without dirtying”; hence, it seems to imply the polluted one or the outcast, or the profane one. The double meaning or paradoxical meaning of 'sacred' or 'accursed' is approximately a guilty person whom one consecrates to the gods of the underworld. This is the sense in which Agamben uses the word “sacred”. (Agamben, 1995:52) The implication here is that “sacer” refers to a state of defectiveness, inappropriateness, or some sort of filthiness. It is everything but perfect and complete.

For Agamben, there is some ambivalence in the understanding of sacred either in the religious or political realms. Whereas, according to him, “only an attentive and unprejudiced delimitation of the respective fields of the political and the religious will make it possible to understand the history of their intersection and complex relations. It is important, in any case, that the originary juridico-political dimension that presents itself in homo sacer should not be covered over by a scientific mythologeme that not only explains nothing but is itself in need of explanation.” (Agamben, 1995:53) The point being stressed by Agamben here is the complexity and paradoxicality that emerges in the intersection between the political and the religious especially as it relates to the Homo Sacer. Elucidating this argument further, Agamben maintains that in,

both the original sources and the consensus of scholars, the structure of *sacratio* arises out of the conjunction of two traits: the unpunishability of killing and the exclusion from sacrifice. Above all, the *impune occidi* takes the form of an exception from the *ius humanum* insofar as it suspends the application of the law on homicide attributed to Numa Pompilius: *Si quis hominem liberum dolo sciens morti duit, parricidas esto*, "If someone intentionally kills a free man, may he be considered a murderer." The very formulation given by Festus in some way even constitutes a real *exceptio* in the technical sense, which the killer, invoking the sacredness of the victim, could have opposed to the prosecution in the case of a trial. If one looks closely, however, one sees that even the *nequefas est eum immolari* ("it is not licit to sacrifice him") takes the form of an exception, this time from the *ius divine* and from every form of ritual killing. (Agamben, 1995:54)

However, from the above excerpt, Agamben affirmed that to kill a free man, that is, one who is not convicted of any crime, who is a law-abiding citizen in the state, and who is under the protection of the Sovereign, is criminal. (murder) Nevertheless, if this individual is found guilty of a crime and subsequently banished and excluded from the

state into exile, that immunity from being killed is automatically lost. Hence, that individual is vulnerably exposed to possible sporadic attacks.

Moreover, he can be killed by anyone freely, without being guilty of murder or homicide. The reason for this is simple. He has lost the protection of the Sovereign. He is now outside it. At this stage, it appears consistent. The inconsistency comes in when it is realised that even though the Homo Sacer has fallen outside Sovereign protection, yet he is still subject to and bound by the fact that he is not allowed to be sacrificed to any god or deity because he is “sacred”. Where sacred means outcast, worthless, dirty, tainted and as such, would profane such shrines if allowed to be sacrificed. The law that could no longer protect him because he has fallen outside its jurisdiction, still holds him accountable for the kind of death that should or should not befall him. This contradiction can only be explained by the fact that it is outside it, yet inside it in some partial way. It is excluded yet inclusive.

Nevertheless, this equivocation is not immediately apparent except when critically examined. There is an essential element in the above extract; it is “looking closely” because there seem to be some paradoxes or contradiction in the understanding of the sacredness of the homo sacer whose sacredness does not preclude him, (Homo Sacer) from being politically assassinated or executed, but precluded from being religiously martyred or sacrificed. What then was the rationale of saying that it is legitimate and perhaps legal to kill him within the jurisdiction of the positive law, but illegal, illegitimate or “illicit” to sacrifice him, or kill him within the confines of the divine law. Such exclusion in the opinion of Agamben is an exception, not the rule. To understand this contradiction or paradox, we must critically examine further, the two concepts; Homo and Sacer- Man and Sacred. That is “The Sacred Man” unravelling the implication of his sacredness, is vital to this research.

The buffer zone of resolution existing between complementary and contradictory elements within the philosophy of the Homo Sacer is what Agamben calls the zone of in-distinction or that of exception. In achieving this, it appeals to classical philosophical traditions and rhetorical discourse that thrives in the ambiguous language of antiquity that meanders between Christian theology and modern political philosophy. In advancing his thesis, Agamben appealed first to Aristotle’s conception of man as a political animal, Foucault’s fragmentary analysis of the concept of

biopolitics, and Carl Schmitt's idea of the sovereignty and the idea of the sovereign exception.

A careful reading through Agamben and other Agamben scholars reaffirms this. Agamben's arguments more clearly resonate on the fact that the Sovereign decides both the exception and the boundaries of legality as it applies to the life and death of his subjects. By this it means that he determines which citizen in the polis transforms into "homines sacres", criminals, bandits or outlaws as the case may be. Moreover, immediately a citizen becomes such, he is then automatically a Homo Sacer which literally means the outlaw who by that token, is thrown into a state in which he is both no longer subject to obedience of the law, nor is he protected any longer by the law because he is now outside of its jurisdiction. This push implies that the homo Sacer or sacred man can kill and be killed with impunity. Hence, the sovereign and the outlaw are both at the boundaries of law and civilisation. When a person finds himself at this point, he does not have a complete 'life' anymore in the sense that he is neither a citizen nor a subject- The Homo Sacer lies in that zone of exception and in-distinction where he is now "bare life".

Agamben discusses further this idea of the sacredness of the Homo Sacer by reaffirming categorically, that "The sacred man is the one whom the people have judged on account of a crime. It is not permitted to sacrifice this man, yet he who kills him will not be condemned for homicide; in the first tribunitian law, in fact, it is noted that "if someone kills the one who is sacred according to the plebiscite, it will not be considered homicide." This is why it is customary for a bad or impure man to be called sacred". (Agamben, 1995:47)

In his analysis of the situation, Agamben argues that the sacredness of a person, lies not only in the fact that it authorises his killing, but also more precisely, renders unpunishable such killing, which is why Agamben maintained that "whatever etymology one accepts for the term "parricidium", it primarily indicated the killing of a free man. He went further to assert that the contradiction is even more pronounced when one considers the fact that the person whom anyone could kill with impunity was nevertheless not to be put to death according to ritual practices (Agamben, 1995:47)

Agamben affirms that this issue of sacredness is a puzzle that needs unravelling, and that is what he tries to do when he argues extensively that

In what, then, does the sacredness of the sacred man consist? And what does the expression *sacer esto* ("May he be sacred"), ... mean, if it implies at once the *impune occidi* ("being killed with impunity") and an exclusion from sacrifice? That this expression was also obscure to the Romans is proven beyond the shadow of a doubt by a passage in Ambrosius Theodosius Macrobius *Saturnalia* (3.7.38) in which the author, having defined *sacrum* as what is destined to the gods, adds: "At this point it does not seem out of place to consider the status of those men whom the law declares to be sacred to certain divinities, for I am not unaware that it appears strange [*mirum videri*] to some people that while it is forbidden to violate any sacred thing whatsoever, it is permitted to kill the sacred man." Whatever the value of the interpretation that Macrobius felt obliged to offer at this point, it is certain that sacredness appeared problematic enough to him to merit an explanation. (Agamben, 1995:47-48)

There are two important things to note from the above excerpts. First, they confirm the complication of the philosophy of the *Homo Sacer* and second is that the principles derived from this philosophy of the *Homo Sacer*, would necessarily appear at first glance to be contradictory, while a closer look and analysis may reveal that they may not necessarily be so after all. This fact will be much more articulated while dealing with the section on its application.

Furthermore, we cannot understand *Homo Sacer* fully if some of the associated and underlying elements or terms are not fully unpacked. Some of the main elements that could help in the elucidation of the full import of the *homo sacer* include *bios*, *zoe*, bare-life, exclusion, inclusion. However, Agamben observed the emergence of some pairings of the phenomenon in our relationship as individuals with the polity. These pairings seem to be pairings of opposites, but beyond that, they are paradoxical pairings with deeper imports that goes farther than merely opposites. Such pairings appear mainly in the Agamben's *homo sacer* project.

The fundamental categorial pair of Western politics is not that of friend/ enemy but that of bare life/political existence, *zoē* | *bios*, exclusion/inclusion. There is politics because man is the living being who, in language, separates and opposes himself to his own bare life and, at the same time, maintains himself in relation to that bare life in an inclusive exclusion. (Agamben, 1995:8)

For Agamben, these pairings do not necessarily have to be strictly those of opposites such as "friends and enemies" instead it is rooted in the interaction and distinction between man as a biological entity and man as a social entity. These two categories flow into each other such that strict bifurcation becomes difficult. It involves exclusion

and inclusion as the case may be at different times. It is this biological or animalistic nature of man that he refers to as bare life while the social nature is what he refers to as political existence. The same geometry of analysis goes on with the concept of zoe and bios; zoe is the natural or biological nature of man devoid of any training or discipline while bios is the socialisation and politicisation that introduces civilisation and culture to man. However, zoe is the raw man untamed while bios is the tamed man with culture and discipline. Hence at birth, every man has zoe and through training, participation and existence in the polity, he acquires bios. Hence a complete man for Agamben is both zoe and bios.

Nevertheless, since a citizen in the polis is composed of both elements, a citizen outside the polis is composed of only one element, although with traces of the excluded element. After the ban (the State of Exception as a zone of indistinction) when the citizen is stripped of his civil rights and sent on exile, he becomes the Homo Sacer. What this implies is the removal of his bios, while retaining just his zoe which is what he acquired at birth, just as any other animal in the jungle. Hence, the Homo Sacer does not have bios; he has only zoe, though with traces of bios. It is an equivalent of a worthless life. It is an ordinary, inconsequential life which Agamben calls bare-life. One will not be surprised then that such a worthless life cannot be sacrificed to a deity without profaning the shrine. The consequence of this exception of the individual from the polis, made the individual to find himself in the zone of indistinction, though he is excluded from political protection, but immune from religious martyrdom. Hence inclusive in some senses. Some of these facts were corroborated by Agamben when he says;

“The protagonist of this book is bare life, that is, the life of homo sacer (sacred man), who may be killed and yet not sacrificed, and whose essential function in modern politics we intend to assert. An obscure figure of archaic Roman law, in which human life is included in the juridical order [ordinamento] solely in the form of its exclusion (that is, of its capacity to be killed), has thus offered the key by which not only the sacred texts of sovereignty but also the very codes of political power will unveil their mysteries. At the same time, however, this ancient meaning of the term sacer presents us with the enigma of a figure of the sacred that, before or beyond the religious, constitutes the first paradigm of the political realm of the West”. (Agamben, 1995:8)

In a further analysis, of this phenomenon of bare life and its transitional journey in a modern democratic society, as well as its relationship with both bios and zoe, Agamben argues that,

what characterizes modern politics ... the decisive fact is that, together with the process by which the exception everywhere becomes the rule, the realm of bare life -- which is originally situated at the margins of the political order -- gradually begins to coincide with the political realm, and exclusion and inclusion, outside and inside, bios and zoē, right and fact, enter into a zone of irreducible indistinction. At once excluding bare life from and capturing it within the political order, the state of exception actually constituted, in its very separateness, the hidden foundation on which the entire political system rested. When its borders begin to be blurred, the bare life that dwelt there frees itself in the city and becomes both subject and object of the conflicts of the political order, the one place for both the organization of State power and emancipation from it. ...If anything characterizes modern democracy as opposed to classical democracy, then, it is that modern democracy presents itself from the beginning as a vindication and liberation of zoē, and that it is constantly trying to transform its own bare life into a way of life and to find, so to speak, the bios of zoē. (Agamben, 1995:8-9)

Breaking down what Agamben said here, is vital in the sense that it forms a significant strand in its application. Agamben argues that what characterise modern politics is that the exemption becomes the rule; in the polis, the full citizen is a composition of both the zoe (natural animalistic nature of man which is given at birth) and bios (the cultural, socio-political civilised nature of man which is acquired). Hence the former is nature while the latter is nurture. In this state, the citizen has a full life.

However, following the ban, which is the state of exception as a zone of indistinction, he was stripped of his bios and now has just zoe. His life became incomplete, his full life became bare life, because a life of zoe without bios or more specifically with traces of bios is bare-life. It is a worthless life. It is at this juncture that the citizen became Homo Sacer. There is a convergence or fusion of the Homo Sacer whose life is bare-life with its traits. It comprises only zoe with traces of bios. However, this life is an aberration; the ideal one is that of the full citizen within the polis. This fact is an exception, not the rule. However, this begins in the words of Agamben to coincide with the political realm where this aberration is almost taken as the rule. The banishment creates a double contradiction for the |Homo Sacer. In this case, he is still bound by the law which banished him and exposed him to the threat of imminent death.

This death still hangs over his head even though he is outside the enclave of the law and society where he was banned. He is still bound by the law that prohibits him from being sacrificed to any god even outside the polis. This is the zone of indistinction between inside and outside the polis.

This is an interesting contradiction. The banishment does not allow the Homo Sacer any more protection from the law of the polis because he now exists outside of it, yet the same law did not let-go his grip of sanction over the life of the Homo Sacer who no more circulates within that enclave. He is now incomplete even though the active law exists inside the polis but still controls that, which is obtained outside the polis. That was why the individual was excluded from the polis but included in the expectations of his compliance with the law that banished him, even though he is now outside of the polis. The entire life of the Homo Sacer as it is outside the polis is that of exception. It is the exception that produced the Homo Sacer. The norm only produced full citizens.

There was another element that seems to underlie this whole image and idea of unity and disunity fusing in Agamben's philosophy; It is what Derrida calls "trace" which is the presence of the thing that is absent. (Derrida, 2016) It is this element that makes possible for something to be pushed out yet still affected by what is inside. Alternatively, it is that which makes it possible for there to be "excluded" and yet "inclusive". Nevertheless, care must be taken to understand this relationship; it is not that of degrees where a certain percentage remains.

Agamben in the above extract argues that "*modern democracy presents itself from the beginning as a vindication and liberation of zoē, and that it is constantly trying to transform its own bare life into a way of life and to find, so to speak, the bios of zoē.*" This is the zone of the homo sacer and bare life. However, the operation of democracy here involves a fierce battle with itself trying to actualise itself within that enclave and aspiring to perfection, which means struggling to acquire its bios. In doing this, the aberration operates as if it is the norm.

2.1.2 The Sacred Life

There is no way we could have discussed Homo Sacer without already discussing the "Sacer" part of him, which is the idea of "sacred". In this section, there is a compelling

reason for some sort of repetition to elucidate further, the full import of the sacredness of the life of the Homo Sacer.

According to Agamben, “The sacred man is the one whom the people have judged on account of a crime. It is not permitted to sacrifice this man, yet he who kills him will not be condemned for homicide; in the first tribunitian law, in fact, it is noted that “if someone kills the one who is sacred according to the plebiscite, it will not be considered homicide.” This is why it is customary for a bad or impure man to be called sacred”. (Agamben, 1995:47)

The paradox involved in not being permitted to be sacrificed, yet permitted to be killed is somehow puzzling. This is synonymous with saying “not permitted to be forgiven but permitted to be granted amnesty”. This is a paradox if not an outright contradiction”. However, we must understand that this operates in the imperfect political realm, which is that of the Homo Sacer outside the polis. This is what gives credence to what Agamben calls the “ state of exception” within the context of “sacredness” as it relates to the Homo Sacer. It is the phenomenon of the status of the Homo Sacer’s death outside the realm of the law as “non-sacrificial and non-homicidal”. This falls within the zone of indistinction.

For Agamben, a life caught in the Sovereign ban is what is regarded as sacred. He is sacred in that his very exclusion from the community of humans through the ban that sends him on exile, automatically excludes him from state protection, and that pushes him into the class of vulnerable who can be killed by anyone lawfully without committing a crime. However, the emphasis here is on the concept of “exception” and this action that created the homo sacer, creates two states of exception from two different laws affecting the Homo sacer; first the law on homicide which alludes to the “unpunishability” of his killing.; this is an exception from the human law. This must be so because he is no more fully human, he is now Homo Sacer and on the other side is the exception from the divine law that prohibits him from being sacrificed in any ritual killing.

In a more detailed and extensive argument, Agamben elucidates further, this concept of sacredness, and the state of exception, in his analysis, he maintains that the Homo Sacer belongs to God and that is why he is “unsacrificeable”, and on the other hand,

he belongs to the community which is why he is “killable”. In his words “ Just as the law, in the sovereign exception, applies to the exceptional case in no longer applying and in withdrawing from it, so Homo Sacer belongs to God in the form of “unsacrificeability” and is included in the community in the form of being able to be killed. A life that cannot be sacrificed and yet may be killed is sacred life. (Agamben, 1995:52)

He, therefore, argues extensively showing the double-barrelled relationship that surrounds and defines the life of the Homo Sacer. In his words,

What defines the status of homo saceris therefore not the originary ambivalence of the sacredness that is assumed to belong to him, but rather both the particular character of the double exclusion into which he is taken and the violence to which he finds himself exposed. This violence -- the unsanctionable killing that, in his case, anyone may commit -- is classifiable neither as sacrifice nor as homicide, neither as the execution of a condemnation to death nor as sacrilege. Subtracting itself from the sanctioned forms of both human and divine law, this violence opens a sphere of human action that is neither the sphere of *sacrum facere* nor that of profane action. This sphere is precisely what we are trying to understand here. We have already encountered a limit sphere of human action that is only ever maintained in a relation of exception. This sphere is that of the sovereign decision, which suspends law in the state of exception and thus implicates bare life within it. (Agamben, 1995:53)

Arguing further, Agamben wonders if there is a connection between the structure of the sovereign and that of the sacred or between both the penal law and sacrifice. In his analysis, he argues that the “ Homo Sacer presents the originary figure of life taken into the sovereign ban and preserves the memory of the originary exclusion through which the political dimension was first constituted. This is a massively important point because it is actually this moment of originary violence that founds the political. That is in fact at the heart of what we are trying to demonstrate in this thesis. If the originary violence necessitating the exclusion did not take place, the subsequent chain of complex dynamics that resulted from this exclusion which produced the inclusion within the zone of indistinction would have been none existent. Hence its existence. The result is that the political sphere of sovereignty was consequently constituted through a double exclusion, as an excrescence of the profane in the religious and of the religious in the profane. This vice versa relationship takes the form of a zone of indistinction between sacrifice and homicide. Explaining this, he says that ‘ the

sovereign sphere is the sphere in which it is permitted to kill without committing homicide and without celebrating a sacrifice, while a sacred life is, a life that may be killed although, not sacrificed. (Agamben, 1995:53-54)

This according to Agamben, is the character of the life that has been captured in this sphere. Hence, he argues that ‘ What is captured in the sovereign ban is a human victim who may be killed but not sacrificed. This is the Homo Sacer who is synonymous with bare life or sacred life; That is the life that constitutes the first content of sovereign power, But then what is the origin of this dogma of sacredness of life? It is a life caught in the sovereign ban which is originary sacred by which we mean that which may be killed but not sacrificed – Hence, the production of bare life is considered the originary activity of the sovereign. Agamben summarises this by saying that ‘ The sacredness of life, which is invoked today as a fundamental right as against that of sovereign power, is, in fact, an original expression in which life is subjected to power over death as well as life's irreparable exposure, as far as abandonment is concerned. (Agamben, 1995:53-54)

There is an interesting dimension to this argument which would later form the basis of our analysis of the South African situation, and this is the fact of creating a “ *zone of indistinction between sacrifice and homicide*” It is death which is neither sacrifice nor homicide but lies somewhere in between. Just as we shall have truth without justice lying between a zone that is neither of truth nor of falsehood and again, neither of justice nor of injustice. This zone of indistinction would be further unpacked in the subsequent sections.

2.1.3 The ban

The concept of a ban is significant to this thesis in the sense that the ban, introduces some other important concepts that determine the dominant narratives that shaped this research, The ban accounts for the paradigm shift from the realm of the convention to that of exception. It accounts for the transition from the sphere of normality to that of abnormality where the exception now becomes the rule. Interestingly, it is this abnormality that is capable of solving societal conflict and not the normality. Agamben argues that ;

Germanic law was founded on the concept of peace (Fried) and the corresponding exclusion from the community of the wrongdoer, who

therefore became *friedlos*, without peace, and whom anyone was permitted to kill without committing homicide. The medieval ban also presents analogous traits: the bandit could be killed (*bannire idem est quod dicere quilibet possit eum offendere*, "To ban someone is to say that anyone may harm him" [Cavalca, *Il bando*, p. 42]) or was even considered to be already dead (*exbannitus ad mortem de sua civitate debet haberi pro mortuo*, "Whoever is banned from his city on pain of death must be considered as dead (Agamben, 1995:69)

There is an important moment here that seem to trace the transition of ideas from one realm to another. In the excerpt above, Agamben argues that the law banning the Homo Sacer was founded on the concept of peace. However, after the ban, it involves a transition which leads to what he calls "*corresponding exclusion*" which leads to another stage he calls "*without peace*," This is the stage that produces the Homo Sacer and circumstances he is in. Here the Homo Sacer is under threat and vulnerable or amenable to various possibilities and flexibilities. What Agamben did is to exclude those elements that would run riot to the main goal or objective leaving only the compatible ones.

However, in the subsequent excerpt, Agamben's explanation reveals that when the Homo Sacer is banned from the society of civilised humans and sent on exile, in which case, his *bios*, is removed, he is left not just with *zoe* which is the animal nature, but also with traces of *bios*, the social nature. He is incapable of reaching zero level of *bios* as all cannot be totally expunged. What he now has may though be 100% *zoe*, but with traces of *bios* or what may be called a sort of hybrid that sets him at a point of indistinction. This point of indistinction was carefully articulated by Agamben in the excerpt below. In his words,

the Homo Sacer bears a wolf's head from the day of his expulsion, and the English call this *wulfeshead*". What had to remain in the collective unconscious as a monstrous hybrid of human and animal, divided between the forest and the city -- the werewolf -- is, therefore, in its origin the figure of the man who has been banned from the city. That such a man is defined as a wolf-man and not simply as a wolf (the expression *caput lupinum* has the form of a juridical statute) is decisive here. The life of the bandit, like that of the sacred man, is not a piece of animal nature without any relation to law and the city. It is, rather, a threshold of indistinction and of passage between animal and man, *physis* and *nomos*, exclusion and inclusion: the life of the bandit is the life of the *loup garou*, the werewolf, who is precisely neither man nor beast, and who dwells paradoxically within both while belonging to neither. (Agamben, 1995:69)

Agamben further compared the life of the homo sacer to that of the Hobbesian State of nature where sovereignty resides in the Leviathan. For Agamben, the ban that pushed the citizen outside the protection of the Sovereign into a situation where he finds himself in a chaotic state similar to what Hobbes calls a state of nature that is characterised by “war of all against all”, where there is lawlessness and insecurity of life and property and death was imminent. This worthless life is what Agamben calls bare life or sacred life. Murder in the state of nature was not illegal until “man” moved into the social contract. According to Agamben, the transition from ban to exile leaves the Homo Sacer neither in bios nor in zoe but a thin line that combines both elements which he calls a state of indistinction. This is further made clearer in Agamben’s words where he says that ;

a zone of indistinction between the human and the animal, a werewolf, a man who is transformed into a wolf and a wolf who is transformed into a man -- in other words, a bandit, a homo sacer. Far from being a prejuridical condition that is indifferent to the law of the city, the Hobbesian state of nature is the exception and the threshold that constitutes and dwells within it. It is not so much a war of all against all as, more precisely, a condition in which everyone is bare life and a homo sacer for everyone else, and in which everyone is thus wargus, gerit caput lupinum. And this lupization of man and humanization of the wolf is at every moment possible in the *dissolutio civitatis* inaugurated by the state of exception. This threshold alone, which is neither simple natural life nor social life but rather bare life or sacred life, is the always present and always operative presupposition of sovereignty. (Agamben, 1995:70)

However Agamben made his final submission in three theses, the first two are directly relevant to this thesis while the third opens up inroads to further research. According to Agamben,

Three theses have emerged as provisional conclusions in the course of this inquiry: 1. The original political relation is the ban (the state of exception as zone of indistinction between outside and inside, exclusion and inclusion). 2. The fundamental activity of sovereign power is the production of bare life as originary political element and as threshold of articulation between nature and culture, *zoē* and bios. 3. Today it is not the city but rather the camp that is the fundamental biopolitical paradigm of the West. The first of these theses calls into question every theory of the contractual origin of state power and, along with it, every attempt to ground political communities in something like a "belonging," whether it be founded on popular, national, religious, or any other identity. The second thesis implies that Western politics is a biopolitics from the very beginning, and that every attempt to found political liberties in the rights of the citizen is,

therefore, in vain. The third thesis, finally, throws a sinister light on the models by which social sciences, sociology, urban studies, and architecture today are trying to conceive and organize the public space of the world's cities without any clear awareness that at their very center lies the same bare life (even if it has been transformed and rendered apparently more human) that defined the biopolitics of the great totalitarian states of the twentieth century. (Agamben, 1995:117)

2.2 Extension and Application of the Theory of the Homo Sacer to the Ideas Underlying the Resolution of Apartheid Conflict in South Africa.

Introduction

Our interest in this thesis is not in Agamben's Homo Sacer per se. It is in how the principles, ideas, concepts and terms that emerged in shaping the relationship between the citizen in the polis and his transition to Homo Sacer in Agamben's philosophy have parallels in the ideas and dynamics that emerged in shaping the transition from apartheid to democracy in South Africa. For instance, almost all the concepts have equivalences in the realm of ideas, and for the purpose conciseness and clarity, some concepts had to be created in line with the ones from Agamben in the realm of ideas. For instance, The Homo Sacer which is the Sacred man in Agamben became in South Africa: "Idea Sacer" which similarly means "Sacred Idea". However, just as the Homo Sacer is that which can be killed but not sacrificed, the "Idea Sacer" can be rejected or denounced and contradicted when taken on face value but cannot be "sacrificed", rejected or repudiated when subjected to close critical analysis. Again, just as the operating elements in the Homo Sacer appear in couplets of opposites such as exclusive inclusion, inside-outside, zoe and bios, the ideas that animate the mediation process in South Africa equally appear in couplets of opposites, such as peace without reconciliation, truth without justice, amnesty without forgiveness. More also, just as the full citizen is stripped of his bios and left only with zoe, though with traces of bios, the complete idea in South Africa is stripped of one of its elements. Such as Truth with justice is stripped of justice, leaving it with only truth without justice. But then Truth without justice is not the same as truth with no justice at all. Traces of qualified forms of justice remains within the equation. Again, just as the ban in Agamben leads to the zone of indistinction where there was exclusion but still inclusive. In South Africa, for instance, though justice had been excluded, yet still inclusive in some defined and modulated form such that it is truth without justice but not with injustice as some level of justice remained embedded. The same principle of excluding the disturbing

elements in the Homo Sacer by not giving it any political voice also applies to the South African situation or the peace process, such that the idea that is excluded among the couplet is that which stands against the fulfilment of the main objective.

It is this distinction from the realm of the Homo Sacer that is graphically represented in colour format for clarity when seen at a glance. In doing this, we introduced some terms that are used here for the first time in order to articulate more clearly the logic of transition from Agamben to resolution ideas in South Africa. Some of these terms and their parallel in Agamben are, Homo Sacer- Idea Sacer: meaning sacred idea, Bare-life- Bare Idea: meaning worthless and inconsequential idea.

The above analysis features in the application of Agamben's theory to the Ideas and concepts that were at the base of the peace initiative in Apartheid South Africa. It shows the transitions and the move from the realm of the human personality to that of ideas.

In this section, there is a need to briefly refresh our memory about the link between Apartheid South Africa and the link with Agamben. Before Mandela became President in 1994, The South African white minority National Party had been in power for 46 years. (Philip, 2008) It held on to power through naked brute force of repression, oppression and victimisation of all sorts using state machinery to perpetrate all kinds of racial discrimination, segregation and multiple violations on the majority of black South Africans. The situation was so fierce that it was on the verge of tearing the nation apart. All local and international efforts at brokering peace in South Africa for these 46 years proved abortive. The consequence was that South African apartheid conflict was listed among the world's worst intractable conflicts. (Jones,2015). However, there was a turn around when in 1994, through internally grown negotiation and the institution of a new constitution and the emergence of the TRC, South Africa amicably resolved its 46 years intractable conflict with a transfer of power from the white minority to black majority South Africans. (Guelke,2005). This research aimed to identify what underlying theoretical elements accounted for this successful brokerage of peace after such an extended period. Moreover, the method by which we are doing this is Critical Discourse Analysis. (CDA).

What CDA did for this study, was that after assembling all the original materials both in print and electronic forms and in this case, the primary text was the complete volumes of the Truth and Reconciliation Report of South Africa, which came in seven volumes. These documents were manually read severally and subjected to critical analysis. The result was that through CDA this study was able to isolate some themes, which underlie the mediation processes and the emerging rhetoric and narratives appeared in couplets of paradoxical complementary and contradictory forms which was a pointer to the hypothesis that there must be some rigorous theories that were beneath this success. Further research reveals that it is only within Agamben's philosophy of the Homo Sacer that a plausible explanation for the peaceful transition in South Africa finds parallels.

Agamben's Homo Sacer is about the individual personality in the polis whose relationship with the sovereign, society and law determined his life history from birth to death. What we found out is that within the same geometry and logic of analysis, Agamben's principles could also apply to those ideas at the base of South African resolution as much as they were with the Homo Sacer. Hence, what we shall be demonstrating in this section is to show those parallels.

Beginning with life in the Polis, in Agamben's philosophy, it was the ideal. Every citizen was under the protection of the sovereign. Citizens were full individuals who had both their natural traits of zoe and their acquired social traits bios. It was a "perfect" state of harmony governed by both the human law and divine law before things went wrong and change came. A similar narrative applies to the resolution ideas in South Africa. These ideas also have two somewhat complementary elements. Seven of such original ideas emerged, and they are; 1. Peace based on reconciliation, 2. Healing as a result of forgetting, 3. Tolerance resulting from friendship, 4. Unification founded on harmony, 5. Confession did with Remorse, 6. Amnesty flowing from forgiveness, 7. Truth leading to justice. Each of these set of ideas had its zoe and bios.

There was a transition from this stage, both with the "perfect" and complete citizen in the polis and the ideas at the base of the South African peace process. The exclusion led to the exile of the citizen and thus changed her from being a citizen to the Homo Sacer during which she moved into a state of incompleteness and imperfection. It entered into the realm of the unideal. It is the realm where the citizen lost its bios and

had just zoe. It is the state of exception and indistinction. In this thesis, we are applying the same logical form that was operational in Agamben to the South African situation where the analysis centres around ideas. This is the fate that befell these ideas in South Africa.

As a result of conflict, and ban, perfect and excellent ideas such as “peace with reconciliation” “became peace without reconciliation” What happened here was that a relatively perfect, and the complete idea became deconstructed and pushed to the realm of imperfection. The resultant imperfection is what translates to “sacred idea”, and it is this sacred idea that we chose in this thesis to call “**Idea Sacer**”. To say an idea is sacred in Agamben’s sense means two opposing things. : that the idea can be rejected as an inconsistent contradiction that makes no sense when viewed on a face level. The second is that the idea cannot be rejected as such when subjected to critical analysis. This is true of all the seven paradoxes derived. At first glance, peace without reconciliation does not make sense. Same for truth without justice or amnesty without forgiveness. However, a closer look, especially within the narratives that emerged in South Africa, confirms that it makes sense after all.

Nevertheless, just as the citizen lost his bios, to become “**Homo Sacer**” the “pure ideas” lost its bios, leaving them with zoe, an inferior trait, which is called. “Sacred Idea”- “Idea Sacer”. As stated above, in the first paradox, reconciliation was lost, and it became peace without reconciliation. Forgetting was lost, and it became healing without forgetting, friendship was lost and it became, tolerance without friendship, harmony was lost, and it became unification without harmony, remorse was lost, and it became confession without remorse, forgiveness was lost, and it became Amnesty without forgiveness, and finally, justice was lost, and it became truth without justice. Peace returned to South Africa on the application of these “sacred ideas” to the mediation process.

This is the realm of the Homo Sacer or that of the “Idea Sacer” The characters in this realm, also broadly defines the characters of the ideas at this stage. Agamben defines the life of the Homo Sacer as bare-life that is an ordinary life. The same fate affects these South African ideas that were no longer perfect and sacrosanct. They were like half measure ideas which are “**bare-ideas**” The term bare idea is a construct we created and derived from Agamben’s bare-life. “bare idea” has the same properties as bare life.

The difference is that while “bare-life” applies to the inconsequential and worthlessness of the life of the Homo Sacer after exclusion, “bare idea” on the other hand, applies to the the inconsequential and worthlessness of the imperfect ideas that emerged as the seven paradoxical couplets that were at the base of the South African peace process. This was after the ideas have been stripped of their bios and completeness. For instance, peace with reconciliation is a “complete and perfect” idea to a large extent while “peace without reconciliation” is a “bare idea”. Interestingly, it was bare ideas that brought back peace to South Africa.

Besides, the ban or transition turns the Homo Sapiens to Homo Sacer. The sacred man who is nonetheless not permitted to be sacrificed yet can be killed with impunity. This seeming contradiction also affects the South African peace ideas as they are vulnerable to attacks to the point of destructive criticism because they do not conform to norms and conventional expectations. For instance, how can one talk about peace without reconciliation when common sense has it that there can never be peace without reconciliation because it is the peace that leads to reconciliation. Though the ideas can be attacked and killed for appearing incompatible with common sense at the layman’s level, it cannot be jettisoned under rigorous theoretical analysis or intellectually ritualised thought system that is philosophically and analytically based. Hence the sacredness of the idea means that the ideas cannot be sacrificed, desecrated, or repudiated on a platter of a rigorous intellectually ritualised circuit for being illogical, irrational or inconsistent without being guilty of intellectual bankruptcy and lack of criticality. Whereas on the other hand, the “Idea Sacer” or “Sacred Idea” can be thrown out, jettisoned, repudiated and annihilated for being inconsistent with common sense expectation and logicity.

For Agamben, the hardest concept that continues to disturb the stability of the other is excluded and pushed outside the realm of bios. Not annihilated, but held out there because its absence is still present in the overall scheme of the objective. This bit is what Derrida, for instance, refers to as a “trace” It helps to explain the Agamben’s exclusive inclusion which is “what a sign differs/defers from. It is the missing part of the sign’s presence. In other words, We may now define trace as the sign left by the absent thing, after it has passed on the scene of its former presence. “Every present, in order to know itself as a present, bears the trace of an absent which defines it” (Derrida,

2016:127-131) In Western thought, the main substance, “necessarily contain traces of other (absent) signifiers, the signifier can be neither wholly present nor wholly absent”. The Derridean Phrase,” *wholly present nor wholly absent*” implies that nothing is absolute, It implies partiality, it connotes, imperfection and aperspectival philosophy. All these were indicative of the philosophy on which the South African peace was founded. (Derrida, 2016)

The transition occurred with the appearance of the binary fusion of ideas, such as “truth with justice” or “peace with reconciliation” This was followed by the deconstruction in which one of the terms had to be pushed out. However, what in this study is meant by “deconstruction”? It is no doubt, a notoriously difficult concept to define or as there have been many attempts to explain it in a much more straight-forward way, which have been grossly criticized for being too distant from the original texts, and even contradictory to the concepts of deconstructionism itself. Some scholars have even gone as far as claiming that a “deconstruction” is a dangerous form of nihilism that leads to the destruction of ethical and western scientific values. Despite this fact, it is still possible to affirm that deconstructionism at least in the Derridean sense, involves particular methods of textual criticisms. It is that which includes discovering, recognising and understanding the underlying assumptions that may involve both implicit and explicit ideas and frameworks that form the basis of beliefs and thoughts involving the theory of literary criticism that questions traditional assumptions. These assumptions are those concerning such elements as truth, certainty and identity, that affirms that words can only refer to other words while attempting to demonstrate how statements about texts subvert and undermine their meanings. (Mastin, L. (2009:1)

The result of that deconstruction is such that a somewhat perfect and complete idea became reduced to an incomplete half measure one which is referred to as “sacred”. Ordinarily, what should be considered sacred, is that which is perfect not an imperfect one? Of course but in deconstruction, it is the reverse, and it is this imperfection which we consider an aberration, that operates as though it is the normalcy and it is on this basic rhetoric, that societal peace was achieved in the RSA.

Hence within the purview of deconstruction, the narratives became “truth without justice” and “peace without reconciliation”. It nonetheless remained within the same fold. Agamben referred to them when he was talking of excluded inclusion. For

Agamben, the disturbing parameter is excluded, though still included outside of the bracket which is the position of the *Homo Sacer* for whom the paradigm of the bare life is captured in the sovereign ban which Agamben finds in the figure of *Homo Sacer* of archaic Roman law. Here Agamben argues that the *Homo Sacer* has been excluded from the religious community and all political life and as such, he cannot participate in the rites of his *gens*, nor can he perform any juridically valid act. To that extent, his entire existence is reduced to a bare life stripped of every right because anyone can kill him without committing homicide. In this state, he can save himself only in perpetual flight or in exile to a foreign land after being made vulnerable by being stripped of his legal status and expelled from the political community; The *Homo Sacer* is exposed unconditionally to the potentiality of being killed by anyone. The *Homo Sacer* 'is in a continuous relationship with the power that banished him precisely insofar as he is at every instant exposed to an unconditional threat of death' which is why it is excluded and yet included. (O'Donoghue, 2015, Southerland, 2016: Agamben,1998,).

Furthermore, the basis of this distinction is addressed by Agamben with recourse to the two terms used by the Greeks to distinguish between forms of life: *zoē*, 'natural reproductive life' confined to the private sphere, and *bios*, 'a qualified form of life', political life. The sovereign reduces those who are banned from the domain of political beings to a life defined only regarding *zoē* which is recognised by the sovereign only as biological beings. Whereas, the separation of *zoē* from *bios* and the production of bare, human life as a product of sovereign power can be said to transform modernity as *zoē*, or the biological life, is repositioned inside the *polis*, becoming the focus of the State's organisational power. This process, rooted in classical politics and extending into the present, indicates, for Agamben, a Western politics that has constituted itself from its beginnings as biopolitics. Hence, every idea again has the binary element of *bios* and *zoe*; but to achieve its objective, they have to be stripped of their *bios* and left with the only *zoe* which is much more easier to manipulate and recondition. , (O'Donoghue: 2015, Southerland: 2016, Agamben:1998)

However, in order to understand how all these manifests itself in South Africa, we must understand first that the architects of the TRC did not intend to base the de-escalation of the South African conflict on the binary fusion of opposites, but that of compliments, unfortunately, the narratives and rhetoric that emerged could not be

manipulated otherwise. Hence, the binary fusion of opposites, which formed the bedrock of the de-escalation of the conflict in Apartheid South Africa emerged.

Nevertheless, what we have done here is to move the Agamben's idea from the realm of the person or personality of the Homo Sacer to those of concepts and this time around, they are the concepts that were at the base of the success of the TRC in South Africa.

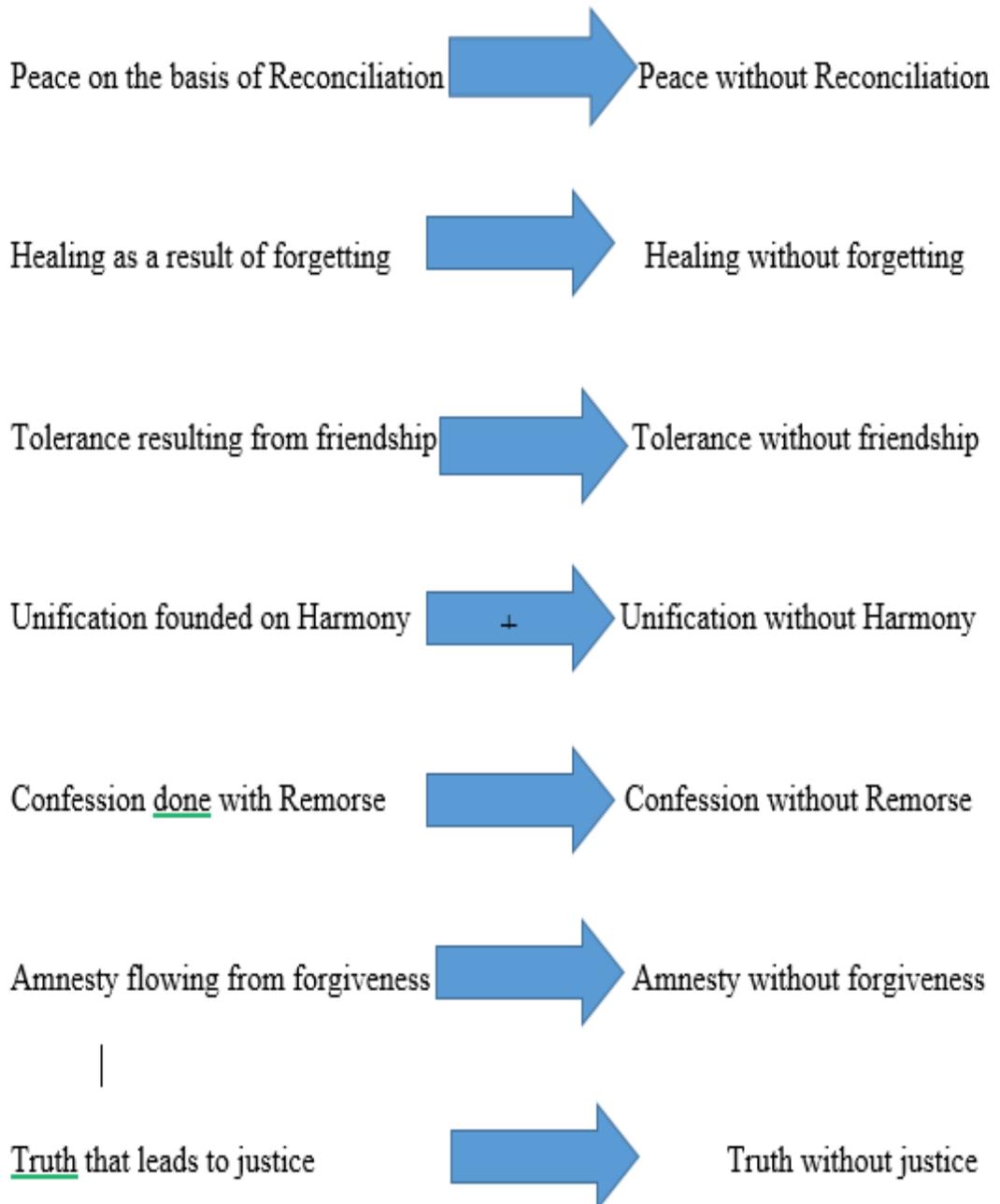
Hence, there is a logicity of principles here, that determines the dimension of the deconstruction. It involves scaling down "perfection" to imperfection and "completeness" to incompleteness. The fundamental underlying principle guiding all these is a principle in which compromise is upheld at the expense of legality. This is why in the polis, there was a transition from the complete citizen that has two elements of zoe and bios into an incomplete personality called Homo Sacer who had only one element, which is the zoe. Same for the perfect ideal ideas that were at the base of the South African peace process. They were by this principle, reduced from an idea with two elements to that which has lost one of the elements such as peace with reconciliation becoming peace without reconciliation and the same geometry of analysis affects all the elements in the set.

We have observed that there is a logical principle behind these pairings. It is a situation where the ideal gives way to the unideal, and the unideal becomes the standard for societal peace and stability. In other words, an "absolute", "perfect" and "complete" idea is repudiated and replaced with a relative and perspectival one. Better still, it is replaced by an imperfect, incomplete and defective form while this new aberration is rhetorically and narratively projected as usual standard. The overarching underlying principle that determines this is that of compromise at the expense of legalism.

Below is a graphical display of the emerging narratives and paradoxical couplets that were at the foundation of the South African peace process. The diagram shows the movement of ideas from "perfection" to imperfection. The perfect ideas had both zoe and bios while the imperfect had just zoe. Hence showing that peace in South Africa was attained through imperfection.

Theoretical Model Underlying the TRC's Report of South Africa

(Zoe + bios)-**Nature** + **Nurture** (Deconstruction level) (Zoe)- **Nature-only**



A summary of emerging results from the theoretical analysis.

- The emerging results from this theoretical stage, reveals that under the criminal justice system, “truth” often lead to justice , but in SA, the truth was volunteered in anticipation of amnesty which makes it **truth without justice** because confessing the truth could not lead to punishment or prosecution that was already negotiated out because amnesty is no justice.
- Also emerging is the confession of gross violation, **without remorse**, as a result, such truths could only elicit state **pardon called amnesty**, but it is **amnesty without the victim’s forgiveness**.
- Another emerging result is the fact that confessing to gross violation itself helped in **healing wounds of the heart**, but not without creating permanent impressions that remained indelible in their hearts, **never to be forgotten**.
- Also emerging is the fact that such un-forgetfulness only Leads to elastic **tolerance but not friendship**.
- It has equally emerged that such artificiality could only promote **societal unification** to the extent that SA remains one unified political structure but **lacking sustainable harmony**.

Such is the character of the fragile peace delivered in South Africa on its way towards nation building. Perhaps it was a choice of a better evil **to accept the current injustice in order to be able to lay the foundation of a much more solid futuristic societal justice**.

2.3 Critique both of Agamben and the application to South African conflict.

The critical issue here is that the theoretical principles underlying the peace narratives in South Africa were contradictory and seemed conflictual. Only a critical analysis founded on the Agamben’s Philosophy of the homo Sacer can rationally justify the contradictions. There is another exciting dimension to the logic of analysis in the manner and pattern in which the narratives form themselves together in pairs. We observe that within Agamben’s philosophy, in the Polis, the citizen was a whole person with both zoe and bios in him. Unfortunately, he lost this completeness and wholeness via the sovereign ban that exiled him and changed his status to that of the Homo Sacer. The Homo Sacer is an inferior personality, compared to the citizen. He is an incomplete entity, an imperfect personality, a second-class entity compared to the

holistic nature that he had as a citizen in the polis. He is, in fact, a degeneration and an aberration of what used to exist in the polis. In the polis, he had both bios and zoe in him, but now as Homo Sacer, he has only zoe. All these traits equally apply to the “Pure idea” in South Africa which was the “ideal”, but through the process of deconstruction, and reductionism the holistic idea lost its completeness and perfection as well as its totality and became the second-best possible. The elements in South Africa was all inclusive with such phrase as “with” as in “truth with Justice” but degenerated into “without” in which case, it lost one of its vital parts and technically became one-legged idea as against the two-legged one in the previous state of affairs.

We have chosen to describe the above scenario as “a reduction of perfection” or “deconstruction of absolute” in which a “complete” idea, a holistic and all-inclusive idea was broken down with the new idea losing parts of its original components. Moreover, the ideal was pushed away for the “un-ideal”, and the “un-ideal” became the rule. Interestingly, It is only that which is incomplete or that which has a vacuum that can tolerate an addition. Hence it is this none ideal that is flexible enough to accommodate complex societal conflicts and its resolution.

Similarly, it is interesting to note that even though Glyn Daly’s focus in the article ; “politics and the impossible: Beyond Psychoanalysis and Deconstruction is on Slavoj Žižek and his extensive critique of poststructuralism and deconstruction from a Lacanian perspective, There are striking theoretical alignment with that of Agamben as applied in this thesis to the South African conflict. In this article, he examines what he calls “ Žižek" s provocative approach to questions of social reality, ideology and nationalism as well as that of reality, whereas, in this thesis, we seek to understand the underlying theoretical basis for the success of the South African peace process via CDA and Giorgio Agamben’s exclusive, inclusive philosophy of the Homo Sacer. In this article, Daly(1999:90-91) argues extensively that,

It is clear that between the extremes of Universality/Particularity and emptiness/fullness there are wider deconstructive possibilities for subversive and hegemonic practices. In particular, an alternative perspective presents itself which combines the Lacanian insight of a constitutive lack with a more positive approach to politics. Such a perspective would be one which does not simply ‘tarry with the negative’ but actively conjures with negativity as such. This type of approach has been crucial to the development of the idea of ‘radical

democracy' as elaborated in the work of Laclau and Mouffe. The central insight here has been the identification of two movements which are ultimately contradictory but which, at the same time, sustain the possibility of democracy through the very impossibility of any resolution. On the one hand there exists the attempt by various groups in a democratic framework to realize the fullness of society (to fill the 'empty place') through the development of a particular project. On the other hand there is a second movement which involved the recognition that such a realization is always impossible and that the happy hour of total fulfilment never comes. Radical democracy, therefore, subsists in this constitutive interplay: that between the (false) extremes of the total possibility/impossibility of the fullness of society there exists a plurality of partial and provisional hegemonic projects which attempt to perform the filling function. Now this clearly goes beyond the Žižekian perspective of attempting a total concealment of the constitutive lack. The attempt by a group/individual to bring about an effect of concealment can only be seen in purely artificial and provisional terms: as a 'strategic essentialism' which tries to constitute the impossible object. In this way, radical democracy is able to build into its 'vision' the very sense of its own incompleteness and incompleteness. As a positive feature of its political culture. Thus while radical democracy, like all political projects, is a power construct which seeks to establish some kind of closure, at the same time – and unlike other political projects – it is one which actively conjures with its impossibility and potential for transformation; in Derrida's terms, it remains alive to the promise of a democracy 'to come'. (Daly, 1999:90-91)

Just as we can see in the argument of Daly above, it recognises that the discourse is that of paradoxes of the extreme opposites. Also, the reference to extremes of "universality and particularity" is synonymous with *bios* and *zoe*. *Bios* is the universality, which is social while *zoe* is particularity, which is individualism. The life of the *Homo Sapien* in the polis is characterised by completeness while after the exclusion, his life as the *Homo Sacer* in exile is incomplete-bare-life. Between the extreme is the zone of indistinction. Daly says "there are wider deconstructive possibilities for subversive and hegemonic practices. In particular, an alternative perspective presents itself" this is quite interesting. In Apartheid South Africa, the narrative began with a 'positive' and perfect narrative such as "peace with reconciliation" however, as a result of the "ban" a deconstruction took place. The possibility emerging can be reasonably described as "subversive and hegemonic practice" with the emergence of an incomplete, imperfect, aberration of the ideal that was deconstructed. The result can be called "subversive". It is "peace without reconciliation" Daly would probably and rightly too describes this as "a constitutive

lack with a more positive approach to politics” It is at the level of “bare-life” so “without” portrays the lack, but following rigorous analysis, it is this “lack” and second order arrangement that creates a positive approach to politics. It is the mid-way position that is dictated by what Desmond Tutu calls “political Prudence” to institute “peace that lacks reconciliation” since it is clear that Peace with reconciliation is unattainable and an attempt to force it will probably end in disaster. The description of this outcome by Daly is remarkably admirable because it is quite succinct. He says “The central insight here has been the identification of two movements which are ultimately contradictory but which, at the same time, sustain the possibility of democracy through the very impossibility of any resolution.” It is incontrovertible that “peace without reconciliation” or any of the seven paradoxes involves two movements whose contradictions are obvious. However, interestingly, these are the phenomenon that helps South Africa to achieve ‘the possibility of democracy through the very impossibility of any resolution’.

Daly describes it as “radical democracy” which he says “subsists in this constitutive interplay: that between the (false) extremes of the total possibility/impossibility of the fullness of society there exists a plurality of partial and provisional hegemonic projects which attempt to perform the filling function”. This is an apt description of the dynamics operating between “peace with reconciliation and peace without reconciliation and other paradoxes in the South African situation which brought peace back to South Africa after 46 years by performing the “filling function”. Just like we have argued elsewhere in this thesis that the particular theories upon which the South African peace process was based, may not be known. However, Daly’s analysis here as fused with this process, seem to confirm further this assertion that it must have been based on a rigorous philosophical basis. What took place in the RSA was an “artificiality” not the norm. “peace resulting from reconciliation would have been the norm; unfortunately, peace without reconciliation is certainly an aberration. Daly calls it ‘strategic essentialism’ and concludes with an incontrovertible submission that aptly describes the transitional “closure”, societal peace and stability in the RSA. Also, he says In this way, radical democracy is able to build into its ‘vision’ the very sense of its own incompleteness and “incompleteness”. As a positive feature of its political culture. Thus while radical democracy, like all political projects, is a powerful construct which seeks to establish some kind of closure, at the same time – and unlike

other political projects – it is one which actively conjures with its impossibility and potential for transformation” as manifested in apartheid, South Africa. (Daly, 1999:90-91)

Critical Engagement

There is a twist to this Agamben’s argument on the question of the possibility of an outright dichotomy between zoe and bios. For instance, can one strictly separate perfect ideas from imperfect ones in absolute terms? Just as we are aware that Liberal-democracy, for example, is ultimately a contradiction and yet it continues to function in and through this contradiction (or “imperfection”). One may then ask if there is a clear distinction between sacred and non-sacred ideas? Can one turn into the other and if so, how? Are we able to justifiably posit that Agamben made a sufficiently strong case for separating zoē from bios? Especially when we know that Aristotle already identified the human being as a political animal and that singular pronouncement tends to contain both dimensions. Derrida also argues that the basic nature of the human being (zoē) is to be political (to seek bios) hence, the specific difference between animal and human beings is to be political. Martin Heidegger equally makes a similar point: the ontological condition of being is to be ontic).

On a more profound reflection over these questions, starting with Agamben himself, whatever his intention, even his philosophy could not sustain that strict bifurcation between zoe and bios. Hence, it does not seem to support the fact that in concrete terms, bios can be outrightly separated from zoe, except perhaps theoretically. The very idea of excluded inclusion seems to suggest this inseparability. The argument of Agamben that an attempt at separation was made at the point of the ban was an effort in futility, especially when in exile, it is discovered that what was excluded remains in part within what remained. Agamben does not seem to be the only one who seems to have attempted this form of separation that alludes to the foundation of knowledge. What Descartes did with the methodic doubt was similar where he tried to deny and repudiate all that he had hitherto known through the senses, including mathematical facts to even his own very existence. This seems to be drifting back to the point of tabular rasa but could ultimately not reach there when he got to the point of the cogito or self-realisation. This is not clearly the beginning of the accumulation of social ideas in an

empty mind, which would have been the moment of pure animality without rationality. Hence Descartes could not reach the point zero or nihilism where a clear demarcation can be put between the animal and man when he realised that "I think, therefore am". Again inseparability of the pure animal from the rational animal. Point zero would have been the point of tabula rasa, which is pure "animality" while the build up from that point will be that of the social man. This point of separation does not seem to be practically identifiable.

Arguing within the same geometry of analysis is Aristotle, who first identified the man as a political animal. This affirmation not only fuses the two ideas as one inseparable entity, it nonetheless affirms that both elements are constitutive in man whether they can be separated or not is a different issue. The fact that man is a composition of both natural animal and social animal remains a fact with this Aristotelian assertion. Although there is no doubt that the pronouncement that man is a political animal seems to be affirming the inseparability of the political from the biological. In actual fact, being political seem to exist in the very DNA of man and to that extent, practically inseparable.

Agamben's idea becomes clearer if we following the argument of Joshua Foa Dienstag (2006:148-152) in his review of Agamben's work: *The Open: Man and Animal*. Foa Dienstag argues extensively on page 149 of this article that, In *The Open: Man and Animal*, Agamben extends this analysis by offering, an alternative conceptual foundation for human existence, which is even more so than what he presented in the *Homo Sacer*. According to him, Agamben's writing here was presented in a more sophisticated manner in the discussion of the human-animal relationship which could be likened to that of Nietzsche's account of asceticism in the third essay of the *Genealogy*. The depth of discussion here is said to depict the sacred remnant who greet the Messiah as half-man, half-animal. Foa Dienstag 's analysis reveals that in this work, Agamben embarks on a debate about animality between Bataille and Kojève as well as that of the early-twentieth-century zoology. It was after this that he returned to medieval theology and finally arrived at what seems to be his main destination, which is Heidegger's basis for making a distinction between man and animal as it appeared in his lecture series of 1929-1930.

Foa Dienstag maintains that even though the analysis modifies, yet it does not fundamentally utter, what was advocated in the Homo Sacer, except that the emphasis, is now on the animal as the figure that represents 'bare life,' However, Foa Dienstag reiterated the inseparability of man from the animal by affirming that,

“Agamben argues that "the caesura between the human and the animal passes first of all within man" (p. 16). That is, every definition of man, from Aristotle forward, has defined him by isolating him from the animal. But since every human form of life (bios) cannot be separated from our animal existence (zoe), the 'animal' of man ends up in the same position as the sacred man of Roman law, as something which must be excluded, and yet retained in its exclusion, residing in a zone subject to sovereign power yet unbound by any law: "the decisive political conflict, which governs every other conflict, is that between the animality and the humanity of man. That is to say, in its origins Western politics is also biopolitics" (p. 80). That the division between human and animal may be drawn in many ways, Agamben does not hesitate to acknowledge (indeed, his genealogy is meant to demonstrate this). But the constant process of defining the human via the (non)exclusion of the animal is, to him, the 'anthropological machine' of Western politics which always produces the potentially exploitable category of 'bare life.' Nor has this machine exhausted itself with the demise of fascism: "the only task that still seems to retain some seriousness is the assumption of the burden and the 'total management' of biological life, that is, of the very animality of man. Genome, global economy, and humanitarian ideology are the three united faces of this process" (p. 77) Foa Dienstag (2006:149-150)

Furthermore, a much more articulate critique of Agamben was undertaken by Derrida who though died in 2004 but left behind a vast legacy of material unpublished in the form of written lectures. Much of which metamorphosed into what is now *The Beast and the Sovereign, Volume 1*, It was inaugurated by the University of Chicago Press and edited by Geoffrey Bennington and Peggy Kamuf, who translated the series into English.

In this volume, Derrida persistently associated bestiality or animality with sovereignty, while deconstructing the traditional determinations of the human. Derrida argues that the beast and the sovereign are connected because neither animals nor kings are subject to the law. Whereas, the sovereign stands above it, while the beast falls outside it from below. Derrida then traces this association through a set of scholarly works which includes that of La Fontaine's fable "The Wolf and the Lamb". Others are Thomas Hobbes's biblical sea monster in *Leviathan*, D. H. Lawrence's poem "Snake," Niccolo

Machiavelli's *Prince* with its extensive comparison of princes and foxes, a historical account of Louis XIV attending an elephant autopsy, and Jean Jacques Rousseau's evocation of werewolves in *The Social Contract*. Others are Deleuze, Lacan, and Agamben 's philosophical interpretations of the dichotomy between man and animal.(Derida,2009:vol.1)

In this work, Derrida examines the contradictory involvement of animals in political discourse. Sometimes, as he identifies the fact that the political man and the sovereign state appear in the form of an animal while at other times, it is presented as superior to animals of which he is superior. In session two of this work, Derrida examines the 'origin' of this seemingly contradictory discourse, by referring to animal fables which he maintains draw on some sort of unconscious assertions in invoking of images that are contradictory in nature as regards to apprehending objective knowledge. In a similar vein, Derrida discourses how Hobbes's Leviathan and sovereignty itself are both constructed and maintained through some strange and mysterious fear of the wolf within the human. It is the repression of this wolf, according to Derrida that leads to further contradictions in which Thomas Hobbes excluded both beast and God from the social contract.

However, Derrida in this work was quite critical of Giorgio Agamben's biopolitical theory. Derrida's critique involves issues of conceptualising sovereignty and its relationship to the dichotomy between human and animal. It also deals with the criticisms of Agamben, which are related to his tendency at laying claim to the discovery of the origin of ideas and concepts as well as the conceptual and the textual basis for the criticisms, which includes a way of applying history and interpretation of Aristotle.

Nevertheless, there is evidence in Derrida's criticism that the problem of inconsistency in Agamben, takes its source from his desire to be first to make certain assertions. For instance, Agamben claims both that the "Production of a biopolitical body is the originary activity of sovereign power," and that the politicisation of bare life in the state of exception is in fact, the "Decisive event of modernity (Agamben,1998: 4, 6)." He further claims to be uncovering the essence of sovereignty in the state of exception, while also identifying the introduction of bare life into the polis as a distinguishing

feature of modernity. Derrida maintains that the confusions and contradictions embedded within this are the facts that these Agamben's assertion is obscured by his desire to be first to make such claims. This becomes clearer with his analysis of the properties of the zoe /bios distinction in relations to Aristotle's proclamation of the relationship between man and animal.

In his book, *The Beast and the Sovereign*, Derrida argues extensively by pointing out several instances when Aristotle appear to use the term zoe in a way that conflicts with Agamben own interpretation. One of such is his definition of the human being as politikon zoon ('political animal'). Whereas, the term politikon zoon, for Aristotle seems to be a zoe that is political. In fact, Derrida remarks that zoe, or zen which implies to live', is used severally by Aristotle in his work, to describe the human as a political animal, and at all times, specifying that the human zoon is political "By nature" (physei). Aristotle quoted by Derrida(2009: Vol.1 p. 315). This assertion implies that the word 'political' refers to how humans beings live naturally, and as such, qualification of their animalistic life. Hence, being political is a natural attribute of human life, which makes him specifically different from other animals. The definition of the human as politikon zoon, is, therefore, an obvious exception to the zoe/bios distinction. Agamben addresses this issue, by claiming that there is no contradiction if one interprets the meaning of the qualifier politikon accurately. Derrida pushed this argument extensively when he says;

Let us first of all take into account the textual situation of this definition of man as a political animal, or, more literally, of man who is *by nature* (*physei*) a political animal (*politikon zo-on*).¹⁰ This definition comes up at the very opening, the beginning, the commencement of politics, at the commencement of the first book of Aristotle's *Politics*. The definition of man as a political animal, a definition that never fails to specify "by nature" (*physei*) — and this insistent, recurrent, literal reference to *physis* is not the least obscure — this definition of man as a political animal will reappear, in the same form, in book 3 (at 1278b) at the moment when Aristotle is defining the purpose of the state (*polis*) and of constitutions. Aristotle there says: "*kai oti physei men estin anthro-pos zo-on politikon*" ("and man is by nature a political living being") (1278 b19). It is in this passage that, on the basis of a single occurrence of the word *bios*, in the midst of many uses of *zoe* or *zen* (to live) — we shall no doubt come back to this — Agamben, at the beginning of the book I have already mentioned, *Homo Sacer*, thinks he can find a distinction between *bios* and *zoe* that will structure his entire problematic. It is

in the name of this distinction that Agamben, while situating himself in the tracks of Foucault, cites the latter and then proposes, as he puts it, to “reconsider” his affirmation: Derrida(2009: Vol.1 p. 315).

It is incontrovertible that Aristotle in his book the Politics, Man is defined as a politikon zoon (Aristotle, 1253a, 4). However the understanding is that in Attic Greek the verb *bio nai* is basically never used in the present tense, whereas, the word “political” is not considered to be basically an attribute of the living being as such, rather, it is a specific difference that defines the genus *zoon* (Derrida, 2009: 2). The basic argument of Agamben here is that there is a difference between a living being’s attribute and a specific feature that defines that living being. Yet, Derrida’s insistence is that the said difference is neither certain nor clear. Hence, the expression, *politikon zoon* for him, implies both senses: “The specific difference or the attribute of man’s living, in his life as a living being, in his bare life, which implies being political (Derrida:2009: 330).” There is no clear difference between the two notions argues Derrida. They seem to flow into each other complementarily. (Derrida:2009: 330).

Hence, Derrida emphasises the fact that Aristotle did not outrightly separate *zoe* from *bios* as Agamben did. The Aristotelian conception of *politikon zoon* does not seem to carry the connotation of any dichotomy between the two concepts. In other words, there was never any form of distinction in Aristotle’s concept of the political, “Man is that living being who is taken by politics: he is essentially a politically living being, (Derrida:2009: 348).” Thus, Derrida argues that it is ‘obvious’ that Aristotle was already “Thinking of biopolitics (Derrida:2009: 349).” This is why Derrida maintains that the division in life that apparently structures sovereignty could not have been based in his ancient text in the manner that Agamben conceives it.

Interestingly there is another scholar Amy Swiffen (2012) whose remark on this Derrida /Agamben controversy, was quite insightful in his article titled; Derrida Contra Agamben: Sovereignty, Biopower, History. According to Swiffen (2012) while acknowledging the disagreement between Derrida and Agamben, on the contemporary importance of biopower, yet notes the

“Incredible novelties in bio-power” that must be addressed, but there is an issue concerning the “conceptual strategies relied on” to characterize these novelties ([1], pp. 330, 326). Derrida’s reading of Aristotle demonstrates the *zoe/bios* distinction, which is “The frontier along which Agamben constructs his whole discourse,” does not go deep

enough to function as an originary political relation ([1], p. 321). Moreover, the insistence on seeing historical and philosophical origins, exemplified by the reading of the bios/zoe division in Aristotle is, in effect, producing the very sovereign form of exclusion that Agamben criticizes in his work. This is not to suggest that Derrida's position is that ancient texts are not relevant to contemporary politics. On the contrary, they are 'indispensable' for understanding the "Bio-powers or zoo-powers of what we call the modernity of 'our time' ([1], p. 333)." The issue however is how to conceive of the relationship between these texts and 'our time,' how to think history neither in terms of 'diachronic succession' nor 'synchronic simultaneity' ([1], p. 333). Agamben's approach involves thinking history in terms of "A decisive and founding event ([1], p. 333)." Derrida's criticism intends to compel a reconsideration of this way of "Thinking history, of doing history, of articulating a logic and a rhetoric onto a thinking of history ([1], p. 332)." (Swiffen, 2012:1)

Beyond the zoe and bios controversy, is the concept of sovereignty that divides Agamben and Derrida. The fundamental difference as spotted by Swiffen (2012) lies in their fusion of sovereignty with the conception of history as something that existed a long time ago (synchronic) or as an evolving phenomenon from one epoch to the other, from ancient to contemporary times (diachronic). According to Swiffen (2012)

The difference in conceiving history corresponds to a difference in the two thinkers' positions on the future of sovereignty. On the one hand, Derrida rejects conceptualizing sovereignty in terms of an essential relation. The readings in *The Beast and the Sovereign* suggest instead that sovereignty has "More than one ground (...) more than one solid and single threshold ([1], p. 334)." This is not to suggest Derrida leaves us with an abyssal void or groundless depth underlying the concept; rather, it suggests that there are multiple forms of partition, division, and condition that broach a sovereignty that is imagined to be indivisible. If this is correct then it is not possible to oppose sovereignty because sovereignty is not one thing.¹⁴ For instance, to unconditionally oppose sovereignty would mean opposing classical principles of freedom and self-determination. There is no way to conceptualize freedom without a certain sovereignty. Thus, it is impossible to reject sovereignty without also threatening the value of liberty. The issue is therefore not a choice between sovereignty and non-sovereignty but among ways of sharing, transferring, translating, and dividing sovereignty.¹⁵ In contrast, Agamben's formulation conceives sovereignty in terms of an essential relation to bare life. The idea of an essential political relation implies that it might be possible to overcome sovereign politics, if only the relation were discarded.¹⁶ Sovereignty could be abandoned and a 'coming community' ushered in, in which there would be no exception of the fact of living from the form of life [20].¹⁷ (Swiffen,2012:1)

Conclusion

The fundamental question necessitating this critique is the fact that Agamben tries to separate zoe from bios distinctly. Scholars taken their source right from Aristotle were quite critical of this strict bifurcation. Heidegger based his own critique on the metaphysical complications arising from translation and interpretation of underlying interlocking concepts such as logos in the interpretation of the idea of sovereignty. Derrida opined strongly that the very idea of man being a political animal as pronounced by Aristotle contains and fuses man and animal in an inseparable form. Again, that the attempt of Agamben at separating them, was in a bid to achieve some sort of first in his theoretical claims in the Homo Sacer and Bare life where he tries to push to the extreme foundation of ideas.

Whatever the criticism, it does not seem to affect fundamentally, its application in this work primarily because at least theoretically, it is incontrovertible that man is a composition of both nature and nurtures even if a clear cut distinction between his nature and nurture cannot be outrightly defined without contradiction. In the same vein, it remains a fact that man is both a biological being and a social being all in one. To that extent, we can argue that even though Agamben began by trying to separate the two ideas, yet the fact remains that Agamben ultimately recognises the practical inseparability of the two ideas with his idea of exclusive inclusion which seems to affirm that inclusion appears in exclusion which again alludes to the Derridean concept of trace. Exclusive inclusion is an affirmation that in a practical sense, absolute separation is impossible with zoe and bios. Although interestingly, the resultant element that became relevant in the mediation process is neither zoe nor bios but the intersection and its inseparable mix, which Agamben calls bare life.

In the polis, man is a political animal. At this stage, the problematic bit has not appeared in Agamben. It is a stage that has the full mix of the zoe and bios.

The artificial separation emerges when, as a result of some juridical decisions, a theoretical separation between them was attempted in which the citizen was technically stripped of his socio-political nature, which in a way refers to his essence. What is supposedly left is his mere existence that is dominantly his zoological or animalistic nature. This is the life of the Homo Sacer. In exile. However, though a significant part of his humanity is expectedly stripped, what is left is still a hybrid though of dominant animalistic nature that still has within it the social. Moreover, it is still this social that is like the umbilical cord binding the excluded inclusively — linking the external to the internal.

Our position in this thesis is not to dwell on the fundamental separation between Zoë and bios. It is sufficient to acknowledge that both elements exist within the human entity and that at least theoretically they can be pointed out even if they cannot in concrete terms be physically separated.

However, situating them within the realm of ideas, we may then ask if there can be perfect ideas in the absolute sense? The answer to this is straight no. Nothing seems absolute in the universe. We may talk of complete or incomplete ideas, but within that frame too, its operationalization remains relative. Hence when we refer to the deconstruction of “absolute ideas”, to give way to relative ones, it is relative absolute. Hence, even absoluteness remains an absoluteness that emerges in relativity. It is just a higher form of completeness that is more complete than another but not a reference to perfection.

On the whole, what is referred to as a whole, complete and perfect is only in degrees relative to a lower form of it. This is why there is an exclusion in inclusion and inclusion in exclusion. Hence, in Agamben’s polis, the citizen was in a state of relative “completeness” and the exclusion that takes out bios further depleted the structure to incompleteness or a less form of completeness. The result in which we have a greater proportion of zoe with traces of bios is just another level of incompleteness resulting from the depletion of a higher form of incompleteness. Hence no idea is absolute, except that one idea has richer content than the other within the same geometry.

Therefore, operating within Agamben's philosophy, the resultant idea that emerged in the resolution process was a lower order idea where relative perfection or completeness was jettisoned for a lower one.

2.3 Summary of Theoretical Framework Chapter

What we have done in this section is a demonstration of how theoretically rigorous the work is. It may be useful to reiterate what the original aim of this work is, and why this theoretical analysis is essential, as well as how this helped in the understanding of the dynamics at play in the resolution of the South African conflict.

Despite our sustained efforts, some conflicts continue to defy resolution. Indeed, the need to understand why this should be the case served as the original motivation for this piece of research. The need to understand this became narrowed down to the case study of South African apartheid conflict that ravaged the South African society unabated for decades, having defied all mediation approaches. Incidentally, this research came at a time, when SA had been able to surmount this hitherto intractable conflict. This changed the direction of the research from **“how to do it”** to **“how it was done”** using Critical Discourse Analysis.

Hence, we were able to isolate the dominant themes that animate the mediation processes, and further analysis reveals some paradoxes upon which the South African conflict resolution lies. In order to understand these seemingly contradictory narratives, an appeal to Agamben's philosophy of the homo sacer became imperative. The exciting bit is that not only was the aim of Agamben's philosophy fundamentally different from that of this thesis, in the sense that it applies to the relationship between the Sovereign and his subjects under dictatorial regimes. Whereas, what we have successfully done in this work is to transpose those principles from the realm of the individual personality called the homo sacer to those of ideas that were at the base of the conflict resolution in SA.

Our findings revealed that the narratives and rhetoric that were at the base of the successful resolution of the South African apartheid conflicts, through the institution

of the TRC were mostly contradictory paradoxical inconsistencies, which were though consistently inconsistent. The seemingly incongruence finds perfect and parallel fusion in Agamben's principles of exclusive inclusion, exception, bare life, the zone of indistinction, zoe/bios dichotomy, and sacred life of the homo sacer.

We were able to demonstrate how these terms, manifest first in Agamben's homo sacer, and how they form the basis for the emerging ideas that were at the base of the success of the South African conflict resolution.

Chapter 3: Methodology

3.0 Introduction to Methodology Chapter

This chapter aims to identify the methods by which the research was carried out. It does deal with the justification for the choice of methodology, and the appropriateness of the method vis-à-vis the kind of data that is being sought. We shall also discuss the origin of the chosen method, its exponents and variations, its merits and demerits, and how the chosen method helps to facilitate the primary objective of this research. This research is primarily aimed at examining the underlying theoretical principles upon which the South African apartheid conflict was successfully de-escalated. Moreover, we did this, by examining the content, structure, mediation process and nation-building mechanism as well as techniques that were deployed to de-escalate the South African apartheid conflict successfully. This is to identify, extrapolate and harness all the fundamental elements that were both explicit and implicit in the creation of a new democratic South Africa.

3.1 Choice of Methodology

In discussing our choice of methodology, we need to take into cognisance the kind of data that we require for this thesis, and that would largely determine and justify the appropriateness of our choice. We want to know particularly if the kind of data we are seeking are empirical ones or logical ones? Following Delanty (1997:29) “ There are only two kinds of knowledge; empirical knowledge(knowledge derived from experience) and logical knowledge (which is derived from logical analysis)” Delanty (1997:29) And for this research, we shall be adopting an Interpretivist approach. This is an approach which is akin to hermeneutics. By this, we mean an approach in which truth and nature of reality are often searched for through rational analysis of facts, in order to achieve meaningfulness. This is mainly because this research is theoretically based. Hence, the kind of data required is indeed not quantitative, and to that extent, Survey, for instance, would be grossly inadequate. And because it involves human communication and social interaction, the work would be heavily reliant on analysis of language, literary forms, linguistic and figurative expressions that together provides interpretation and meaning as they feature in documents that reflect attitudes, gestures

and procedures that have been preserved in print and talks through various manual and electronic devices. The method of research that is preferable is *Critical Discourse Analysis. (CDA)*.

3.2 What is a Critical Discourse Analysis? (CDA)

CDA as a methodology can be classified broadly, under the general category of Qualitative Methodology. This methodology involves a situation where “a researcher generally selects a wide range of possible data sources, including transcripts of recorded interviews, movie scripts, advertisements, or a company’s internal documents.” Willig, (2008). Discourse analysts usually select texts that are as complete as possible, and it includes such things as an interview transcript which may be written up to include all of the pauses, errors, and corrections. Willig further maintained that “discourse analysis is based on the understanding that there is much more going on when people communicate than simply the transfer of information from one source to another. It is not just an effort at capturing literal meanings; rather, it is the investigation of what language does or what individuals or cultures accomplish through language. This area of study raises questions such as how meaning is constructed, and power functions in society” Willig (2008) In other words, it goes beyond descriptive analysis to evaluation and extrapolation of unapparent facts that are underlying the phenomenon of investigation and interpretation which is a departure from the traditional descriptive approach to conflict resolution. The central tenets of CDA include 1. CDA addresses social problems; 2. Power relations are discursive; 3. Discourse constitutes society and culture; 4. Discourse does ideological work, 5. Discourse is historical, 6. The link between text and society is mediated 7. Discourse analysis is interpretative and explanatory, 8. Discourse is a form of social action. (Fairclough and Wodak, 1997: 271-280)

Since CDA does all the above, it would be pertinent to investigate its origin or how it began in the first place and for what purposes. Scholars further argued that CDA is “concerned with studying and analysing written and spoken texts to reveal the discursive sources of power, dominance, inequality and bias. They maintain that it examines how these discursive sources are maintained and reproduced within specific social, political and historical contexts. Sheyholislami (2001) van Dijk (1998a).

In Fairclough's opinion CDA "aims at systematically exploring often opaque relationships of causality and the determination between (a) discursive practices, events and texts, and (b) wider social and cultural structures, relations and processes; to investigate how such practices, events and texts arise out of and are ideologically shaped by relations of power and struggles over power; and to explore how the opacity of these relationships between discourse and society is itself a factor securing power and hegemony". (Fairclough, 1993:135)

Similarly, scholars argue that "CDA aims at making transparent the connections between discourse practices, social practices, and social structures, connections that might be opaque to the layperson." Fairclough, (1993:135) It is interesting to note at this stage that what we have done with CDA in SA is precisely this, showing the unapparent theoretical relationship between the underlying philosophical theories of Agamben and the emerging paradoxes as they reflect in the ensuing narrative that was at the base of the resolution of the SA apartheid conflict.

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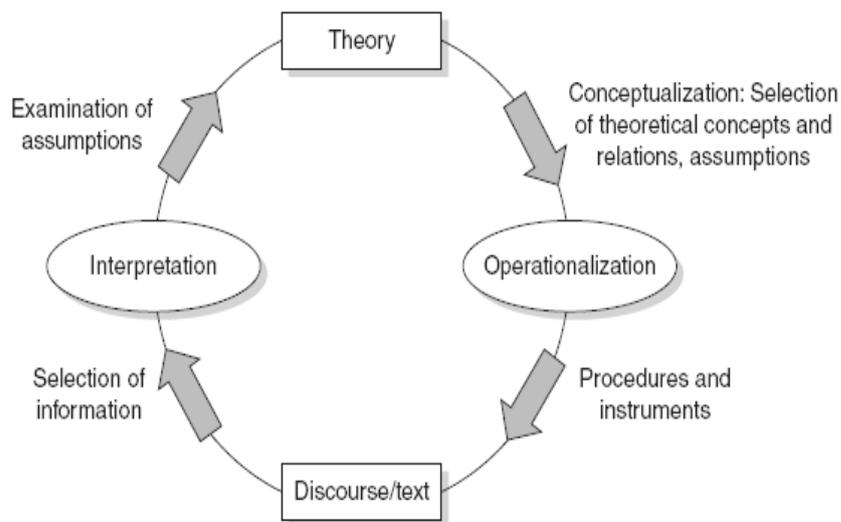


FIGURE 1.3 Empirical research as a circular process

Diagram adopted from, Wodak and Meyer 2009:24). *Critical discourse analysis: History, agenda, theory and methodology. a.*

The above diagram adopted from Wodak and Meyer 2009:24). Clearly outlined the four major segments of CDA as follows, starting from (1) the Discourse text, which is where the primary text and documents are vigorously studied and dissected. The next stage is to subject them to rigorous hermeneutic interpretations and analysis, and from

this, It moves to the next stage where it involves the building of theories, concepts, principles and paradoxical formations which are taken to the next stage of operationalisation where they are concretely applied. In the case of South Africa, the Text and videos analysed were the proceedings of the TRC. The discourse produced dominant themes that were subjected to interpretations at the 2nd stage. This produced some theories or paradoxes in binary forms at the third stage, and the final stage of operationalisation is where we examined how in concrete terms these paradoxes manifest themselves in the process of returning peace to South Africa.

3.2.1 The Origin of CDA

Jaffer Sheyholislami (2001) traced the evolution of CDA to the late 1970s when Critical Linguistics was developed by a group of linguists and literary theorists at the University of East Anglia (Fowler et al., 1979; Kress & Hodge, 1979). Their approach according to Sheyholislami, was based on Halliday's Systemic Functional Linguistics (SFL). CL practitioners such as Trew (1979a, 155) aimed at "isolating ideology in discourse" and by so doing, showing "how ideology and ideological processes are manifested as systems of linguistic characteristics and processes." This aim was pursued by developing CL's analytical tools, argues Fowler et al., (1979; Fowler, (1991) based on SFL. For Halliday, these CL practitioners view language in use as simultaneously performing three functions: ideational, interpersonal, and textual functions. While harnessing the views of Fowler (1991,:71) and Fairclough (1995b, :25) argued that

whereas the ideational function refers to the experience of the speakers of the world and its phenomena, the interpersonal function epitomises the insertion of the speakers' attitudes and evaluations about the phenomena in question, and establishing a relationship between speakers and listeners. These two functions are instrumental to the textual function. It is through the textual function of language that speakers can produce texts that are understood by listeners. It is an enabling function connecting discourse to the co-text and con-text in which it occurs. Sheyholislami (2001:1)

Furthermore, Critical Discourse Analysis, according to van Dijk. (1995: 17) Has become a universal name for a unique method for the study of text and talk that came into being from critical linguistics, critical semiotics, social and political consciousness as well as an oppositional way of researching language, discourse and communication. She argues further that delimiting the peculiar principles, practices, aims, theories as well as methods of critical discourse analysis is difficult even though

an endless list of elements of CDA abound. (Japanese Discourse Vol.1, 1995, 17-27, In other words, it involves typed messages and voice messages that have no one distinct character.

In practical terms, the origin of CDA has been traced to the early 1990s when a group of scholars gathered together for a small symposium in Amsterdam in January 1991. Here, Teun van Dijk, Norman Fairclough, Gunther Kress, Theo van Leeuwen and Ruth Wodak had two days to harness their ideas, theories and methods, similarities and differences of CDA together. (Wodak and Meyer,2009,3)

Rising from this symposium, these scholars became more reinforced that CDA as a school of thought or paradigm has specific general features which include the fact that all approaches are problem-oriented and to that extent, inter-disciplinary and eclectic. Similarly, it is characterised by a common objective, which is the demystification of ideologies and power through a systemic deconstruction process that helps to investigate semiotic data which could be spoken written, or visual. Furthermore, CDA scholars often re-emphasise their individualistic positions and interests without jettisoning their respective scientific methodologies and at the same time, remaining self – reflective of their research process. (Wodak and Meyer,2009:3)

Nonetheless, both Wodak and Meyer,(2009:3) affirms that the beginning of CDA network was marked by the launching of Van Dijk's journal titled, *Discourse and Society* (1990). They also allude to other books of similar themes within the same period, while the Amsterdam meeting became a propeller for what may be referred to as the “institutional approach” which helped in the promotion of exchange programmes. (Wodak and Meyer, 2009,4). With this general overview, of the origin and scope of CDA, its subject matter became clearer as a method that is basically, “inter-disciplinary and eclectic” However, then, that is not all. What unique distinguishing character does CDA have?

3.2.2 The Fundamental Aims, Features and Properties of CDA

It, therefore, becomes necessary to ask; what the aim of Critical Discourse Analysis is? Since it is a method that evolved initially from language analysis, it became natural for scholars to begin to use language analysis as a method for studying social changes. Nevertheless, because of the newness of this discipline, scholars were yet to develop

a form of language analysis that could satisfactorily meet the requirements of theory and practice. That explains why Norman Fairclough maintains that his primary objective in his work, **Discourse and Social Change**, was to achieve this dualism. He, therefore, began, by listing the first proponents of CDA to include, Antonio Gramsci, Louis Althusser, Michel Foucault, Jürgen Habermas and Anthony Giddens. (Fairclough, 1992:1)

Furthermore, the development of Critical Discourse Analysis has emerged with six strands, namely; the Ruth Wodak and Michael Meyer's version of CDA, which emphasises history, agenda, theory and methodology. This version is closely followed by the Foucauldian version, which is both Methodological and theoretical in structure. The third version is that of Teun A Van Dijk whose focus was on a socio-cognitive approach to CDA, whereas Martin Reisigl and Wodak similarly hinged their analysis of CDA on a historical approach. For Theo Van Leeuwen, CDA represents a re-contextualization of social practice. Finally, for Fairclough, it involves a Dialectical-relational approach to social research. (Wodak and Meyer,2009)

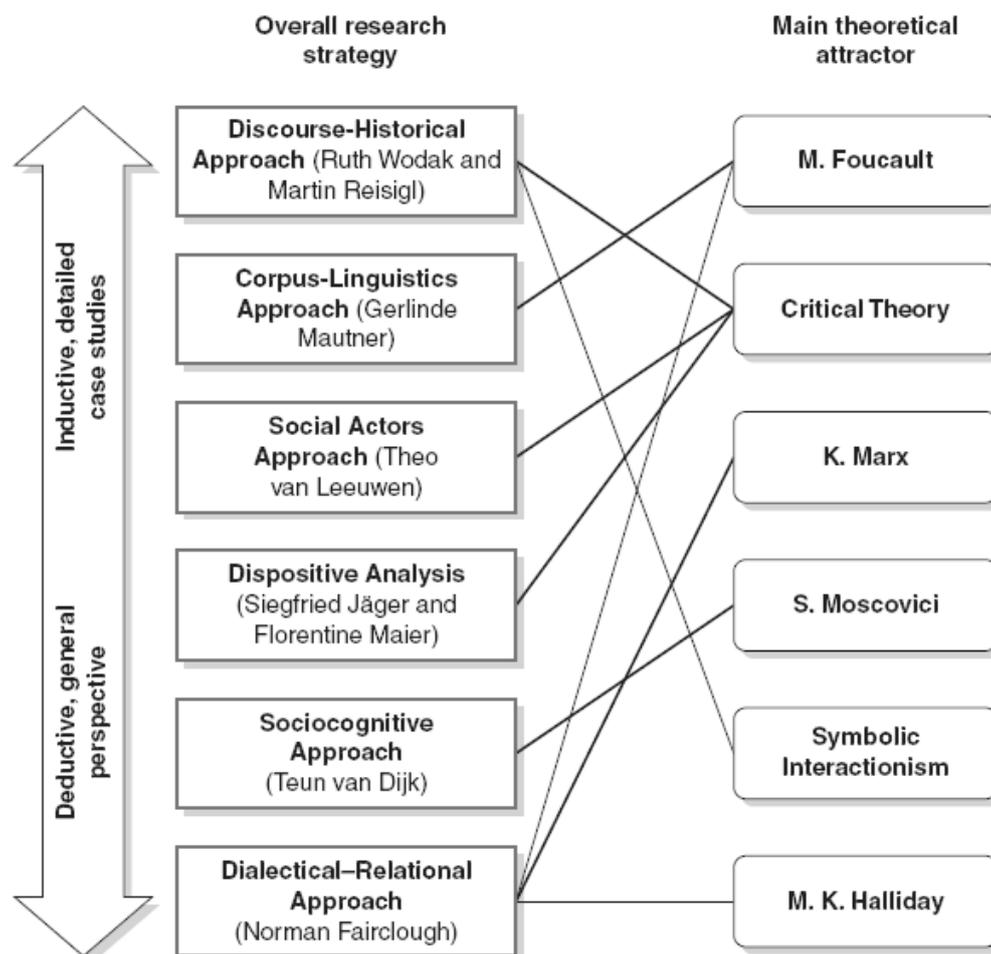


FIGURE 1.1 Overall research strategies and theoretical background

Diagram adapted from, Wodak and Meyer,2009:20). *Critical discourse analysis: History, agenda, theory and methodology.*

In concrete terms, therefore, the subject areas where the use of CDA would most probably be useful were highlighted. Moreover, conspicuously, subject areas such as physics, chemistry and biology were absent. Instead, CDA is traced fundamentally to rhetoric among other allied disciplines in the humanities. (Wodak and Mayer, 2009:1) Hence, it is argued that the manifold roots of CDA lie in Rhetoric, text linguistics, Anthropology, Philosophy, Socio-Psychology, Cognitive science, Literary studies and Sociolinguistics as well as in Applied Linguistics and Pragmatics. (Wodak and Meyer,2009:1)

In his analysis, Teun Van Dijk, argues that Critical Discourse Studies is an offshoot of the 1960s and 1970s with the emergence of new closely related disciplines in linguistics generally but dealing mainly with a discourse that has manifested in seven dimensions that are common to all these disciplines. (van Dijk, 2007a; Wodak,2008a and wodak and Mayer, 2009:2).

The seven dimensions include;

1. a preference for naturally occurring language than an artificially evolved abstract language system.
2. A focus on more holistic, larger units than Isolated words and sentences, which gives rise to other basic units of analysis such as texts, discourses, conversations, speech acts, or communicative events.
3. The study of linguistics was stretched beyond abstract sentences and grammar to include practical actions as well as interactions.
4. The concretisation of none verbal gestures as concrete forms of communication
5. Emphasis on socio-cognitive as well as interactional development and strategies in the use of language
6. There is also a focus on the study of the function of language either in its socio-cultural, situative or cognitive dimension.
7. There is also attention on the analysis of a huge variety of concepts in text grammar and use of coherent language, topics, macrostructures, speech acts, interactions, sign, politeness, argumentations, rhetoric, mental models as well as other aspects of texts and discourse analysis (Wodak and Mayer,2009:2).

In identifying a common ground for the different versions of CDA, These scholars tried to make a clear distinction between DS, CDS and CDA, wodak and Mayer (2009:2) In doing this, they argue that the main difference between this phenomenon, lies in “constitutive problem-oriented, interdisciplinary approach” of CDA. To that extent, “ CDA is not in a way, interested in investigating a linguistic unit, but in studying social phenomena which are necessarily complex and thus require a multidisciplinary and multi- methodical approach”. (Wodak and Meyer,2009:2) However, from the preceding it is becoming apparent that CDA is not just interested

in linguistic exercises for academic purposes only but much more concretely interested in solving practical social issues while using linguistics only as a tool.

This no doubt had in itself created the problem of clarity and homogeneity, which further created diversities and proliferation in the understanding of what “text” and discourse entails as far as CDA is concerned. This is why Wodak and Meyer were unequivocal in maintaining that almost every paper revisits these notions. While citing Michel Foucault, Jurgen Habermas, Chantal Mouffe, Ernesto Laclau, Niklas Luhmann, and many others, Wodak and Mayer argue that discourse means anything from a historical monument, a lieu de mémoire, a policy, a political strategy, a narrative or a broader sense of the term, text, talk, speech, topic-related conversations, to language per se. (Wodak and Meyer,2009:2-3)

Some of the themes identified under CDA includes, racist discourse, discourse on gender, discourses on un/employment, media discourse, populist discourse, discourse of the past, and such unending long list that tend to stretch the meaning of discourse from “a genre to a register or style from a building to a political programme (Meyer,2009:3)

All these explain the confusions, misunderstanding and criticisms of CDA found in Blommaert,2005; Wodak, 2008a; Wodak and de Cillia,2006.) This made it imperative for every scholar to functionally define their conception of CDA. (Blommaert, 2005)

3.2.3 The four main Elements and Themes Common to CDA

For clearer delineation and delimitation, four main themes evolved for what would pass as CDA, and these include **Discourse, Critique, Power** and **Ideology**. They have been identified as common overlapping grounds for CDA despite their diversities. Hence scholars argue that CDA has never laid claim to any single or particular theory, nor has it lay claim to any particular methodology; rather, they are multifarious. Moreover, derived from different theoretical backgrounds, geared towards different data and methodologies. This kind of approach creates a problem of distilling what could be CDA. Hence, the need to be more specific on the model of CDA in use at any point in time becomes imperative. (Wodak and Meyer,2009:5)

a. The Notion of Discourse

CDA considers language as a social practice. (Fairclough and Wodak, 1997) The implication of seeing language as such implies ‘a logical relationship between a particular discursive event and the institution(s) situation(s), and social structure(s), which frame it’. Hence discursive events are shaped by social structures, on the one hand, and shape social structures on the other hand. Discourse is not only socially constituted and conditioned; it equally constitutes situations, objects of knowledge, and social identities of people as well as relationships between people and groups. Similarly, it helps to reproduce and sustain social structures but also contributing towards transforming it. However, since discourse is socially consequential, themes that emanate from it include those of power, and can help identify repeatedly unequal power relations between opposing social classes and antagonistic groups in society such as between blacks and whites in South Africa, minority versus majority, rulers and the ruled, oppressed and oppressors etc. (Fairclough and Wodak, 1997: 258)

Arguing from the point of flexibility in the manner in which CDA scholars conceived discourse, the historical discourse approach is often identified and aligned with the socio-cognitive theory of Teun van Dijk (1998) where discourse is conceived as structured forms of knowledge as distinct from the text which is regarded as concrete oral utterances or written work. Reisigl and Wodak, in Wodak and Meyer (2009: 97-121)

b. The idea of Critical

The very idea of criticality in CDA has been traced to the works of some ‘critical Linguists’, the Frankfurt school and Jürgen Habermas. The central claims of these scholars are that social theory should discountenance the old culture of understanding and explanation while embracing the culture of critiquing and challenging society. This culture of criticality and challenge is expected to improve understanding of society by harnessing all major social sciences, such as political science, sociology, psychology, economics, history, and anthropology. (Wodak and Meyer,2009:6-7)

The emphasis of critique is the view of the analysts themselves, while the word “critical” is first traced to an approach called “Critical Linguistics” (Fowler et al., 1979; Kress and Hodge, 1979).

For these criticality scholars, the use of language can lead to some distortion or mystification of social issues which systematic analysis could undo. It helps the practical connection between social and political activities as well as engagements and sociologically informed construction of our societies. To that extent, critique is making explicit what is hitherto implicit or obvious what is hidden. (Fairclough, 1995a:747; Connerton, 1976:11-39)

The preceding analysis, seem to affirm that CDA goes beyond description, but enlightenment that addresses the very root of some delusions that may act as inhibitors to being explicit and transparent in research. (Van Leeuwen, 2006:293)

c. Ideology

The very idea of Ideology as a major component of CDA is crucial because political scientists identify four basic features namely;

- The importance of power over cognition.
- Guides individual's evaluation
- Provides guidance through action
- Be logically coherent. (Mullins, 1972)

However, as far as CDA is concerned, Wodak and Meyer (2000:8) are of the view that “the more hidden and latent type of common beliefs often appear disguised as conceptual metaphors and analogies while Fairclough is more favourably disposed to the Marxist conception of ideology. According to him, “Ideologies are representations of aspects of the word which contribute to establishing and maintaining relations of power, domination and exploitation” and further argues that Ideological analysis and critique can be done through the analysis of the text which is what we have done in this thesis. (Fairclough, 2003:218)

d. Power

Power is central to CDA and quite relevant to this thesis. It deals with the analysis of the language use of those in power who controls the mechanism of inequality and suppression or oppression. It deals with how discourse reproduces social domination which entails the abuse of power by one group over the other as evident in Apartheid

South Africa as well as how dominated groups such as the black majority, through its party ANC resist such oppression. It equally raises the question of how CDA scholars conceive power and the kind of moral standards that permits them to make a distinction between the use of power and abuse. The dichotomy remained an unresolved dilemma even in South Africa. (Billig, 2008)

However, power has been variously defined both sociologically and psychologically without consensus, yet scholars found the following three approaches being recurrent.

- The power that is borne out of specific resources of different actors- (French and Raven, 1959)
- Power as a function of particular attributes of social exchange in interactions – (Blau, 1964, Emerson, 1962, 1975)
- Power as a result of a systemic constitutive element or features of society from different perspectives. (Foucault, 1975, Giddens, 1984, Wodak and Mayer, 2009)

Delineating the scope of CDA, more clearly, Wodak and Meyer maintain that “CDA can be defined as being fundamentally interested in analysing opaque as well as transparent structural relationships of dominance, discrimination, power, and control as manifested in language. In other words, CDA aims to investigate critically, social inequality as it is expressed, constituted, legitimised, by language use or in discourse.“ (Wodak and Meyer, 2009:10)

Adopting this scope in our research confirms that Apartheid is a philosophy where the opaque relationship between the ruling minority and the ruled majority were brought to transparency with the birth of the TRC. It was a commission that cleared the doubt that apartheid was a philosophy of dominance, discrimination, power and control of the majority by the minority. This fact was manifested in the language of discrimination and its repressive laws, its ruthless actions of incarceration and extrajudicial killings to which a number of amnesty seekers confessed in both text as recorded in the TRC report and journals as well as in talks as recorded by the electronic media of the internet, TV and recorded motion pictures.

Furthermore, Norman Fairclough maintains that his objective is to develop an approach to discourse analysis, which could be used among other things as a method

for investigating social changes. (Fairclough, 1992:8). There is no doubt that a significant number of social changes affected the South African society with the transformation from apartheid to democracy with the release of political prisoners, and the conduct of the general election that ushered in black majority rule for the first time. However, Fairclough argues that in order for a method of discourse analysis to be useful in investigating social change, then it must fulfil some requirements which include four main ones namely;

- It must be a method for multidimensional analysis. To this extent, Fairclough argues that following his previous three-dimensional approach It allows relationships between the discursive and social change to be accessed together with the properties of text to be related to social properties of discursive events as instances of social practice.
- It must be a method for multifunctional analysis and by this Fairclough argues that change in discourse practices, contributes to change in knowledge, beliefs and common sense, social relations, as well as social identities. To that extent, what is required is a conception of discourse and method of analysis which interplays between the elements beginning with a systemic theory of language that conceives language as multi-functional and at the same time sees it as representing reality, enacting social relations as well as establishing identities. The fact here is that there is a correlation between speech and action. (Haliday, 1978) Therefore Fairclough (1992:9) maintains that “this theory of language can be fruitfully combined with the emphasis upon socially constructive properties of discourse in social-theoretical approaches to discourse such as Foucault’s.”
- It must be a method for historical analysis. For Fairclough, this implies that discourse analysis should focus on structuring and articulating text construction and constitution of the ‘orders of discourse’ which involves overall discursive practices and behaviours in some institutions and the society at large. Hence Fairclough sees text at this level, as a process involving intertextuality. By this, he means “texts are constructed through other texts being articulated in particular ways. Ways which depend upon and changes with social circumstances. On the level of orders of discourse relationships among and boundaries between discourse practices in an institution or the

wider society are progressively shifted in ways which accord with directions of social change.”(Fairclough,1992:9)

- Finally, it must be a critical method. By this, Fairclough argues that relationships between discursive, social and cultural change usually are not transparent, especially as it concerns those involved, neither is technologization of discourse transparent. Hence, the concept of criticality implies showing a relationship or interconnections that are not apparent. This is a significant thing that we did in this research by showing the inapparent relationship between the emerging couplet paradoxes and the empirical narratives that gives credence to them. It also involves intervention, such as making resources available to those that are deprived as a result of the change. The empirical evidence of this abounds in the South African situation, which is why the confession of heinous crimes was celebrated in the South African TRC. Hence, some utterances and gestures of pain, anguish, and helplessness, as well as the bitterness that could not be expressed in words at the South African TRC, was all part of the mix in arriving at the findings of this research.

3.4 Analysis of the Fundamental Elements of CDA as applicable to South Africa (SA)

The purpose of this analysis is to set up a framework within which the hidden and inapparent facts underlying a subject matter unfolds and leads to the elucidation of further given facts, which ultimately accounts for successes or failures of the mediation processes.

Beginning with Wodak and Meyer (2009:45ff) who embarked on the analysis of the methods of analysing discourses and disposition maintained that discourse by way of definition can be regarded as “ an institutionalised way of talking that regulates and reinforces action and thereby exerts power as illustrated by the image of a flow of knowledge throughout time “ (Jager,2004; Wodak and Meyer (2009:45). This is entirely true of how the narratives were created in the proceedings and hearings of the TRC in SA. Tutu and his colleagues, tailored the proceedings towards what is expected, and allowable, and those not favoured at the hearings were clearly articulated.

Also identified among the favoured method of CDA are Linguistic concepts whose constituents and components include, figurativeness, vocabulary pronominal structure

and argumentation. This tends to provide a structure for CDA which can be articulated through the examination of relevant fundamental concepts such as Special Discourses and Inter-discourse. The former refers to those of the sciences while the latter refers to those discourses that are non- scientific even though their elements continuously overlap.

However, the flow of discourse that centres on common topics are known as discourse strands. Each discourse strand is made up of several subtopics. Although, there is a parallel similarity between discourse strands and that of discourses. The dichotomy lies in the fact that discourse is abstract and manifests within statements, whereas discourse strands are conceived at the level of particular utterances and performances found at the surface of texts. (Foucault, 2002; Wodak and Meyer, 2009:46) The latter applies in the South African situation.

Furthermore, discourse strands can be broken into two, namely synchronic and diachronic dimensions. The former refers to the analysis of the limited spectrum of what is said or say-able at some point and can cut through a discourse strand at various points in time, whereas the latter refers to the origin, genesis and a historical setting that precedes experience. In the course of this research, both approaches were variously applied at different times.

This assertion was supported by Wodak and Meyer (2009:46) who argues that ‘ every discourse strand has within it, both elements in the sense that every topic has an origin as well as a ‘ historical a priori’. Hence when analysing a topic, the researcher must maintain focus on the history, in order to identify the knowledge of society on a topic, the researcher has to reconstruct the origin of the topic as often done by Foucault while discussing everyday life issues or institutions such as hospitals or prisons.

To this extent, The “Synchronic” would refer to the volatile but compelling confessions of human right abuses by the agents of apartheid carrying out the atrocities of institutionalised terrorism in South Africa. On the other hand, the “Diachronic” refers to the historical antecedents surrounding migration and settlement of the white minorities among the black majorities in South Africa and the gradual emergence of inequality, segregation and oppressive laws of apartheid. Although it is not limited to

this, it could as well refer to the entire cultural assemblage that pre-structures the field of possible discourse in South Africa, so it is strictly not limited to just these areas.

3.4.1 Setting Up A Discourse Analysis Framework For Any Research.

A set of four primary frameworks for the use of CDA was set up by Wodak and Meyer, and this includes Creating a toolbox for Discourse Analysis, Choosing a Subject Matter, Choosing discourse Plane and Features as well as Preparation and Accessing Materials. Wodak and Meyer (2009:52) set out a toolbox outline for any research in discourse analysis. According to them, “this outline deals with the practical procedure for subjecting empirically obtained material to discourse analysis. In an actual project, these elements are supplemented with a clarification of the theoretical foundations and methodology used “This no doubt helps us to create a framework on which to situate our current research in conflict resolution and nation building to fall in line with the requirements of CDA.

Furthermore, Wodak and Meyer (2009:52) argued that the first step in any research is choosing the subject matter and providing its rationale, while at the same time, realising that the relationship between a phenomenon of interest and particular discourse strand, involves some kind of technicality or complexity. By this, we mean that a phenomenon may cut across many discourse strands among which a choice has to be made based on an initial conception of the overarching phenomenon which may develop further in the course of analysis. This is because theoretical concepts are often ambiguous and thus subject to clarification and justification. Hence the researcher can focus on the concept that is directly relevant to his research. Wodak and Meyer (2009:52)

To this extent, our choice and rationale of the South African TRC lie in our search for answers to the significant question” of what South Africa did differently in order to escape the predicted bloodbath which Desmond Tutu said that was to be the inevitable end of South Africa. (TRCR:1998)

Given that the apartheid conflict was considered intractable, by scholars such as Jones (2015:148-149), we hypothesise that this change in fortune of South Africa is not by any means an accident of history. It is rather that of conscious, systematic, coherent theoretical principles and theories of nation-building and societal conflict resolution

that may not only have been skilful, systematically and logically derived but clinically executed. Hence, the underlying or unapparent elements that helped in defusing this hitherto volatile, age-long intractable South African apartheid conflict was worth investigating. (TRCR: 1998) More interesting is the extent of contradictions that were thrown up by bitterness that was associated with the carnage that took place in the apartheid days in South Africa. This is evident in some of the temper-kindling confessions that were emotionlessly volunteered at the TRC hearings which were greeted by mass anger and despair of victims who dare to stand against the allowable narrative of reconciliation and to the contrary denounces forgiveness in defiance of political correctness. This is why it seems to be like magic that the TRC was able to broker peace in South Africa amidst endless pessimism. The contradictions, rhetoric and narratives, threw up some themes, principles and theoretical concepts upon which the peace process was hinged. Some of the themes include reconciliation, truth-telling for amnesty, forgiveness, restorative justice and the question of impunity among others.

Furthermore, the next stage is that of choosing a discourse plane and its features. Within this framework, Scholars argued that it is often better to keep it simple and progress gradually and systematically by moving from simple to complex such as restricting the research to one plane initially. While the analysis may cover several sectors of the analysed plane, yet this choice has to be justified either because it is exemplary in modus operandi or that it has never been examined in any research project before. Either way, the research should summarise the findings from the analysis of other sectors. There are situations where examining several discourse planes at the same time, becomes imperative and may be time-consuming and complicated, but hinging them on well-justified examples. This may be further complicated if entanglement of discourse strands were to be considered. The bottom line is that the peculiarity of the research and the document of analysis dictates mostly how the research would proceed. Wodak and Meyer (2009:52) In this case, There have been myriads works on South Africa and the TRC, but none have approached it from the point of CDA , neither has there been anyone that tries to understand the underlying theoretical principle that accounted for the peaceful de-escalation of the South African conflict, despite logical predictions to the contrary.

The last step is that of Preparing and Accessing Materials, which involves delineating the necessary steps for analysis. The particular document in question, the time, period or date of the document, and a justification for the document must equally be provided. While preparing for the analysis, a general characterisation of the document in question must feature. Its political orientation, or philosophy, sources, credibility, its level of circulation and accessibility if available within the public domain and coverage of a considerably extended period would further enhance the qualitative variety of the discourse strands. Wodak and Meyer (2009:53)

In this case, the document in question is the TRC report of South Africa. It was a comprehensive and formidable document containing the entire process of the capitulation of apartheid and the transition to the democratic process. It was presented to President Thabo Mbeki on the 21st of March 2003. The period of investigation covered by the report is from 1960 to 1994, while the Hearing began in 1995. The Report came in a total of 7 volumes with five main volumes and two appendixes. Besides this is in the public domain as it can be found on the official website: <http://www.justice.gov.za/trc/report/index.htm#top>

Furthermore, Grange (2014) aptly captures the essence of this mandate by affirming that the Truth and Reconciliation Commission was founded after the end of Apartheid under the *Promotion of National Unity and Reconciliation Act*, No 34 of 1995. It was said to be vested with the responsibility of hearing everyone who believed that they had been a victimised by perpetrators of “gross violations of human rights” and that it is related to political objectives of the apartheid regime. They were to come forward and give testimony and request amnesty from prosecution. The mandate of the commission was to record the nature, causes and extent of gross violence, refer cases for reparation and rehabilitation and in some cases grant amnesty to the perpetrators of crimes related to human rights violations. The TRC had Archbishop Desmond Tutu as its chairperson (Truth and Reconciliation Commission, 1998)

Furthermore, the work of the Truth and Reconciliation Commission was accomplished through three committees; (1) Human Rights Violations (HRV) Committee which investigated gross human rights abuses that took place between 1960 and 1994. The identified victims of abuse were referred to the Reparation and Rehabilitation Committee. (TRC Report.2008)

(2) Reparation and Rehabilitation (R&R) Committee provided victims support to ensure that the TRC process restored dignity and rehabilitation and healing of victims, their families and communities. according to the terms prescribed by the *Promotion of National Unity and Reconciliation Act*, No 34 of 1995.” (1995)

(3) Amnesty Committee (AC) considered applications for amnesty. The perpetrator was granted amnesty and free from prosecution for that particular offence provided the crimes were politically motivated, and the person seeking amnesty volunteered the whole truth. There were 7112 amnesty petitioners, 5392 people were refused amnesty, and 849 were granted amnesty.

Grange (2014) rightly and unequivocally affirms that The TRC was an attempt at finding a middle ground between prosecuting the past regime for human rights violations and working to hand over power on the condition that no prosecutions would take place and a blanket amnesty would be granted to perpetrators of gross violations. (Grange, 2014)

However, On October 28, 1998, the Commission presented its report and findings. In the report, it concluded that the private and immoral acts committed by both the Apartheid regime, and the liberation strugglers, including the ANC would not have been exposed if not for the granting of amnesty. The report, however, condemned both sides for committing atrocities without necessarily admitting that it is skewed in one direction more than the other. Although theoretical analysis has made it clear that it was part of a deliberate narrative for the actualisation of societal peace and stability.

3.5 What Versions of CDA are We Adopting For This Research and Why?

There are no watertight ways and rules of doing CDA. Often, CDA users device their version of CDA. The important thing is that the basic tenets of CDA cut across most practitioners irrespective of whichever version is used. Hence we have an overlapping of methodology. Nevertheless, while we may flexibly adopt our own CDA through an eclectic approach, we are nonetheless fascinated mostly by Norman Fairclough’s. dialectical-relational approach’ to CDA

The Norman Fairclough’s model of CDA is a model that consists of three inter-related processes of analysis which are further tied to three inter-related dimensions of discourse. Namely;

1. The object of analysis (including verbal, visual or verbal and visual texts).
2. The processes by means of which the object is produced and received (writing/speaking/designing and reading/listening/viewing) by human subjects.
3. The socio-historical conditions which govern these processes.

And furthermore to Fairclough each of these dimensions requires a different kind of analysis 1 text analysis (description), 2 processing analysis (interpretation), 3 social analysis (explanation). Fairclough's (1995:98) Janks(1997:329). Structurally, our analysis is basically that of Fairclough.

3.5.1 How The Above Content and Structure of Fairclough Synchronises With this Research.

It is at this point pertinent to examine how Norman Fairclough's structural outline above, synchronises with our analysis of the South African situation. In this research, our object of analysis is the seven volumes of the TRC report as well as some online live video of the settings where evidence of gross abuse and human right violations were narrated. What we did here was to read the documents manually and subjected them to textual analysis. At this stage, our concern was mostly a description of what human right violations took place as well as how it happened. In the process, we were able to isolate the dominant themes that animate the process which we already listed above.

The second stage, going by the same Fairclough's structure above, we began to process the information crisscrossing them over one another, seeing how they relate or contradict each other and how they point to specific narratives. At this stage, we were engaged in interpretations. This is the stage where we observed that the elements became fused thematically in binary forms that were at first, complementary and later in oppositions as a result of deconstruction processes.

The third stage is that of social analysis; This is where we seek to understand the implications of the above formations in the light of Derridean/Agamben's philosophy of inclusion by exclusion and how that translates in concrete terms towards achieving the overall narrative of societal peace amidst apparent contradictions.

The world divides, through a system of para-tactical equivalences, into two camps "related only in the mode of negative reversal. More recent instances are terrorism or totalitarian absolutism. By contrast, properly political relations are marked by neither fusion nor fission: social

identities are neither objectively given nor totally dissolved, but rather emerge through constant renegotiation (or a process of challenge and response). 'Thus, the two conditions of a hegemonic articulation,' Laclau and Mouffe (1985:18) Dallmayr (1987:129)

This is why we understood that the binary fusion and reversal of the ideas underlying the mediation process were natural as Derrida might argue. More significantly is the fact that they expressly stated that in the ensuing narrative, absoluteness could not be achieved. It is a float midway between compromises that could neither achieve any of the extremes in the mediation process. Again it reveals that mediation is an ongoing process that involves negotiations and renegotiations. This fact kept featuring in the TRC report.

3.6 Relevance of the Chosen Methodology to this Research.

This methodology is entirely relevant to this research since it is concerned with the analysis of existing documents and primary records as well as reports of mediation processes and conflict resolution strategies that South Africa used in transposing its hitherto intractable conflicts to a tractable one. The analysis of the choice of words, of the forms of communication between the mediators and warring factions, would through CDA reveal the underlying elements, contradictions and paradoxes that animates the mediation process.

Following the criterion set up above, it is obvious that this research focuses primarily on, the social problems and political problems of societal conflict mediation. Particularly on how South Africa was eventually able to surmount its hitherto intractable conflict, rather than on current paradigms and fashions. Therefore, it is empirically adequate for the current research because it involves a critical analysis of the social problems of societal conflict within the multidisciplinary structure that encompasses international relations, politics, conflict studies, philosophy, communication and general linguistic analysis. Besides, CDA is largely relevant to this research to the extent that rather than merely describe discourse structures, it tries to explain them regarding properties of social interaction and especially social structures that accounts for how the conflict was eventually deescalated. Finally, the relevance of CDA to this thesis lies in the fact that More specifically, CDA focuses on the ways discourse structures enact, confirm, legitimate, reproduce or challenge relations of power and dominance in society. This explains why this work goes beyond

the facts as presented and unearths the underlying factors that lie between and within the communication process during conflict resolution, which largely determines why the process fails or succeeds. That again is why the truth and reconciliation Report of South Africa becomes relevant. While dealing with these documents, in line with the general tenets of CDA. However, in ‘dealing with such social problems, we were sufficiently discursive, and we situated it within the SA society and culture in which they feature, and operate with a clear understanding of the apartheid, ideological framework within which they feature. We also followed through historically to give chronological order and ensuring that there is a logical link between the research and the real world, which is why in this work, we were not just interpretive, but equally explanatory to the point where we ensured that our theories find relevance as a social phenomenon.(Fairclough & Wodak ,1997: 271-80)

3.7 How We Practically Applied CDA to This Research.

In applying CDA to this research, we relied only on original materials. Other supporting materials were accessed but stepped down to subordinate positions as just literature review. In other words, books, journals, periodicals that are functions of interpretations on the subject matter were assigned subordinate positions. Not only was the original report of the South African Truth and Reconciliation Commission Report relied upon, but it was further scrutinised such that interpretations and reported speeches, contained in the documents were often disregarded in favour of direct speeches of the individual and stakeholders in the South African project. Moreover, speeches, utterances, gestures, insinuations, innuendos, metaphors, paradoxes, euphemisms and direct speeches were subjected to rigorous linguistic analysis in the process of determining the dominant themes that collectively animates the mediation and reconciliation process. This became necessary in order to avoid any form of misrepresentation or interpretations that could affect the fallibility and reliability of this research. This is especially so because it could lead to errors of omission or commission.

Furthermore, this method not only compels us in the course of our analysis and interpretation of discourse, to quote more often verbatim but do so extensively, making it possible for every interpretation to be scrutinised for accuracy by the excerpt that is being interpreted. This again is because, CDA goes beyond just the literary words and their meanings to insinuations, innuendos, metaphors, paradoxes, and contradictions

that may reside between and within the lines of the excerpts. It includes the context within which certain pronouncements featured. The dominant, tune, tone, mood, mode, gestures, attitudes and general idiosyncrasies which combines to give information and meaning that could be inferred from both the letter and spirit of the research. Hence, for the credibility of assertions, and accuracy of judgment, the quoting of extensive passages sometimes are unavoidable in this research especially from chapter four where the findings of the research began to emerge in couplets of paradoxes. Hence paraphrasing which is often favoured over extensive direct quotations in general research becomes inadequate and sometimes, counterproductive.

Against this backdrop, we downloaded and printed the seven volumes of the TRC report. Read them over and over again in the first two years of this research, and subjected them to critical analysis and evaluation. We then found out that there were dominant themes and sub-themes, running across the volumes. Some of the themes were crisscrossing in alignment thematically and repetitively. These themes were individually identified, isolated and written down. They were further subjected to more rigorous analysis and classifications that helped to prune-down the list with delicate caution in order to avoid the avoidable repetitions. However, both structurally and thematically we followed closely the ensuing narratives that were emerging and interplaying between the constitution providing the enabling act, between the members of the TRC who were not mere listening to the petitions, but passionately subsumed and subdued emotionally and of course the victims and petitioners themselves.

The rigorousness of analysis went beyond the lines to the underlying emotions and passions that lay underneath the text. The zeal to bring about peace and stability to this age-long conflict at all cost on the part of the members of the TRC tend to produce a sort of binary fusion of complements, that soon changed with the reality on the ground to the binary fusion of opposites. It became apparent that a better understanding of the dynamics at play could only be facilitated within an Agamben's inclusive, exclusive philosophy of Homo Sacer which at any rate seem to be an extension of Derridean supplementary logic.

3.8 Philosophical Underpinning /Orientation of this Research.

By this, we are referring to the underlying character of the chosen research methodology. Our concern is to identify both the underlying epistemological and

ontological underpinning surrounding the method of investigation in order to ascertain its reliability and credibility. This research is more consistently applied to the rationalist perspective as against empiricist who favours positivism instead of interpretivist and humanism perspectives which our research adopts. The approach chosen for this research was deductive and not inductive as the positivist would advocate. The reason is that we did not also see knowledge as objective as perhaps a positivist would argue. Instead, and more realistically, we advocated subjective interpretivism. These are the original theoretical journey that this research followed.

“Subjectivity” clearly defines the difference between the kinds of data we are seeking after in this work as distinct from those of the physical sciences. Baronov (2012:111ff.) argues that “the principal distinction between inanimate objects and human beings, is human subjectivity”. He, therefore, went further to argue that “Subjectivity ‘is a shorthand reference for various forms of human expression. Which, according to him, includes, emotions, ideas, desires and that subjectivity refers to whatever meaning people attach to their words, thoughts, or actions. It explains why there is a significant difference between how phenomena, are explained in the physical sciences as to how they are explained in the social sciences. Baronov went further to compare societal disruption by the earthquake and by riot. With one belonging to the physical sciences and the other social sciences. He argues that in the case of the volcano, a researcher would identify the causal chain of geological events while that of the riot, the causal chain would necessarily include some subjective judgements on the part of the researcher regarding the rioter’s actions. Among such concerns would be, according to Baronov, “why are the rioters upset? Why did they react in this manner? Why did they stop whereas the geologist is not concerned with any of such? Hence hermeneutics according to him, see human beings as intentional beings who create meaningful social phenomena, and by so doing, has about four consequences which include that,

- human beings are intentional creative beings
- People’s creations such as physical objects have the meaning which is the expression of their subjectivity
- Human subjectivity operates at both the individual and state or societal levels. Here Baronov sited an example that to understand the meaning of a book fully, one must first analyse the historical circumstances in which the author lived

and identified the author's position in society. To that extent, the book is seen as an expression of the author's subjectivity as well as expression of the historical and circumstances in which the author lived. This explains much of why we were interested not just in the historical antecedents upon which SA was founded, but also in the diachronic and synchronic analysis of the dominant themes that came to play in the South African apartheid saga.

The last of the implications is the concept of critical social phenomena which Baronov argues, may include any form of communication, verbal or nonverbal, wink, nod, and shrug. All these and more explain why our understanding and creation of meaning, as well as interpretation, goes beyond what was implied but what was said, how it was said, remorseful or arrogantly, the gestures surrounding the circumstances of the event. These are why the mood, mode and modalities help in interpretation and meaningfulness of the events that we seek to understand especially of how peace was achieved in SA against popular predictions. (Baronov, 2012:111-112.)

3.9 Summary of the Methodology Chapter

The interesting dimension in the choice of the methodology for this research is the fact that we are not seeking what South Africa should do in order to surmount its hitherto intractable conflict. At the time of the research, South Africa had successfully de-escalated its intractable conflict, and as such, our interest was in knowing what South Africa did to achieve this. We saw that South Africa embarked on an internally grown negotiations and institution of the TRC. However, the significant part of it all was that fundamental theoretical principles underlined these and so our interest was to identify these principles. Hence, that influenced the kind of data we were seeking, and that informed our choice of methodology, which in this case is the Critical Discourse Analysis. (CDA) which helped in the analysis of essential documents that were subjected to further evaluation, interpretation and synthesis in building up of theories and principles that create meaning and understanding of what transpired beyond the surface levels.

Chapter 4: Peace without Reconciliation and Unification without Harmony

4.0 Introduction to the Chapter on Peace without Reconciliation and Unification without Harmony

This chapter deals with the identification and analysis of the phenomenon of peace without reconciliation as well as that of unification without harmony within the South African peace process. This chapter will examine the themes underlying the peace narratives in South Africa (SA) as well as the analysis of how this paradox was derived and how they manifest within the syntheses that actualises peace through the Agamben's exclusive, inclusive philosophy of the Homo Sacer.

4.1 Peace without Reconciliation

4.1.1 Analysis of Peace based on Reconciliation transformed into Peace without Reconciliation

Shortly before the collapse of apartheid, the contradictions that threw itself up from the fierce racial tension between the blacks and whites reached its highest peak. The dominant narrative that emerged from all quarters was how to prevent full-scale hostilities and also maintain the corporate existence of South Africa as one indivisible unit. To achieve this, it became imperative that the warring parties must be reconciled in order for peace to reign. The implication is that once the people are reconciled, peace will automatically follow. This was the desire of the founding fathers of the South African peace process. They were after "peace derived from reconciliation". The question now is if this is attainable, given the level of acrimony that already took place within the past 48 years? If it is unattainable or difficult to attain, what then is possible? What alternatives exist, and how do we achieve it?

In an attempt at finding a way out of this puzzle, we turn to CDA and Agamben's philosophy of exclusive inclusion. The principle allows one to pick any binary phenomenon where one part poses a threat to the main goal or objective of that phenomenon. The one half of the concept that is volatile is excluded and pushed into the realm of complacency which Agamben calls "bare-life" where its potency is reduced as the phenomenon loses one of its vital elements, for an "invalid" one. This process inevitably created seemingly contradictory narratives that are paradoxical. Hence peace with reconciliation became "peace without reconciliation.". The main

objective here is to achieve the primary goal of peace, even if it is at the expensive cost of being without reconciliation. The question that immediately comes to mind is the contradictions that seem to be manifest in this equation. This fact is already spotted by Agamben himself who sees such derivation as inconsistent at first glance. In simple terms, it means achieving peace even if it is without reconciliation. This is equivalent to the life of the Homo Sacer who can be killed but not sacrificed.

The above paradox is one of the seven elements derived in the course of the transition from apartheid to democratic rule. The whole process of negotiations and the subsequent institution of the TRC and its working were precipitated on one major principle, and this principle is the “deconstruction of absolute ideas” or what we may call “deconstruction of the ideal” and replaced with a “relative” or a “lesser ideal”. To achieve this in the realm of Agamben involves stripping the original idea of its bios and reducing it to bare-idea. It was through this mechanism that the South African peace process thrived. This was against popular logical predictions that were conclusive about the fact that the South African societal ship was destined for a “Titanic” sink. Fortunately, these predictions did not happen mainly because the South African peace process was hinged on the above principle, as well as the already outlined seven paradoxical couplets. These couplets were not arbitrarily imposed. They were rigorously and theoretically derived from the narratives that emerge in the course of the analysis of the interactions between all the stakeholders during the mediation process.

As we can see that the above paradox, like all the others, has two essential elements, namely, “Peace” and “Reconciliation” If we are allowed to borrow the language of quantitative research method, for clarity, the concept “Peace” above will be the independent variable, while reconciliation is the dependent variable. Peace is the constant denominator that remains and needs to be fulfilled at all cost; it is the most crucial element in the couplet since it carries the weight as an umbrella concept under which we can subsume reconciliation, while the subordinate one is reconciliation. Reconciliation helps to actualise “peace. In essence, reconciliation is that part of the couplet that needs to be deconstructed if it is posing any threat to the attainment of the primary objective, which in this case, is peace. It is a logic derived from Agamben. To make it clearer, the basic idea, arguing from the point of CDA was that the possibility of perfect peace, tailgating from a true and genuine reconciliation had

effectively been excluded from the political by a sovereign act which Agamben calls the “ban”. That simultaneously founded peace at the heart of the political. What we shall be doing in the subsequent section is to show how in concrete terms the events and dynamics in South Africa, replicated and actualised these theories.

Our analysis will begin by unpacking the two concepts synchronically and diachronically.

4.2 Peace

When we talk of peace, about what exactly are we talking? What is the full implication of the concept of peace? Does it exist in a holistic form or relative form? Can it exist in absolute terms or degrees? At what point can peace be said to have been achieved? What, for instance, was the extent of peace that SA was aiming? We will find out in the following lines that the word “peace” is a summation of a web of other fundamental concepts that are in tension with one another but cleverly woven to carry the weight of peace in South Africa. These concepts were identified in the words of Arch Bishop Desmond Tutu to include such concepts as “confession, forgiveness, reconciliation, injustice, healing and truth”(TRCR 1998: vol.1:16 -17)

Furthermore, Arch. Bishop Desmond Tutu made some fundamental allusions with regards to the historical antecedents that have brought SA thus far and its journey towards the attainment of peace. His analysis throws more light on the roughness of the route towards the attainment of peace in apartheid South Africa and that understanding leads to other issues within the structure, and that has necessitated quoting him extensively for accuracy. In the words of the Arch Bishop Tutu as contained in the Truth and Reconciliation Commission’s Report (TRCR 1998: vol.1: 16 -17)

...It is certain that we would not, in such circumstances, have experienced a reasonably peaceful transition from repression to democracy. We need to bear this in mind when we criticise the amnesty provisions in the Commission’s founding Act. We have the luxury of being able to complain because we are now reaping the benefits of a stable and democratic dispensation. Had the miracle of the negotiated settlement not occurred, we would have been overwhelmed by the bloodbath that virtually everyone predicted as the inevitable ending for South Africa...I want to suggest that apartheid and racism played a similar defining role in the history of the period under review. The vast majority, if not all, of the gross violations of human rights that were perpetrated in this

period, happened at the hands either of those who sought to defend the unjust apartheid and racist dispensation or those who sought to resist and ultimately overthrow that system. ... Indeed, if the key concepts of confession, forgiveness and reconciliation are central to the message of this report, it would be wonderful if one day some representative of the British/English community said to the Afrikaners, "We wronged you grievously. Forgive us." And it would be wonderful too if someone representing the Afrikaner community responded, "Yes, we forgive you - if you will perhaps let us just tell our story, the story of our forebears and the pain that has sat for so long in the pit of our stomachs unacknowledged by you." As we have discovered, the telling has been an important part of the process of healing. To lift up racism and apartheid is not to gloat over or to humiliate the Afrikaner or the white community. It is to try to speak the truth in love... They have healed the wound of my people lightly, saying "Peace, peace," when there is no peace. It is to give substance to our cry from the heart that politicians should really stop playing ducks and drakes with our future - for the greatest sadness that we have encountered in the Commission has been the reluctance of white leaders to urge their followers to respond to the remarkable generosity of spirit shown by the victims. This reluctance, indeed this hostility, to the Commission has been like spitting in the face of the victims." (TRCR. 1998: Vol.1: 16)

From the above quotation, one can infer that the phrase "*a reasonably peaceful transition*" is suggestive of the fact that the phenomenon of peace does not have to be absolute. There is a level that can be considered reasonable peace. In that sense, what SA was out to achieve could not have been a state of absolute serene tranquillity. Again, to say '*We have the luxury of being able to complain because we are now reaping the benefits of a stable and democratic dispensation*'. (TRCR. 1998: 16)

This is equally suggestive of the fact that a stable democratic dispensation was sufficiently a demonstration of attainment of peace and not absolute peace or reconciliation in the real sense of it. Hence it is part of the goals or objective of the commission to ensure societal stability much more than any form of cursory reconciliation or even that of justice. It is also clear that from the conception of Desmond Tutu, that Peace can be synonymous with the absence of "*bloodbath that virtually everyone predicted as the inevitable ending for South Africa*". In order to appreciate the phenomenon of peace more accurately and how it has been conceived within the South African agenda, it has to be examined in the light of an understanding of what it entails.

Looking at the word Peace, synchronically and diachronically, we have employed a linguistic and eclectic approach to gathering all possible information that will enrich our understanding, especially with regards to how this impact on our current research. This approach is further justified by John Kelly (2013) who argues that;

Linguistics can deepen our understanding of the realities of conflict, and help us to gain a better appreciation of something as remote and removed from our lives as a conflict in a foreign land. One way in which it can do this is through the study of etymology, a branch of historical linguistics that studies the origins of and developments in the forms and meanings of words. Exploring where our words come from can provide edifying insights and tell interesting stories about what words mean, providing us with a different view of how we understand conflict. (Kelly, 2013:1)

Against this backdrop, therefore, we examine the concept of peace. According to Kelly (2013), The word “peace” found its way into the English Language at about the middle of the 12th century. Its original meaning connotes freedom from disorder and that the word came through French (*pais*) from Latin. The Latin word is *pax*, which equally connotes peace as well as treaty or agreement. According to him, this Latin noun, developed from a verb, *pacisci* which means ‘to bargain for’ or ‘agree upon’. Elaborating further, Kelly argues that in *pax*, one might recognise the modern French *paix*, Spanish *paz*, or Italian *pace*. The English word *peace* and its Romance language cousins are worth noting. They are known as cognates: forms of words that have descended from the same source. (Kelly, 2013)

Arguing genealogically, Kelly further gave some insights into the diachronic development of this word by maintaining that, the original Latin word, *Pax* has a Proto-Indo-European root **pag-/*pak-*, which means ‘fasten’. He then went further in his analysis to give us background information that Proto-Indo-European is, in fact, the ancestor of the Indo-European language family. This family according to him is based on historical linguists’ knowledge of the vocabularies and structure of many subsequent languages and that this family is made up of several hundred languages that range from modern English, all the way back to ancient Sanskrit including everything from Celtic to Iranian in between.

That is not all, in his linguistic analysis, Kelly maintains that in the case of words such as **pag-* and **pak-*, asterisks are used to indicate that they have been hypothesised by linguists, based on their knowledge of Indo-European languages. The hyphen indicates

that the root could take on inflexions, elements of a language that changes the grammatical function of a word. Other forms of **pag-/*pak-* developed in other Indo-European languages: Sanskrit has *pasa-*, meaning 'cord' or 'rope'; Avestan, *pas*, meaning 'a fetter'; Ancient Greek, *pegnynai*, means 'to fix, make firm, fast, or solid', and also in Latin - *pangere*, meaning 'fix' or 'fasten', from which *pax* eventually emerged. English words as varied as *fang*, *impinge*, *propagate* and *page*, among others, also derived from this root (Kelly,2013).

We can then infer that from the meaning of the stream of words that have diachronically evolved and emerged eventually as peace, that the word peace is not an absolute one-stop term. Such words as fastening, or pact, which implies agreement and negotiations that binds two opposing factions together, all add to the elastic and extended meaning of the word peace. We can therefore reasonably and succinctly conclude in the words of Kelly that “. In light of its etymology, we might think of *peace* not merely as a state, but as an action, that of binding ourselves together firmly and fixedly, through words. Peace, then, can be seen as a performance of language, and it takes work to fasten the agreement and to keep it fastened”. (Kelly,2013:1)

This last bit is quite crucial; meaning that it is not sufficient to achieve peace, but to ensure that it is enduring and sustainable. This conclusion seems to underlie the South African TRC, whose main duty seems to be that of “binding the South African society together firmly and fixedly through allowing people to express their hurts freely. This free expression is necessary so that they can exercise closures and this has to be done in words and languages most convenient for them, devoid of so much bureaucracy often associated with the legal justice system and supported by CDA a methodology that is based on the use of text and talks in the generation of ideas.

It is exciting to note that among the most fundamental theory that seems to have emerged from the preceding, is the fact that peace is not the absence of war; there may be no war in place, and yet, peace may not exist. This is similar to the situation in South Africa during apartheid when full hostilities were not declared, yet peace was absent. The situation of the cold war is another one. Thomas Hobbes describes the situation of no war, yet no peace as the “*known disposition thereto*” which is as bad as war itself and sometimes worse because terrorism falls under such situation of no war, yet no peace. (Hobbes, 2006:76)

Locating the point of peace is a bit elusive. Agamben will probably see it as falling into the zone of indistinction. It is a zone that is neither wholly of peace nor war. Within the exclusive, inclusive philosophy of the homo sacer. It will largely depend on functional definition and delimitation. Hence, peace cannot be described as clearly black, nor can it be outrightly white but may lie within the zone that Derrida calls grey. (Derrida: 2016)

Furthermore, Armstrong (1931) who presented Kant's ideas to justify his argument, wherein he maintains "that peace is to be brought about, not through an international organisation, but by the cultivation of right principles and peaceful sentiments in the minds of men" Armstrong (1931:199). This assertion is very crucial because it seems to be one of the pointers to why South Africa's peace process was successful in the sense that it seems to adhere to this idea of homegrown peace to the extent that no external arbiter was involved in the negotiations in apartheid South Africa. Rather, the right principles and peaceful settlements that address the minds of men and their inner emotions were employed. This same view was corroborated by Guelke (2005) who argues that "the absence of international involvement, in the negotiations that brought about peace to South Africa's political settlement has been touted by some of the participants as one of the ingredients of the success of the process" (Guelke, 2005:188)

However, Kant further argues that a permanent state of international peace is unattainable by man. Some ground for this contention is found in Kant's statements in which he demonstrated his awareness of the obstacles that stand in the way of his ideal. Such ideals include the selfishness of individuals and nations, the tendency of states to follow the path of expansion and conquest, the folly of rulers who, as he believes, wage war almost as a game, heedless of the suffering and the loss which they bring upon their subjects. Kant went further to appreciate as well, the difficulties, in principle and of practice, which beset the establishment of a league of independent states. Hence, Kant is led to express doubt-more markedly, it would seem, as the years go on whether the literal realisation of his ideal is to be considered possible or otherwise. (Armstrong, 1931: 199)

Furthermore "Kant resumes his role as the philosopher of a priori reasoning by reflecting on human problems from the transcendental point of view. Hence he considers a state of war, as that which does not necessarily imply warfare or actual

hostilities. He opines that nations are in a state of war so long as their relations are not regulated by law, obligating each to peace through the will of all. The principle of such a constitutional order is not derivable from experience, but only through the a priori analysis of the Ideal and its establishment is a matter of duty. Therefore, for Kant, the idea of peace is grounded in the authority of reason itself while reason is functioning in its practical form so that the empirical question of its practicability is beside the mark. Therefore, perpetual peace is a standard or goal to be approached by a gradual, or perhaps by an infinite process. In other words, peace is an on-going process, not one perfect point. (Armstrong, 1931) Hence, The idea of peace as a process is something that has to be continuously and actively maintained just as the originary violence in the Agamben, provoked the Sovereign ban which produces the Homo Sacer, who must necessarily be in perpetual flight in order to achieve self-preservation even outside the polis. The implication of this is that a one-stop point is imminent death, while uneasy perpetual flight guarantees safety. Hence strategic peace and self-preservation are only guaranteed by an endless flight, and precautions let lose by the ban.

Furthermore, the [vocabulary.com](https://www.vocabulary.com) dictionary (2016) conceives peace as a stress-free state of security and calmness that comes when there is no fighting or war; It is a state when everything is coexisting in perfect harmony and freedom. It further maintains that in our war-torn world, it seems like there is not nearly enough peace, whereas, peace can be holistic or fragmented. This point is crucial to this research, in the sense that the word peace does not connote absoluteness; it could be in degrees and graduations. This means that no matter how small or big the level of peace is, it does not obliterate the fact that it is still peace. This is often seen in entire countries or in brief moments. After a war, two countries may sign a peace treaty, agreeing not to fight anymore just as it was in Sweden who has avoided war since 1814 and enjoyed the peace that the lack of conflict brings. ([vocabulary.com](https://www.vocabulary.com), 2016).

Furthermore, three primary meaning of peace were identified, namely, the prevalent state of affairs when war is absent, here war refers to the outbreak of full hostilities. The next is when public places are considered safe and secure; this refers to the absence of terrorism, and this seems to be far from our contemporary world with terrorist attacks everywhere. Lastly, when there is an absence of mental stress or anxiety. This last bit is significant because it encapsulates situations such as the cold war or tension

of uneasy peace as against full-blown wars. Thomas Hobbes in the Leviathan attempts in Part 1 chapter XIII to distinguish war from peace when he argues that,

during the time men live without a common power to keep them all in awe, they are in that condition which is called war; and such a war as is of every man against every man. For war consisteth not in battle only, or the act of fighting, but in a tract of time, wherein the will to contend by battle is sufficiently known: and therefore the notion of time is to be considered in the nature of war, as it is in the nature of weather. For as the nature of foul weather lieth not in a shower or two of rain, but in an inclination thereto of many days together: so the nature of war consisteth not in actual fighting, but in the known disposition thereto during all the time there is no assurance to the contrary. All other time is peace” (Hobbes,2006: 76).

Furthermore, peace is variously defined as “the state prevailing during the absence of war, while war is a legal state created by a declaration of war and ended by official declaration during which the international rules of war apply” (Vocabulary Dictionary of Peace: 2016:1)

The dictionary further identifies six types of peace. The first is what it calls Amity, which refers to a state of friendship and cordiality. This type of peace was excluded in the goals of the South African Truth and Reconciliation Commission (TRC) mainly because it is difficult to achieve given the years of bitterness and exposure of the gross human right violations which makes forgiveness difficult. The next is armistice, cease-fire or truce, which is a temporary state of peace agreed to by conflicting parties so that they can discuss and consolidate peace terms. South Africa (SA) started with this through the negotiations leading to the new constitution and the subsequent TRC to concretise the process. The next is conciliation, which is described as a state of manifesting goodwill and cooperation after being reconciled. This refers to cordiality and stability that follows peace accords. This would refer to the aftermath of the TRC in South Africa. The next is Collective Security, which refers to peace at the level of international relations; this is part of the problem necessitating this research. The international society is still overwhelmed by intractable conflicts that keeps tearing the world apart. Syria is a living example. The next is Pax Romana, which is the Roman peace, and it refers to the long period of peace imposed and enforced on states in the Roman Empire. The last category is Peaceableness or peacefulness, which refers to a state of calmness and tranquillity. Again, that seems to be utopian and elusive and

seem to refer to absolutism. (The Vocabulary Dictionary of Peace, 2006; Vocabulary.com, 2016)

Hence, the idea of peace from a critical discourse analysis point of view mainly as the narratives emerged from the TRC report, indicates that the kind of peace that was relevant to SA as revealed in the report is not that of a perfect one but that of compromises. It was not going to be a finished one-stop venture but a continuous one that requires some form of continuous servicing without which imminent collapse was inevitable. Details of these narratives will be articulated in the section on the paradoxes below.

4.3 Reconciliation

What is reconciliation? Desmond Tutu in trying to unpack this concept in the light of the South African situation raised a number of tensions between a number of concepts that are allied to reconciliation beginning with the concept of truth, to confession, pain, to reality and finally touched implicitly on the fact of ‘enduring and sustainability’ of peace achieved thereafter. These tensions would be discussed in details later in this section. However, let us begin by examining what Desmond Tutu has to say about what reconciliation entails. In his own words,

“Some have been upset by the suggestion that the work of the Truth and Reconciliation Commission could have resulted in making people angrier and race relations more difficult, as indicated by a recent survey. It would be naïve in the extreme to imagine that people would not be appalled by the ghastly revelations that the Commission has brought about. It would have been bizarre had this not happened. What is amazing is that the vast majority of the people of this land, those who form the bulk of the victims of the policies of the past, have said they believe reconciliation is possible...The trouble is that there are erroneous notions of what reconciliation is all about. Reconciliation is not about being cosy; it is not about pretending that things were other than they were. Reconciliation based on falsehood, on not facing up to reality, is not true reconciliation and will not last. (TRCR, 1998: vol.1:17)

Desmond Tutu succeeded in telling us what reconciliation, does not entail, but yet to tell us what it is. One is not sure that Desmond Tutu is exempted from his bracket of people who have an erroneous notion of what reconciliation is? Alternatively, is reconciliation so broad that it could be understood relatively? Alternatively, is its scope and delimitation dependent on the definer’s aims and objectives? These and many more questions would necessitate further unpacking. Although an important element

was alluded to here which is the fact that the reconciliation being referred to here is not that which is absolute (being cosy) rather it must be a relative one which is far from being perfect.

Furthermore, Desmond Tutu argues poetically with a refrain “we know” connoting the power of revelation, confession or truth-telling which unfortunately has created a difficulty for reconciliation. However, the purpose of Desmond Tutu’s refrain here is to create a kind of parallelism that exonerate no individual or group of individuals from blame and to that extent neutralises the claim of victims as an exclusive reserve of any group, removing the claim to villain or victim by any one group. Although, at other times, we see the inconsistency in such claims by Desmond Tutu who is seen pronouncing that the bulk of victims are blacks and victimisers white at one point, and yet at another, present the opposite. Tutu is here saying, “Nevertheless, the bulk of victims have been black, and I have been saddened by what has appeared to be a mean-spiritedness in some of the leadership in the white community”.(TRCR,1998 vol.1: 18) . However, whenever Tutu maintains the exact opposite, it seems to be part of the “deconstruction of absoluteness” that underlies the entire process. This inevitably creates a kind of fluidity or flexibility for the commission to push any narrative at any point in time to achieve its goals of societal stability, irrespective of the need for consistency which at any rate is made inferior to the goal of societal stability and peace. The exciting bit is that there are some inconsistencies that are though, consistently featuring. The entire peace process in apartheid South Africa gives the impression that the inconsistencies were part of the master plan designed to return peace to South Africa. Even the emerging paradoxical couplets appear inconsistent until they are unpacked. Hence, pushing the narrative of equality of victim and victimised on both sides of the divide Desmond Tutu employed the refrain “We Know” to drive home his point as we can see in the excerpt below part of which we already cited above.

“ We believe we have provided enough of the truth about our past for there to be a consensus about it. There is consensus that atrocious things were done on all sides. We know that the State used its considerable resources to wage a war against some of its citizens. We know that torture and deception and murder and death squads came to be the order of the day. We know that the liberation movements were not paragons of virtue and were often responsible for egging people on to behave in ways that were uncontrollable. We know that we may, in the present crime rate, be reaping the harvest of the campaigns to make the country ungovernable. We know that the immorality of apartheid has

helped to create the climate where moral standards have fallen disastrously.” (TRCR.1998 vol.1:18)

Now if we analyse the above statement of Desmond Tutu, in line with the requirements of CDA, which permits us to begin with “ 1 text analysis (description), 2 processing analysis (interpretation), 3 social analysis (explanation)”. Fairclough's (1995:98) Janks (1997:329) Hence, the above extract fulfils that of textual analysis which is purely descriptive. The next involves interpretation which we have engaged in through linguistic and literary forms by showing how repetition and refrains were employed to drive home the points and finally is the analysis showing the implications and underlying elements why the literary forms were employed in the manner in which they were deployed. It is this analysis that made it possible for us to read between the lines to the extent of discovering the contradictions and inconsistencies all over. He says “We believe we have provided enough of the truth” which means it is not the whole truth which would have meant absoluteness. Just enough, which is why some perpetrators walked away unscratched. Desmond Tutu continuously advises on the part of caution. The phrase that most aptly captures this is that which warns against “casting the net too wide”, a phrase ascribed to Judge Marvin Frankel. This phrase is an example of imagery taken from fishing? It was to convey the same need for caution in order to avoid derailing the entire peace process. The impression given here is that of walking on eggshell or some minefields for fear that carelessness might spell doom for the whole process.

The details as recorded in the TRC report, says;

A nation divided during a repressive regime does not emerge suddenly united when the time of repression has passed. The human rights criminals are fellow citizens, living alongside everyone else, and they may be very powerful and dangerous. If the army and police have been the agencies of terror, the soldiers and the cops aren't going to turn overnight into paragons of respect for human rights. Their numbers and their expert management of deadly weapons remain significant facts of life.... The soldiers and police may be biding their time, waiting and conspiring to return to power. They may be seeking to keep or win sympathisers in the population at large. If they are treated too harshly - or if the net of punishment is cast too widely - there may be a backlash that plays into their hands. But their victims cannot simply forgive and forget. (TRCR,1998:vol.1:6)

Desmond Tutu, further said, “There is consensus that atrocious things were done on all sides” This is being economical with the truth. Yes, but in what magnitude? Tutu

deliberately avoided that. Besides if Tutu is truly aware that “the immorality of apartheid has helped to create a climate where moral standards have fallen disastrously”, then why will Tutu, not recognise the law of cause and effect and stop equating those perpetrating with those resisting as equal criminals? It is all part of the design to tread softly. To create false parallelism in order to pamper those who still wield power to give it up, in the overall interest of societal peace and cooperate existence of South Africa in the years to come. Some of the empirical elements that substantiate these claims featured later in the body of the work at various places where actions, pronouncements and functions of the TRC were cited to substantiate the arguments which we have tended to limit at this stage in order to limit the repetitiveness that occurs.

Furthermore, it is interesting to note that Desmond Tutu elsewhere was unequivocal in declaring that some of the concepts that emerged in the process of the working of the TRC were fuels for non-reconciliation. By this Tutu means such things as “confession without remorse” or “truth without justice”. Those tensions that were created irrespective are still the only way to societal peace. He argues that the conditions for reconciliation are the same reality that gives room for its disunity. This is evident in his declaration that;

We should accept that truth has emerged even though it has initially alienated people from one another. The truth can be, and often is, divisive. However, it is only on the basis of truth that true reconciliation can take place. True reconciliation is not easy; it is not cheap. We have been amazed at some almost breath-taking examples of reconciliation that have happened through the Commission. Examples abound in the chapter on reconciliation. I want to make a heartfelt plea to my white fellow South Africans. On the whole we have been exhilarated by the magnanimity of those who should by rights be consumed by bitterness and a lust for revenge; who instead have time after time shown an astonishing magnanimity and willingness to forgive. It is not easy to forgive, but we have seen it happen. And some of those who have done so are white victims. Nevertheless, the bulk of victims have been black and I have been saddened by what has appeared to be a mean-spiritedness in some of the leadership in the white community. They should be saying: “How fortunate we are that these people do not want to treat us as we treated them. How fortunate that things have remained much the same for us except for the loss of some political power.(TRCR.1998: 18)

One interesting thing is that almost immediately Tutu created the parallelism of equality of victims, he went below in the same chapter to say, that the bulk of the victims were indeed blacks as cited above. This is a further confirmation of the inconsistencies that seem to be deliberately built into the system in the interest of the objective of nation-building, societal peace, and stability, which seems to supersede every other thing. Hence, when it becomes convenient to uphold certain narratives in the interest of this primary objective, it holds, and when to maintain a contrary position, it equally holds. To that extent, the truth becomes a relative phenomenon.

Furthermore, Douglas, (2016) traces the word “reconciliation” to mid-14th century when it evolved from an Old French word “*reconciliacion*” which in turn took its source directly from the Latin word, “*reconciliationem*” with its nominative form, “*reconciliatio*” which presupposes "a re-establishing, a reconciling," noun of action emanating from the past participle, “*reconciliare*” . He further maintains that though the word reconciles is said to have originated directly from the Latin word, *reconcilare* " which means to bring together again; regain; win over again, while “conciliate”, is from *re-* "again" + *concilare* "make friendly". Similarly, the word “conciliate” began to feature from around 1540s, from the Latin word, *conciliatus*, which is the past participle of *conciliare* “meaning, to bring together, to unite in feelings, or to make friendly," from *concilium* "council". Its reflexive sense is recorded from the 1530s. Meaning, "to make discordant facts or statements consistent" and this is from the late 14th century. Intransitive sense of "become reconciled" is from the 1660s. Other related forms are *reconciled* or reconciling.

Against this backdrop, the word reconciliation is further associated with three original meanings to the noun, reconcile to include the following,

1. an act of reconciling, as when former enemies agree to an amicable truce.
2. the state of being reconciled, as when someone becomes resigned to something not desired.
3. the process of making consistent or compatible.

Beyond these, the verb form is further broken down to include, verbs used with objects such as in, reconciled or reconciling which implies, The act of causing a person to accept or be resigned to something not desired: such as, *He was reconciled to his fate*. The next is to win over to friendliness; cause to become amicable: *to reconcile hostile*

persons. Others include composing or settling a quarrel, or dispute. To bring into harmony or agreement; make compatible or consistent: *to reconcile differing statements; to reconcile accounts*. To re-consecrate a desecrated church or cemetery. To restore an excommunicated or penitent person to communion in a church. (Etymology Dictionary;2016)

From the above expositions, it is sufficiently clear that the implication of reconciliation within the South African context, is the fixing and mending of a broken link. However, the details of the *modus operandi* are left to other elements in the process, which were to determine the extent to which this broken link was fixable. Looking at Desmond Tutu's submission above in the light of the expositions, it becomes clear that the purpose of the TRC was not to go all the way to achieve reconciliation in absolute terms, not to restore friendship *per se*, because it is difficult. Within the difficulty, it is possible to avoid vengeance and forgive for societal stability.

This fact is the whole essence of what Desmond Tutu was referring to when he maintained as we have sighted above that "True reconciliation is not easy; it is not cheap ... It is not easy to forgive, but we have seen it happen". ."(TRCR.1998: Vol. 1:18).

It must be affirmed that the concept leading to reconciliation opens up the tension between truth, confession, forgiveness and reconciliation. These tensions came about because Desmond Tutu already affirmed that reconciliation is impossible without truth and the danger of confessing the truth of gross human violation was a rekindling of the pain and trauma associated with heartless cruelty. Such truth that leads to bitterness is ordinarily incompatible with forgiveness, particularly from people who think that after knowing such cruelty, what they deserve is the kind of justice that is negated by the phenomenon of forgiveness. Hence, to overcome this hurdle, a rigorous narrative, that did not deny the need for justice, was being constructed. It was that which advocates that justice need not necessarily be retributive but could be restorative. The narrative says;

"We have been concerned, too, that many consider only one aspect of justice. Certainly, amnesty cannot be viewed as justice if we think of justice only as retributive and punitive in nature. We believe, however, that there is another kind of justice - a restorative

justice which is concerned not so much with punishment as with correcting imbalances, restoring broken relationships – with healing, harmony and reconciliation. Such justice focuses on the experience of victims; hence the importance of reparation”.(TRCR,1998:vol.1: 9)

Moreover, to understand the emerging narratives, it is pertinent to define the primary stakeholders around whom these narratives are woven. First, we have the white minority South Africans who held power for 48years who not only institutionalised apartheid but continuously defended it with all state apparatus of violence. This class were personified by the National Party and all military and security personnel of the state. The other directly antagonist group are the black majority South Africans who are suffering under the yoke of apartheid and have continuously put up resistance to its domination and oppression first through peaceful means and later via armed resistance. These groups were personified by the ANC liberation movement. Other smaller units are sub-groups of these two major groups. Within this black majority, are the elitist group who believed in carefully easing out the white minority government cautiously and persuasively to wrest power from them by overlooking their wrong deeds as long as they are willing to surrender power genuinely. The other subgroup here are largely victims of apartheid and their families and sympathisers who are adamant. They believe that any arrangement no matter how well intended that is short of providing retributive justice was inappropriately promoting impunity. Whereas, the elitist within this group who formed the bulk of the membership of the TRC had their objective aligned with that of the apartheid leaders who were prepared to give up power as long as there will be no consequences. On the other hand are the black elitists who wanted power at all cost and as such prepared to sacrifice justice on the altar of power and political stability. The tensions emanating from these relationships produced the complex narratives under which the South African peace process was hatched. The class of South Africans that we refer to as the “hardcore South Africans” are the justice-seeking ones that do not believe in the above narrative. instead, believe that it is no justice unless it is punitive, The commission also packaged a different narrative for these class of South Africans; This narrative ensures that the phenomenon of confession had to be distilled or upgraded to attain the level and status of punishment. Hence, confession is equated with punishment in the excerpt below where Desmond Tutu said that;

Those who have cared about the future of our country have been worried that the amnesty provision might, amongst other things, encourage impunity because it seemed to sacrifice justice. We believe this view to be incorrect. The amnesty applicant has to admit responsibility for the act for which amnesty is being sought, thus dealing with the matter of impunity. Furthermore, apart from the most exceptional circumstances, the application is dealt with in a public hearing. The applicant must therefore make his admissions in the full glare of publicity. Let us imagine what this means. Often this is the first time that an applicant's family and community learn that an apparently decent man was, for instance, a callous torturer or a member of a ruthless death squad that assassinated many opponents of the previous regime. There is, therefore, a price to be paid. Public disclosure results in public shaming, and sometimes a marriage may be a sad casualty as well. (TRCR,1998:v. 1:8-9)

However, even if we agree that a public confession is a form of punishment, we cannot agree that the punishment is commensurate with the offence. To that extent, it is difficult to say it is nonetheless justice. Then, it must also be understood that the goal and objective of the TRC were not to deliver justice although without expressly affirming it. Instead, it is ensuring societal unification and stability through reconciliation. The complexity of the work of the commission is further highlighted by Desmond Tutu who argues that;

The task assigned to the Commission proved to be riddled with tensions. For many, truth and reconciliation seemed separated by a gulf rather than a bridge. Moreover, in the process of implementing its obligation to consider amnesty for perpetrators (as required by the interim Constitution), the concept of justice also came under constant scrutiny. "We've heard the truth. There is even talk about reconciliation. But where's the justice?" was a common refrain. Before explaining how the Commission dealt with the overlapping and apparently contradictory goals of truth, reconciliation and justice, it is necessary to highlight two more general sources of tension. (TRCR, 1998:vol.1:104)

The tensions were further aggravated by the fact that the interlocking concepts were difficult to unpack, which is why we are dealing with "peace and reconciliation" in this section and the question of "justice" is beginning to peep into it even though we have assigned a separate space for it. According to Desmond Tutu;

The overarching task assigned to the Commission by Parliament was the promotion of national unity and reconciliation. Debates within and outside the Commission demonstrated that the interpretation of this concept was highly contested. While there is no simple definition of reconciliation, the following essential elements emerged. Reconciliation is both a goal and a process. The work of the Commission highlighted the many different levels at

which reconciliation needs to take place. Some of these levels, and the complex links between them, are illustrated in the chapter on Reconciliation. They include... the theme of reconciliation, coming to terms with painful truth In some cases, especially where the remains of loved ones were exhumed and dignified reburials were made possible, the Commission's disclosure of truth helped people to reach 'closure', to make peace with what had happened. However, the reconciliation of victims with their own pain is a deeply personal, complex and unpredictable process. Knowing the complete picture of past gross human rights violations, or even the facts of each case, may not lead to reconciliation. Truth may, in fact, cause further alienation.(TRCR,1998: vol.1:106-107)

The last five lines of this quotation confirm that the pain and complexities associated with human right violations accounted for how and why "reconciliation" was expunged and expelled from the political to the personal. This expulsion tends to fulfil the transition of the citizen in the polis to the Homo Sacer in exile. In the Polis, the citizen was composed of both zoe and bios, where zoe is the individualism and bios is the political and social, "peace fused with reconciliation" is the "marriage " of both the political and personal" while "peace stripped of reconciliation" is at the level of the personal. The personal is less sophisticated and open to all possible manipulations, which are why it is amenable towards fixing the dislocation in the society, operating at half measure. This narrative happened exactly to all the seven paradoxes that animate the mediation process.

Furthermore, let us state here at the outset that because of how the narratives were woven together, it is impossible to speak of this phenomenon in strict isolations of the others. They are all inter-linked and interwoven. Though we are discussing primarily, peace and reconciliation, we cannot avoid pulling in some of the other phenomena identified above as they are the properties that further help in the elucidation of the concepts under review. This is why we are simultaneously talking about truth, forgiveness, confession, remorse, which are all properties of reconciliation.

However, some scholars have interrogated this South African concept of reconciliation and equally concluded that the theme of reconciliation is a complex and controversial one. There seems to be difficulty in reaching a consensus on the implication and application of this from the perspective of the individual on the one hand and the society on the other hand. However, for this analysis, let us rely on Kevin Avruch and Beatriz Vejarano (2002). In their analysis which began by x-raying the South African

experience from a theoretical perspective which made them critical of some of the proclamations of Desmond Tutu who seem overzealous with some of his ambitious claims drawn against the background of the Christian conception of forgiveness combined with the African notion of “Ubuntu”.

Furthermore, Kevin Avruch and Beatriz Vejarano (2002) agrees with other scholars such as Gobodo-Madikizela 1997, Winslow 1997, Villa-Vincencio and Verwoerd 2000, Battle 2000, and Borris 2000, in maintaining that to many other key players and Bishop Tutu in particular, the only reasonable price would be one able to “purchase” peace, at the expense of reconciliation, and perhaps forgiveness. Again it was a similar narrative that he used in solving the problem of justice. Moreover, he went further to distinguish between retributive from restorative forms of justice. That was not all; Tutu further argues that “restorative justice” reflects a fundamental and venerable African value of healing and nurturing of social relationships at the expense of exacting vengeance, which is nothing short of the quality of humane sociality called. “Ubuntu” Ubuntu, therefore, seem to be a philosophy that subsumes the individual in the collective and the collective in the individual. (Gobodo-Madikizela 1997, Winslow 1997, Tutu 1999 and 2000, Villa-Vincencio and Verwoerd 2000, Battle 2000, Borris 2000)

Furthermore, some scholars have asked about the mechanisms by which truth-telling connects to peace and reconciliation and the role of forgiveness in it all. Montville (1989, 1995) and Lederach (1997), are among such scholars. Similarly, there are, of course, others who considered the role of reconciliation in the broader context of post-conflict peacemaking. (Avruch and Vejarano, 2002)

An important fact needed to be made here that different scholars have attempted to align and crisscross these concepts underlying the peace process in South Africa indiscriminately and pursuing all kinds of arguments that manifest either as major or minor themes in the process of the South African transition to democracy. All the arguments were taken on board, but the alignments adopted in couplets of contradictions in this thesis were not arbitrarily determined. They emerged from the trend of the narratives that underlie the entire process, coupled with the roles that the stakeholders played in the transition process. Interestingly a pattern of inconsistencies that were though consistent emerged and interestingly, Agamben’s Homo Sacer could

effectively and accurately explain the contradictory dynamics to a large extent as if the narratives were based initially on the Agamben's philosophy, but of course, we do know that it was probably not.

Furthermore, this diversity in arguments made Avruch and Vejarano (2002) conclude that the entire area of reconciliation and forgiveness remains controversial as it raises more questions in literature than the answers it provided. One such questions, according to them, is finding out if contrition and forgiveness or even reconciliation, affected at a collective level, is adequate for a nation's "coming to terms with its past?" For them, one premise of most truth commissions is to answer this question in the affirmative, while the other, is to argue that reconciliation, is part of how these commissions successfully affect the transition from regimes based upon violent oppression to those operating under "the democratic rule of law" which is so crucial to peace and stability. Further arguments from Wilson(1999) has it that "reconciliation, like all central unifying metaphors, would function best as a kind of social glue when it was left indeterminate. Different groups with dissimilar agendas could then appeal to reconciliation to advance their own objectives" (Wilson, 1999:1)

However, some other scholars think "reconciliation" it is about learning to coexist, while some think it is being able to put one in other people's shoes and be able to understand what motivates them. Even the Commissioners were said to have very different understandings. Some think it is about finding in a sense a politically workable solution to allowing people to live side by side, and in a way that eliminates violence and that requires an ongoing process that includes accountability whereas, for some others reconciliation must embrace the notion of some truth and accountability. (Pigou, 2002).

This divergence of opinion is documented in Phillips (2008) who argues that,

"Some commissioners perceive reconciliation as, "coming to terms with – being able to live with – being able to accept and move on from. So to take an experience or a time in one's life or an event and work through it and say, 'OK, it happened, but it is not going to continually drag me down, bring me back, you know, make me vengeful and revengeful and angry and so on. I'm now going to put it in a place which is going to allow me to progress.'" (Phillips, 2008:1)

There were also those that see reconciliation as a psychological thing that exists within the individual in which he is seen reconciling with himself and carrying on with his

life. In other words, it is only when this internal reconciliation has been effected, that it is possible to talk about forgiving others and reconciling with perpetrators. The former Director of Research for the TRC, and later Executive Director of the Institute for Justice and Reconciliation (IJR) in Cape Town, defined political reconciliation as a “process of exploring ways of living together in peaceful coexistence.” He, however, felt that the TRC was more interested in truth and justice than in reconciliation, which was supposed to facilitate living together. Unfortunately, it only opened up the wounds, brought confrontation, and the demand for justice. Hence the emphasis on political reconciliation as against personal or individual thing which does not need to deal with a profound spiritual thing even though they may keep intervening. However, it appears that the dominant narrative here is that all that matters is not to love one another but to be tolerant of one another and not engage in killing one another. The clear narrative here is that what is needed is a qualified reconciliation, a limited form of reconciliation, a tolerable one, not a fully fleshed one involving a profoundly spiritual thing. This form of reconciliation is what we regard as “without reconciliation” while the totality of the absence of any and every form of reconciliation would be “with no reconciliation.”

Furthermore, Philip (2008), therefore concludes that while the Christian conception of reconciliation can be admitted inclusively, it was not sufficient. A genuine reconciliation must include real material needs of victims such as money, medical help and psychological counselling, economic redistribution, and restoration of the dignity of blacks through whites becoming compassionate and remorseful for previous wrongs than mere artificially manufactured scenes of blacks and whites embracing publicly. (Philip, 2008)

Although, the arguments were neither here nor there, and they could go on and on. However, despite the individual’s perspectives, it is an undeniable fact that apartheid ended. Power shifted from minority to majority, violations were exposed, and society remained one even with its imperfection, and to that extent, the peace process in SA was a considerable success. The role of this thesis is therefore to identify the underlying narratives so responsible for this success story and prominent among the seven paradoxes that underlie this peace process, is that of “peace without reconciliation”.

4.4 Peace without Reconciliation

Peace without Reconciliation is one of the seven paradoxical couplets through which South Africa was able to deliver peace without the predicted or anticipated violence. It appears implausible and unrealistic to conceive peace without reconciliation. Unfortunately so, but that is the reality of the element that delivered peace in apartheid SA. Just as in Agamben's philosophy, at a glance, it appears to be a paradox of contradiction or inconsistency to talk of peace without reconciliation when in the first place; it is only among reconciled people that peace can triumph. However, "looking closely", at the words of Agamben, it implies unpacking after which the seeming contradiction fizzles away.

Perhaps we can begin this analysis by affirming that the original intention of the architects of the TRC would have been to reconcile South Africans on an ideal note or standard, by which we mean, "Peace and reconciliation". The evidence of this is implicitly underlying the narratives as they emerge in the course of the work of the commission. Reading beyond the lines, we can infer that the intention of the commission would have been that of absolute perfection. To deliver, the peace that is borne out of genuine reconciliation. "The kind that transcends the division and strife of the past" This is nothing short of "absolute Peace" This is evident in the excerpt below;

I have the privilege and responsibility to introduce today a Bill which provides a pathway, a stepping stone, towards the historic bridge of which the Constitution speaks whereby our society can leave behind the past of a deeply divided society characterised by strife, conflict, untold suffering and injustice, and commence the journey towards a future founded on the recognition of human rights, democracy and peaceful co-existence, and development opportunities for all South Africans irrespective of colour, race, class, belief or sex. Its substance is the very essence of the constitutional commitment to reconciliation and the reconstruction of society. Its purpose is to provide that secure foundation which the Constitution enjoins: '...for the people of South Africa to transcend the divisions and strife of the past, which generated gross human rights violations... and a legacy of hatred, fear, guilt and revenge'. Dullah Omar, Minister of Justice introducing the Promotion of National Unity and Reconciliation Act in Parliament, 17 May 1995(TRCR. 1998: vol.1: 48)

Unfortunately, this holistic and absolute ideal kind of reconciliation and peace was unrealisable for the fact that *"if reconciliation and unity are to become a reality in South Africa, the energy and commitment of all of its people will be required."*

(TRCR1998 vol.1: 306) However, this is not the only obstacle to genuine reconciliation. It includes the fact that “ *People were victimised in different ways and a range of gross human rights violations was committed. The result demands extensive healing and social and physical reconstruction at every level of society. Sometimes these different needs themselves compete with one another, leading to fresh conflicts. This makes reconciliation a complex, long-term process with many dimensions.* ” (TRCR, 1998 vol.1: 350) The implication of the above submission is a confirmation of some of the reasons why a balanced, straightforward reconciliation based on complementary narratives were unrealisable. Hence the paradoxical, contradictory ones. It is again for the same reason that the South African conflict remained intractable for such a long time. The complexity and difficulty in achieving peace through reconciliation were further espoused in the excerpt, which confirms that “ Reconciliation is a never-ending process, is costly and often painful. For this process to develop, it is imperative that democracy and a human rights culture be consolidated. Reconciliation is centred on the call for a more decent, more caring and juster society. It is up to each to respond by committing ourselves to concrete ways of easing the burden of the oppressed and empowering the poor to play their rightful part as citizens of South Africa.” (TRCR.1998 vol.1: 349) Another confirmatory narrative that shows the impossibility of peace based on reconciliation is that which argues that “while truth may not always lead to reconciliation, there can be no genuine, lasting reconciliation without truth. Certainly, lies, half-truths and denial are not a desirable foundation on which to build the new South Africa. Second, it is readily conceded that it is not possible for one commission, with a limited life-span and resources, on its own to achieve reconciliation against the background of decades of oppression, conflict and deep divisions” (TRCR,1998 vol.1:306)

All these and many more in the TRCR were the compelling narratives that clearly show that “Peace with Reconciliation was unrealistic and hence needed to be reconstructed to “peace without reconciliation”. This means that despite the unattainability of reconciliation in its absolute sense, the goal of societal peace in South Africa remained non - negotiable. The compelling narrative, therefore, is that with or without reconciliation, the goal of peace was nonetheless imperative. The difficulty now is how then do we achieve peace without reconciliation? This is only possible if situated within Agamben’s inclusive, exclusive philosophy of the Homo Sacer. Hence,

the narratives have clearly shown that pursuing reconciliation in the absolute sense of what reconciliation should be, would be a sort of “wild goose chase” that is unattainable considering years of animosity and gross cruelty of human right violation that have contributed immensely to the unreliability of peace, and yet, the goal of societal peace remains imperative. The only option would be a deconstruction that would ensure peace without that element that disturbs it, and in this case, it is reconciliation.

In the light of Agamben’s philosophy, “Peace without reconciliation” does not necessarily mean peace with no reconciliation at all. It only means peace with traits of only the reconcilable, which is the bit of reconciliation that is possible in the light of the rough and rugged journey towards the attainment of peace. It is a limited fragment of reconciliation. The type that would not tamper with the process of peace. Hence, when reconciliation like Agamben’s Citizen is stripped of its bios, which is the disturbing elements, the remaining zoe nevertheless still has in it the elements, or traits of the excluded bios which is why the Homo Sacer in banishment, is still under the command of the sovereign power that banished him and could determine what death befalls him. In other words, he is excluded yet included in some limited senses. To that extent, in concrete terms, therefore, peace without reconciliation manifests itself in South Africa as this principle underlies the entire peace process. This paradox is reflected in some ways. For instance, Amnesty was granted to people who committed gross violations for reeling out the truth irrespective of the manner in which it was done, without regret or with arrogance. A move that was incapable of ensuring genuine reconciliation, yet he is guaranteed at least temporary peace. This geometry of analysis pervades the entire working of the commission. It is for this same reason that implicated people who did not apply for amnesty were not pursued vigorously and forcefully brought to book. It is to ensure peace even though there may be no genuine reconciliation. It is the same logic of analysis that made Judge Frankel advice against casting the net too wide because, that way, we can infer that it could proverbially catch crocodiles and hippopotamus which may proverbially tear the net and even pull the fisher into the water. According to

Judge Mahomed, then Deputy President of the Constitutional Court and now our Chief Justice, quoted Judge Marvin Frankel. In his book, *Out of the Shadows of the Night: The Struggle for International Human Rights*, Judge Frankel wrote:...The soldiers and police may

be biding their time, waiting and conspiring to return to power. They may be seeking to keep or win sympathisers in the population at large. If they are treated too harshly or if the net of punishment is cast too widely - there may be a backlash that plays into their hands (TRCR.1998, vol.1:6).

The critical point with Agamben, for instance, especially in a recent study on Guantanamo Bay, seems to reaffirm that this concept of exclusion is fused with inclusion such that there is still a hold on whatever is excluded by inclusion in some forms. Hence the excluded thing is not allowed to wander off somewhere unmonitored because even in its exclusion, its part and role within the excluded circuit remain actively relevant as the traits of it would always remain functional in some forms. Hence, it involves holding the excluded in the position of the Homo Sacer, stripping it down to bare life. Such that in this scenario, the lack of reconciliation exclusion of reconciliation includes "reconciliation" in some external modulated form where it is stripped down and divested of all political expressions. Hence, reconciliation has been excluded, but still included in some modulated, fragmented version within "peace". it is not totally terminated or obliterated. This seems to be the basic argument of Agamben when he argues that:

Western politics has not succeeded in constructing the link between *zoē* and *bios*, between voice and language, that would have healed the fracture. Bare life remains included in politics in the form of the exception, that is, as something that is included solely through an exclusion. How is it possible to "Politicize" the "natural sweetness" of *zoē* And first of all, does *zoē* really need to be politicized, or is politics not already contained in *zoē* as its most precious center? The biopolitics of both modern totalitarianism and the society of mass hedonism and consumerism certainly constitute answers to these questions. Nevertheless, until a completely new politics -- that is, a politics no longer founded on the *exceptio* of bare life -- is at hand, every theory and every praxis will remain imprisoned and immobile, and the "beautiful day" of life will be given citizenship only either through blood and death or in the perfect senselessness to which the society of the spectacle condemns it. Carl Schmitt's definition of sovereignty ("Sovereign is he who decides on the state of exception") became a commonplace even before there was any understanding that what was at issue in it was nothing less than the limit concept of the doctrine of law and the State... Today, now that the great State structures have entered into a process of dissolution and the emergency has, as Walter Benjamin foresaw, become the rule, the time is ripe to place the problem of the originary structure and limits of the form of the State in a new perspective.(Agamben:1995:10)

Similarly, Michael Peters:(2014:330-331) equally presented in a more practical sense this Agamben's thesis by aligning it with the originary violence, which is the Sovereign ban that necessitated the exception in the first place., linking theory with application. According to him,

Homo Sacer (1998) is hugely significant because it is in this work that he first examines the logic of sovereignty, introduces Homo Sacer and famously posits the camp as biopolitical paradigm of the modern. Agamben infers that while Foucault began with the prison and forms of spatial internment (grande enfermement) his biopolitical studies never led him to the analysis of the concentration camp. For this missing analysis he turns to Hannah Arendt and her studies of totalitarian regimes as forms of total domination but he maintains both miss the link between their ideas and the camp in its 'intimate symbiosis with bare life' in a fundamental shift from 'the juridico-political foundation of classical politics' (p. 71). He traces bare life as the new political subject as implicit in the 1679 writ of habeas corpus and highlights the new centrality of the 'body' in the politico-juridical model: in Descartes and Newton, and in Hobbs' Leviathan but also in the 'thanatopolitics' and eugenics of the Nazis death camp that places it outside 'the normal juridical order' (p. 97) and linked to the concept of state of exception. He concludes with three theses: (1) The original political relation is the ban (the state of exception as zone of indistinction between outside and inside, exclusion and inclusion). (2) The fundamental activity of sovereign power is the production of bare life as originary political element and as threshold of articulation between nature and culture, zoe - and bios. (3) Today it is not the city but rather the camp that is the fundamental biopolitical paradigm of the West (p. 102)...During the Bush years, however, Agamben's investigations of sovereign authority, the state of emergency (or exception), and the concept of 'bare life' seemed to speak directly to the most immediate and pressing political concerns of the day: the emergency powers claimed in the War on Terror, the fate of the 'detainees' kept in the lawless zone of Guantanamo Bay, and the general reassertion of the kind of state sovereignty that globalization was supposed to be rendering irrelevant. Despite being coincidentally topical, however, there is still much that is puzzling about the political works themselves. Homo Sacer, which infamously claims that the paradigm of all modern politics is the concentration camp, proceeds by way of an investigation of an obscure figure in Roman law — the homo sacer ('sacred man') who could be killed with impunity but not sacrificed. (Peters:2014:330-331)

In other words, every element that tends to promote a lack of reconciliation is downplayed by being stripped of its bios, not being given any political voice. It is excluded but still inclusive in a controlled manner or regulated form in which it is not allowed to be freely thought of, and where one does, it is explained out in a manner that one accepts it as part of the structure that is given but not debatable. For instance,

we have gotten peace; peace is in place. However, if this lack of reconciliation becomes a theme, that is going to disturb the peace, in any shape or form, it is, stripped down to its bare form, where it becomes less lethal or potent. This, in a way, is the originary violence that provokes the ban in the narration above. At this point, it is in the position of the Homo Sacer in exile.

Although, not left to wander off, because while out there, it remains functionally contributory in some ways to the totality of the societal peace. This form of geometry stripes reconciliation of its absoluteness. Hence, the extent to which non-reconciliation becomes compatible with peace, in the final analysis, determines the extent of peace achievable. This boils down to the fact that even though there is peace, there is no real reconciliation because real reconciliation was capable of opening up some other new and complex dimensions of justice, which would make peace itself unattainable.

However, for peace to be attained, some level of reconciliation is necessary. Hence, if reconciliation becomes a threat to peace, it must be fundamentally pushed to the background, leaving only those elements and traits of it (reconciliation) that is compatible with peace. Meaning that even though, reconciliation is excluded in order for peace to thrive, yet traits of it remain because no reconciliation at all, is in itself a threat to peace. This is why, as mentioned above that perpetrators were not vigorously pursued as doing that would be inimical to the overall intention of peace and reconciliation. Even though this had often been explained away, yet reading holistically the report reveals that in the overthrow of apartheid, caution was exercised, mainly because the forces of apartheid still had the monopoly of the use of force through the control of state apparatus and machinery. This is why at the beginning of the report, Desmond Tutu said that if it were not for the amnesty provision, this same dominant class of oppressors would have “scuppered” the mediation process. It is this action of pushing disturbing elements to the background that Desmond Tutu refers to here without explicitly admitting it when he said, “the precise question of motives of perpetrators was often not fully canvassed by amnesty panels, nor by special hearings of the Commission. These shortcomings should be attributed to partial failings of the Commission itself, rather than to systematic bias.”(TRCR,1998:vol.1:260)

From the above narrative, it is reasonable to disagree with Desmond Tutu as this is neither an error of omission nor commission. It seems part of the general design to

gloss over issues that if dug into, it could be detrimental to the overall objective of societal peace, which again is why “the net must not be cast too wide”. However, we do know that following Agamben; it is systematic to exclude anything that would stand against peace. This is why Tutu remarked that the idea of absolute reconciliation that requires cosiness was not what was required in the case of South Africa. Instead, it is a deconstructed and excluded reconciliation whose elements entail tolerance that is required. (TRCR.1998: 17)

However, reconciliation has been variously equated with justice, truth, forgiveness and a host of other such concepts. Nevertheless, for the avoidance of repetition as much as possible, it will suffice to end the analysis in this section on the note that from the manner in which the narratives emerged and developed, the concept of “peace” was projected as superior and should take precedence over the concept of “reconciliation”. Hence, any act capable of derailing peace was pushed to the realm of “bare life” where its relevance and strength is considerably reduced, but not terminated. However, in its reduced or inactive state, it remains selectively useful in contributing to the overall agenda of societal peace. This act of degeneration into bare life is the essence of the Agamben's exclusive, inclusive philosophy of the Homo Sacer.

Besides, there was no consensus on what reconciliation is among the members of the TRC, Phillips (2008) insinuated that this could have been deliberate to allow for fluidity in its application and manipulations in the overall interest of the commission which is mainly societal peace and stability. In the words of Phillips (2008) “*a politically workable solution to allowing people to live side by side and in a way which negates the need for violence*” is another way of advocating for peace without reconciliation. Because “a politically “workable” solution is not an absolute ideal, but peace of some sort. Whereas living side by side in a way that negates violence, is also not necessarily reconciliation, it connotes more of tolerance in the interest of peace and not that of friendship at all. This is the key to peace in South Africa. Key issues that brought about criticism of the commission at various levels were particulars and manifestations of this objective of peace without reconciliation.

Even the case of top leaders of apartheid that were left off the hook while their subordinates were indicted, is a pointer not just to the fact that “truth was exposed, yet justice was denied” for the same overriding interest of societal peace and stability.

Again, it is why some have argued that they were treated with kid gloves, it was not impossible to have treated them differently in the pursuit of justice, because it could be counterproductive to derail the entire peace process. Hence, it was better to be unreconciled by allowing criminals off the hook than jeopardise the entire process of societal peace altogether. The phrase used by David Phillips to describe it as would be seen below is “*political prudence*” It is this same geometry of argument that Desmond Tutu was pushing when he said, in the TRC report that;

We have the luxury of being able to complain because we are now reaping the benefits of a stable and democratic dispensation. Had the miracle of the negotiated settlement not occurred, we would have been overwhelmed by the bloodbath that virtually everyone predicted as the inevitable ending for South Africa.(TRCR.1998: vol.1:5)

The impression given here is that of a delicately managed transition where moderation is applied in order to guard the process carefully to prevent a derailment which was imminent given the balance of power at that time. It is this same caution that Desmond Tutu was referring to when he said as variously cited above that ‘the net should not be cast too wide’ in the pursuit of human right violators. It gives the impression of compromise and complicity of some sort in the pursuit of societal peace which is why there is no vigorous and absolute pursuit of those who perpetrated injustices in different forms and shapes through gross violations of human rights. Hence, we must understand that some of the criticisms against the commission in those respects were essentially not errors but part of the grand design to bring back peace through the various paradoxes of inconsistency, of contradictions, and irregularities. This again can only be understood after careful dissection of the web of narratives that ensued in line with the theoretical backgrounds against which these narratives were pitched. In the words of Philip, (2008)

The TRC was assigned a massive political, social, and moral role. Natural justice suggested that victims and their families had a right to expect both prosecution and reparation. International Human Rights Law demanded that, as with Pinochet in Chile, the leaders of the apartheid regime such as P.W. Botha, should be punished, to deter others from running similar regimes. Yet **political prudence** suggested that all the conflicting groups in South Africa should try to live together in the future, hence the need for national reconciliation. Perhaps it was the most sensible course to take – to trade amnesty for perpetrators in return for their putting their misdeeds on the public record. This could be rationalised as an essential reconciliation to which was added a gloss of religion

and morality, by invoking the virtues of Christian forgiveness and indigenous ubuntu. Many South Africans are not happy at the thought that many of the guilty perpetrators (White ones, in particular) have escaped prosecution. But, in its favour, the TRC has also left a permanent historical record of detailed disclosures by some of the perpetrators of atrocities which the forces of 'law and order' committed in defending apartheid South Africa, thus at last confirming what many people claimed in the face of repeated official denials during the apartheid years. The TRC didn't – it couldn't – satisfy all the high hopes placed on it by both South Africans and the international community. Its brief was to produce both 'truth' and 'reconciliation'. But perhaps you can't have both at once, and it may have served truth at the expense of reconciliation. (Phillips, 1998: 3)

Reading between the lines of the above excerpt, we could rightly infer that a couple of the derived paradoxes that were key to the return of peace to South Africa were reflected here. The first is that of "peace without reconciliation" as we have argued earlier, there is also the connotation in the use of the word "try" in the expression, "*all the conflicting groups in South Africa should try to live together in the future*", is a reference to the paradox of tolerance without friendship. Moreover, closely associated with this narrative is also the paradox of "unification without harmony" Amnesty without forgiveness is fused with confession without remorse in the expression, "*to trade amnesty for perpetrators in return for their putting their misdeeds on the public record. They merely put their misdeeds on records* by confessing it to fulfil all righteousness, not in repentance or remorse of any kind and consequently unable to elicit forgiveness in any shape and form. Underlying all these is the fact of the paradox of "Truth without justice" as can be seen in the excerpt, that "*Its brief was to produce both 'truth' and 'reconciliation', not truth and justice*". Hence, of the seven paradoxes upon which the South African peace was based, it is only one that did not feature explicitly in this excerpt, and that is "healing without forgetting" which again can be subsumed under the canopy of peace as a whole.

4.5 Summary of the Discussion on Peace without Reconciliation

From the above, it is clear that that the kind of peace that was desired in Apartheid South Africa was one that results from reconciliation. Unfortunately, the damage done to the relationship between the oppressors and the oppressed have been too extensive that such absolute reconciliation was impossible and yet, the attainment of peace was not negotiable. The option available was to create a narrative in which even though,

the kind of peace desired was not possible, yet the attainment of peace must inevitably be achieved. Perhaps in the long years of seeking peace in SA, the society had remained rigid about attaining peace on the platter of reconciliation which is why it was never achieved until now that the narratives changed against the rigorous theoretical base of Agamben. It must also be mentioned that we have been rigorously extensive in the analysis in this couplet to lay a foundation for the other couplets that followed the same geometry of analysis with variation only in particularity.

Unification without Harmony

4.6 Introduction to Unification without Harmony

This section deals with the identification and analysis of the phenomenon of Unification without Harmony within the South African peace process. It examines the themes underlying the peace narratives in South Africa (SA) as well as the analysis of how the paradox of Unification without Harmony was derived and how it operationalises itself within the Agamben's exclusive, inclusive philosophy of the Homo Sacer. This paradox like the others, has two elements, Unification and Harmony. What do these concepts entail and how were they activated as part of the underlying paradoxes with which peace and societal stability were returned to apartheid South Africa? In this couplet, unification is the constant independent variable that does not change. It is that which needs to be fulfilled at all cost in order to achieve societal peace while harmony is the dependent variable that needs to be deconstructed and fragmented through a process of distillation in order to fulfil the objective of the dominant variable, which in this case is Unification. It appears that Unification as against annihilation is a significant consideration for the narratives that emerged in the peace process in Apartheid SA.

4.7 Analysis of Unification with Harmony transformed into Unification without Harmony

Just as with other paradoxes in the mediation process, the original intention of the TRC was to deliver unification of the South African state on a clinically harmonious ground. In the interest of societal peace, the architects of the TRC were eager to maintain the corporate existence of SA as one indivisible political unit based on a carefully packed peaceful narrative. It was interested in building a united society based on mutual understanding, societal peace and tranquillity, despite the disintegrating and

disharmonious narratives that had been created by long years of apartheid animosity and startling revelations from the TRC. To the architects of the TRC, the objective of keeping South Africa one supersedes every other consideration. Unfortunately, because such harmonious and the smooth sailing equation was unattainable given the historical antecedents of apartheid South Africa, The equation had to be reversed in order to ensure that the primary objective of unification is sustained against all the odds. This is why despite disharmony between the blacks and whites, it was necessary to sacrifice any other element that would run counter to this goal of Unification. Again, it is Agamben at work. We must also remark that because peace was delivered without reconciliation, unification with harmony was impossible. Because healing was delivered without forgetting, unification with harmony was impossible. Because amnesty was delivered without forgiveness, unification with harmony was impossible. Because Truth was delivered without justice, unification with harmony was impossible. Because confession was delivered without remorse, unification resulting from harmony was impossible, and because tolerance was delivered without friendship, unification as a result of harmony was impossible. What then was possible? It is unification without harmony. Hence the deconstruction that ensured that even though there were large-scale disharmony and discontent within the South African society, the goal of unification remained non-negotiable.

In this case, the Independent variable is unification, while harmony is the dependent variable. Unification is the constant that Derrida refers to as the phenomenon that is projected arbitrarily over the other. It is in order to fulfil unification that harmony had to be deconstructed and stripped of all political expressions that could have made it inimical to the thriving of the primary objective, which in this case, is unification. Hence, it is essentially harmony that has been stripped of its bios and pushed to the realm of reductionism and impotence. This is where it is less lethal and poses minimal threat to unification. What then is Unification and Harmony? What do they entail and how have they contributed to the development of peace in apartheid South Africa?

4.8 What is Unification?

The online Etymology dictionary, affirms that the word unification is a noun form of the verb, unify which is traced as far back as to the A.D. 1500s. Its origin is traced to the French word “unifier” meaning, "to make into one," and from the Latin word , “*unificare* ” which means “make one,” . The latin word uni- means “one” and when

this is combined with *facere*, it carries the connotation of "to make". Further dictionary inquiry reveals that Unification means "to make or become a single unit; unite: to unify conflicting theories; to unify a country". (Harper, 2001. 1)

However, our interest here is in its usage as it applies to the unification of a country, and in this case, the country in question is South Africa. Hence, our interest is in all acts that helped in keeping the country together as one indivisible political entity known as South Africa, despite threatening realities that almost tore the society apart. The ferocity of apartheid was such that in its last days, the only rational synthesis that could be logically and consistently deduced from SA, was not just the popularly predicted civil war of unprecedented magnitude, but of course, it was a society heading for disintegration if not total fragmentation and annihilation. The goal of unification aimed at holding together the corporate existence of South Africa as one integrated political unit became imperative. This inevitably became a cardinal goal for the TRC.

4.9 What is Harmony?

The word harmony connotes agreement; accord; harmonious relations. It implies consistency, orderliness, in which there is a pleasing arrangement of parts; congruity. The word finds relevance firstly in music where it connotes, any simultaneous combination of tones. Particularly when blended into chords pleasing to the ear; chordal structure, as distinguished from melody and rhythm. Hence, harmony is the blending of synchronised sounds of different pitch or quality. It also implies the science of the structure, relations, and practical combination of chords. It also connotes an arrangement of the contents of the four synoptic Gospels, or of the first three, which are designed to show their parallelism, mutual relations, and differences argues the online Etymology dictionary. Similarly, the Oxford English dictionary conceives harmony as an agreement in action, opinion, feeling, or accord. It also implies orderliness or congruity of parts to their whole or one another. While in music, it connotes agreeable sounds when all these are transported to the political realm, it carries the connotation of a society that is smoothly blended in one accord. A society of mutual understanding and orderliness, of unity in diversity, a society devoid of chaos and cataclysm. It is a society of peaceful coexistence and tranquil orderliness. (Harper, 2001; Murray et al., 1970.)

4.10 What is Unification without Harmony?

It must be expressly stated here that because of the peculiarity of this research, where all the themes and narratives are interconnected and interrelated with one leading to the other, It becomes impossible to avoid some repetitions entirely. Hence some quotations used to substantiate other arguments elsewhere might again be employed in buttressing other arguments in other parts of the work where they would easily be clearer. Some of the arguments were explicit, while others were implicit. It is equally observed that the meaning of some of the terms used in this research was not fixed. The meaningfulness of some propositions is contextual. In other words, reconciliation at one time of usage may refer to unity at another time; it may imply harmony, and we find that reoccurring all over the work. Hence, the meaning of concepts at different times becomes a function of constructs. To that extent, we functionally define the terms and usage as they unfold within different contexts.

The very idea of Unification without harmony is akin to that of tolerance without friendship. It is like saying that although we are physically together as one geographical and political entity but spiritually apart in fragments and out rightly in disunity. The same geometry of analysis applies here. Thinking correctly, or ideally, the architects of the TRC would probably be interested in building a new SA that is founded on Societal Unification, based on both individual and corporate harmony of the different groups that make up the society. The word harmony here can be substituted with friendliness or friendship while unification can be synonymous with the cooperate existence of the society at large, based on the principle of tolerance and not of friendship. However, Unification founded on that “perfection” called harmony is unattainable, yet unification is indispensable, as far as the South African project was concerned. So deconstruction became inevitable. Also, our instrument of deconstruction is Agamben’s philosophy. The narrative leading to this paradox affirms that,

National unity accepts different communities, accepts different cultures, accepts different value systems, accepts different religions, and even accepts different histories, provided there is some shared history. The work and activities of the Commission will certainly contribute to the further development of a shared history. However, such a history cannot be force-fed. (TRCR, 1998: vol.5:443)

To attempt “ force-feeding”, it would amount to trying to advocate for the absolutist idea by trying to enforce unification with the harmony, which is unrealistic and could

become counterproductive. This narrative was further analysed by the Commission who saw clearly that without deconstruction of the statuesque, there could be no societal peace. It is this that is implicitly expressed in the argument that,

To think or to argue that there is no national unity without reconciliation and no reconciliation without truth would be to imply that the Commission has to achieve or pursue its mandate in stages. This is not the structure of the Act. It is not in keeping with the spirit of the postamble to the interim Constitution. The postamble posits the Constitution as the foundation for transcending division and strife. The postamble is in a sense eschatological in its essence. It posits the unity which is to be achieved, nurtured and promoted amidst all the different views and understandings. (TRCR, 1998: vol.5:439)

This is the same thing as advocating for unity in diversity or more precisely, unity despite disharmony or divisions. The resultant deconstruction perhaps informed the following narrative that argues that “Reconciliation does not necessarily involve forgiveness. It does involve a minimum willingness to co-exist and work for the peaceful handling of continuing differences”. (TRCR, 1998: vol.5:435) The use of the word “minimum” here, presupposes that the deconstruction underlying the success of the TRC was not absolutist, which would have been the perfect ideal and that would ordinarily be preferred. In the light of Agamben, the ideal had already been excluded given that it inimical to success and the “un-ideal” now operates like the rule even though, it is the exception.

Furthermore, it is important to state from the outset that, in the drive towards societal unification and nation-building, it is argued that,

emotions may run high when considering the actions of perpetrators, and that perspectives may differ sharply, leading to difficulties with reconciliation. Some will tend to blame, condemn and feel bitterness towards perpetrators while others are able to demonstrate empathy, understanding, sympathy or even praise for those who did some of these deeds. Given the divisions of the past, such varying perspectives towards perpetrators from the varying sides of the struggle are not surprising. It is neither simple nor easy to take a neutral or wholly objective stance towards perpetrators of evil deeds. Nevertheless, this part of the report needs to provide an understanding of dreadful deeds, without condemnation. At the same time, as Browning, a leading Holocaust scholar, puts it: “Explaining is not excusing, understanding is not forgiving”. The Commission, in this chapter, is seeking to fulfil its objective to promote national unity and reconciliation in a spirit of

understanding which transcends the conflicts and divisions of the past (.TRCR. 1998: vol.5:271)

The above excerpt leaves no one in doubt about the intention of the commission. Utterances such as “Understanding of dreadful deeds” is synonymous with Unification without harmony. Despite realising that they were dreadful deeds, yet it was understood or condoned in the spirit of societal peace and stability. Understanding that they are dreadful people may keep one on his guards even though one still living with them.

Moreover, just as “Explaining is not excusing” and “understanding is not forgiving”, Unification is not harmony. The excerpt also affirms why Unification with harmony was difficult when it says “emotions may run high when considering the actions of perpetrators, and that perspectives may differ sharply, leading to difficulties with reconciliation” It is this difficulty that informed the exclusion that made Unification with harmony turn into unification without harmony. The goal is to “*promote national unity and reconciliation in a spirit of understanding which transcends the conflicts and divisions of the past*” in other words, in our opinion, this is the same thing as saying that they would unify despite the atmosphere of disharmony. What is required, therefore, is a deconstruction that reduces harmony to its barest form where its remnants would not be repugnant to societal unification and stability.

This must also be done with the understanding that “A nation divided during a repressive regime does not emerge suddenly united when the time of repression has passed. The human rights criminals are fellow citizens, living alongside everyone else, and they may be very powerful and dangerous. If the army and police have been the agencies of terror, the soldiers and the cops aren’t going to turn overnight into paragons of respect for human rights. Their numbers and their expert management of deadly weapons remain significant facts of life.... The soldiers and police may be biding their time, waiting and conspiring to return to power. They may be seeking to keep or win sympathisers in the population at large. If they are treated too harshly - or if the net of punishment is cast too widely - there may be a backlash that plays into their hands. But their victims cannot simply forgive and forget” (TRCR .Vol.1 pg. 6)

The reality of this bleak picture painted by Bishop Tutu, above, is a clarion call for caution while the balance of power is still tilted in favour of the opposition. This seems to be confirming the view of Professor Ola Rotimi in his book; The gods are not blame, (an African adaptation of Oedipus Rex) where he said that “until the rotten tooth is pulled out, the mouth must chew with caution” This caution is so imperative

especially when it is clear that we are embarking on a goal of unification among disharmonious people. Trying to harmonise them in order to unify them, would be a tall dream that may be unrealisable in the immediate, hence the need for a deconstruction that would proceed with unification together with all the baggage that comes with disharmony.

The first paragraph of Desmond Tutu's foreword in vol.1 of the TRC report; Tutu not only confirm that the primary goal of the TRC was nation-building and societal unification but not without the recognition that it was going to be a tough one considering that it was a society that has been grossly torn apart with an endless list of events that readily reminds us of how disharmonious the society has been. Tutu confirmed this in his statement when he said “

All South Africans know that our recent history is littered with some horrendous occurrences - the Sharpville and Langa killings, the Soweto uprising, the Church Street bombing, Magoo's Bar, the Amanzimtoti Wimpy Bar bombing, the St James' Church killings, Boipatong and Sebokeng. We also knew about the deaths in detention of people such as Steve Biko, Neil Aggett, and others; necklacings, and the so-called 'black on black' violence on the East Rand and in KwaZulu Natal which arose from the rivalries between IFP and first the UDF and later the ANC. Our country is soaked in the blood of her children of all races and all political persuasions. (TRCR, 1998: vol.1:1)

It must be argued that what Desmond Tutu has done here is to confirm the disharmony with a list of evidence, yet at the end of it all, he introduced the unifying clause, which is not exactly the whole truth but expedient in order to achieve the narrative of unification despite disharmony. Some theorists such as Steve Tesich (1992), Ralph Keyes(2004), Eric Alterman (2004) Kathleen Lonsdale (1957) to mention just a few call it, “Post Truth” theory. The statement is that “*Our country is soaked in the blood of her children of all races and of all political persuasions.*” (TRCR,1998:vol.1:1)

The argument is that a rhetorical unification is effected within the discourse, despite the evident disharmony. This is the production of ‘the nation’ in an ‘Imagined Communities’ manner. The application of Agamben was adopted to point out the originary violence at the founding of the state. In this couplet, the ban excluded harmony because harmony exists only at a lower level of *zoe* while unification with harmony is at the level of the collective, *bios*. Though *bios* is expunged, yet the

remaining zoe has bios within it. This reason is why unification without harmony, could still in this deformed state provide a modulated societal stability.

Tutu did not make any distinction here as would be seen later that it was not an equal loss on the part of the white minority perpetrators of apartheid and the black majority anti-apartheid forces. He carefully glossed over the intensity and tilt now to emphasise unification that tends to obliterate who suffered the most in the saga. Whereas in chapter two of volume one, page 24, Tutu, affirmed a contrary view, quoting Chief Justice DP Mahomed who argued that,

For decades South African history has been dominated by a deep conflict between a minority which reserved for itself all control over the political instruments of the state and a majority who sought to resist that domination. Fundamental human rights became a major casualty of this conflict ... the legitimacy of the law itself was deeply wounded as the country haemorrhaged in the face of this tragic conflict ...(TRCR,1998.vol.1:24)

This is not all. This false equality of victims did not last. In a similar development, Archbishop Desmond Tutu had no choice but to affirm the reality that one group was more at the receiving end of the evils of apartheid even if for unification purposes, it is not allowed to be expressed. For instance, on page 34 of vol.1, Tutu argues extensively that,

human rights abuse was: for nearly half a century ... the warp and weft of their experience ... defining their privilege and their disadvantage, their poverty and their wealth, their public and private lives and their very identity ... the system itself was evil, inhumane and degrading ... amongst its many crimes, perhaps its greatest was the power to humiliate, to denigrate and to remove the self-confidence, self-esteem and dignity of its millions of victims. 45 Thus, while only some 21 300 persons filed gross human rights violations petitions with the Commission, apartheid was a grim daily reality for every black South African. For at least 3.5 million black South Africans it meant collective expulsions, forced migration, bulldozing, gutting or seizure of homes, the mandatory carrying of passes, forced removals into rural ghettos and increased poverty and desperation. Dumped in the 'national states' without jobs, communities experienced powerlessness, vulnerability, fear and injustice. (TRCR,1998:vol.1:34)

However, to achieve unification and nation-building, vendetta must not be pursued. Which is why Desmond Tutu further affirmed strongly that;

Everyone involved in producing this report would have loved to have had the time to capture the many nuances and unspoken truths encapsulated in the evidence that came before us. This, however, is

a task which others must take up and pursue. A Dutch visitor to the Commission observed that the Truth and Reconciliation Commission must fail. Its task is simply too demanding. Yet, she argued, “even as it fails, it has already succeeded beyond any rational expectations”. She quoted Emily Dickinson: “the truth must dazzle gradually ... or all the world would be blind”. However, the Commission has not been prepared to allow the present generation of South Africans to grow gently into the harsh realities of the past and, indeed, many of us have wept as we were confronted with its ugly truths. However painful the experience has been, we remain convinced that there can be no healing without truth. My appeal to South Africans as they read this report is not to use it to attack others, but to add to it, correct it and ultimately to share in the process that will lead to national unity through truth and reconciliation.(TRCR.1998: vol.1: 4)

The above excerpt is quite revealing of the underlying goal of the commission. In this piece, there is no mention of the word justice, but truth appeared six times and all pointing to the direction of the overall objective of the commission, which in this case is nation-building and societal unification. From, the text; it is evident that Desmond Tutu’s conception of truth is neither epistemological nor ontological, but political: a means towards an end, ultimately societal unification, founded on the problematic concept of truth. Desmond Tutu even in this text subscribes to being cautious in the revelation of truth to ensure that it is not detrimental to the primary objective that is why “truth must dazzle gradually” Tutu recognises unspoken truths, ugly truths whose “harsh realities” cannot be allowed to tamper with the goal of national unity. This is Agamben in action. Justice has no place here but forgiveness that is implied even though the word forgiveness was not expressly mentioned at this stage but implied in phrases that are suggestive of deep moral obligations outlawing retaliation or punitive actions of any kind; such as expressed by Emily Dickinson above.

In Desmond Tutu’s foreword in vol.1, Paragraph 16, he talks of Unity, truth and reconciliation. While in paragraph 18, he argues more paradoxically and ontologically by referring to the need for future generations to romanticise the legacy of the TRC. This should be done as they search the document for “clues that lead endlessly, to a truth that will, in the very nature of things, never be fully revealed”. This all sounds very much like the mythology of nationhood. It is a reference to a hidden truth at the origin of the collective. All these are pointers to the underlying goal of nation-building, societal unification and stability, which are considered superior to any idea of truth or

justice in any form. However, ironically, the very idea on which this notion is built will only be buried within the invisible crevices of the report for which endless search can never fully revealed. This sounds quite ontological and highly informative to the extent that the TRC carefully crafted a more profound superstructure on which the societal stability was to be laid, and the very idea of revelation here underscores the epistemological issues of appearance and reality. These and many more reveals that the South African TRC seems to have been crafted on the highly rigorous philosophical basis such as those of Derrida or Agamben's exclusive, inclusive philosophy of the Homo Sacer. It is only by a clear articulation of this philosophy that an understanding of how unification can occur without harmony. This bit is what the section on a theoretical framework was all about.

It is similarly revealed that "*The objective conditions of inequality make it clear that South Africa is a highly stratified society, characterised by intense structural and institutional injustice and violence*". (TRCR,1998:vol.5:142-143)

This is an apparent confirmation that the society is full of disharmony apart from its looming breakup. The choice is one of two evils, the break-up or the disharmony. It is a case of opportunity cost where one of the alternatives must be forgone. Breaking up is a loss, loss game, but maintaining its corporate existence while working towards societal stability through the blending process of harmonisation was a better option. To that extent, the narrative of Unification without harmony becomes the goal to be pursued. The implication is that the perfect blend of society was not immediately necessary, ensuring its corporate existence is primary. Sounding more like existentialism where existence precedes essence.

It is important to reiterate here that the whole essence of the TRC was to ensure that SA as a political unit does not fall apart given the systemic and systematic violations of human rights that have vitiated the society for so long and has created not just bad blood but hatred and the constant call for justice. The divisive nature of South African society threatens the corporate existence of the society. The TRC's main task, therefore, seems to be primarily, the preservation of this edifice, at all cost, by unifying the society irrespective of its disharmony. The casualty of such narrative was the traditional conception of justice. To achieve this, the TRC embarked on some theoretical deconstruction in line with Agamben's philosophy where the philosophy

of retaliation in all its forms was ousted while that of forgiveness was instituted in its place. Among the elements that were necessarily excluded was that of harmony while unification was inclusive. There is no doubt that these theoretical narratives brought immediate peace and stability to South Africa. What is difficult to guarantee, is futuristic stability especially as the current peace was delivered, not without its reservations which are like an unfinished business, that creates uncertainties for the future of societal peace and stability, which is left to the unfolding rhetoric of the future. This again is dependent on how the narratives are managed as the society develops and moves forward.

What Desmond Tutu seems to be saying below is that amnesty was a tool of societal harmony, given in order to achieve unification considering the alternative of violent disintegration that would have followed. There is some sort of irony and paradox in Vol; 1, paragraph 49 of the TRC report where Tutu argues that “*amnesty is not meant for nice people*” And there is over romanticising the too soft punishment for a gross violation to give it a larger than life image just to overcome the criticism of impunity. Confession of the truth may be a price to pay but certainly too soft in the deliverance of justice where the scale and sword applies. Unfortunately, the theme of forgiveness and reconciliation also took precedence over justice here in the pursuit of societal unification and stability over the predicted bloody war that was supposed to be the inevitable end of South Africa. Underneath this is the theme of over prized freedom and societal stability, which is what Desmond Tutu refers to when he says “Amnesty is a heavy price to pay. It is, however, the price the negotiators believed our country would have to pay to avoid an “alternative too ghastly to contemplate”. The alternative too ghastly to contemplate here is a reference to the total breakup of the society, in a bloody circumstance.

The goal of unification was considered a priority over harmony. This is why for instance, Desmond Tutu in Vol.1 page 15 of the TRC report, he chronologically showed how the international community variously condemned apartheid and the TRC was compelled as it were, to consistently follow suit, instead, it inconsistently refused to follow it through logically. For instance, in the interest of societal unification, it was agreed that apartheid is a crime against humanity among other pronouncements. However, it failed to see the perpetrators of such crime against humanity as villains

while anti-perpetrators as valiant fighters of a just course or a just war. This should ordinarily have been reflected in the category of those that should seek amnesty. Such exemption was not given. Everyone was seen as equally guilty, in a warped narrative that assigned false equality to both sides, as the principle of cause and effect were suppressed in the interest of national unity. Such blanket categorisation is painfully inimical to harmony as the only plausible explanation for this, by victims is injustice and incapacitation of some sort.

Nevertheless, the architects of the TRC would instead choose such disharmony than threaten unification. The choice of words and chronological presentation of these facts by Desmond Tutu is a demonstration of the extreme care or delicate manner in which it navigated through the contradictions from within which societal unification was built.

According to Archbishop Desmond Tutu;

Mercifully the international community, and not just the Communist bloc, has already declared apartheid to be a crime against humanity. For the international community, indeed, this is no longer a point of debate. The world Christian community has declared that the theological justification of apartheid is a heresy. Closer to home, the Nederduitse Gereformeerde Kerk has said that apartheid is a sin. Some of the most senior judges in our country - who could not by any reasonable person be described as demagogues or lackeys of the ANC – have called apartheid a gross violation of human rights. Thus, the Truth and Reconciliation Commission is a latecomer in this area. The world would indeed be surprised if the Commission had not found apartheid to be a crime against humanity (TRCR,1998:vol.1:15)

It is interesting to note that the original intention of the narrative under review, was to promote “unification founded on harmony”. This fact was carefully buried in between the lines below in page 15-16 of vol.1, of the TRC report when Tutu’s says, *“To lift up racism and apartheid is not to gloat over or to humiliate the Afrikaner or the white community. It is to try to speak the truth in love. It is to know the real extent of the sickness that has afflicted our beloved motherland”* (TRCR,1998: vol.1: 15-16)

Speaking the truth in love is another way of saying unifying the country by harmony. On the other hand, it is what some might call, embarking on constructive criticism. Hence, using such literary terms such as “engaging in lovely reprimand” It may be lovely, even though, it is a reprimand which underscores modality or modus operandi. Again, the use of the word “try” here is a reference to the difficulty and complexity involved in such narrative, and so it was going to be an attempted struggle to swim

against the tide. This was the initial desire of the architects of the TRC, but the real fact is that this was not feasible and as such, the deconstruction that compels us to embark on unification without harmony had to take place for peace to return to SA.

Furthermore, the expression of Desmond Tutu where he used the word “reconciliation and cosiness” which had though, been cited elsewhere to buttress some points within the same geometry is here again functionalised. In the excerpt,

What is amazing is that the vast majority of the people of this land, those who form the bulk of the victims of the policies of the past, have said they believe reconciliation is possible. The trouble is that there are erroneous notions of what reconciliation is all about. Reconciliation is not about being cosy (TRCR,1998: vol.1:17)

What Tutu is saying in essence here is that the South African victims of apartheid believe that “Unification is possible” especially if it is without the insistence that it had to be with harmony. The Word “reconciliation” as it appears at that point, can be substituted with unification successfully without fear of contradiction. That is not all; this is why he went further to clarify that the error comes in when it is wrongly conceived that unification would automatically imply that it must be done with harmony. The use of the word “cosy” in this context would be an adequate substitute for “harmony” In other words, Unification is possible, and the trouble is that there is an erroneous notion of what unification is all about. Unification is not about being harmonious (cosy). It is about maintaining the corporate existence of the society as one unified entity, despite her diversity. This is one of the dominant narratives that returned peace to SA.

The poetic form in which the reality of painful search for unification that was grossly short of harmony in which the harrowing experiences of the past were narrated, was quite remarkable. The narrative did not shy away from the deeply dis-harmonising and harrowing experiences that that dampens not just the very being of the victims alone, but even those who were supposed to be impartial umpires. They could not obliterate this impact, which reaffirms the extent of pain and diversity as well as the need for healing and unification of the society at any cost. The graphic presentation of this trend in vol.1 of the TRC report is worthy of note. As the imagery of hope was inevitably affirmed. According to Desmond Tutu,

It has been a gruelling job of work that has taken a physical, mental and psychological toll. We have borne a heavy burden as we have taken onto ourselves the anguish, the awfulness, and the sheer evil

of it all. The interpreters have, for instance, had the trauma of not just hearing or reading about the atrocities, but have had to speak in the first person as either a victim or the perpetrator, they undressed me and opened a drawer and shoved my breast into the drawer which they then slammed shut on my nipple! [or] I drugged his coffee, then I shot him in the head. Then I burned his body. Whilst we were doing this, watching his body burn, we were enjoying a braai on the other side. The chief of the section that typed the transcripts of the hearings told me: As you type, you don't know you are crying until you feel and see the tears falling on your hands. We have been given a great privilege. It has been a costly privilege but one that we would not want to exchange for anything in the world. Some of us have already experienced something of a post-traumatic stress and have become more and more aware of just how deeply wounded we have all been; how wounded and broken we all are. Apartheid has affected us at a very deep level, more than we ever suspected. We in the Commission have been a microcosm of our society, reflecting its alienation, suspicions and lack of trust in one another. Our earlier Commission meetings were very difficult and filled with tension. God has been good in helping us to grow closer together. Perhaps we are a sign of hope that, if people from often hostile backgrounds could grow closer together as we have done, then there is hope for South Africa, that we can become united. We have been called to be wounded healers. (TRCR,1998:vol.1: 21-22)

On page 49 of vol.1 of the TRC report, Desmond Tutu recognises the fact that though the goal of unification without harmony was paramount, but only as a first step in the whole scheme of affairs, for SA to continue to enjoy the fruit of such unification, it requires a harmonisation of all subgroups that must outlive the TRC. According to Archbishop Tutu,

In the course of fulfilling its mandate, it became clear to the Commission that organs of civil society – such as faith communities, non-governmental organisations (NGOs), community-based organisations (CBOs) and ordinary citizens - all have a role to play in achieving the goal of national unity. South Africans will need to continue to work towards unity and reconciliation long after the closure of the Commission. In the words of a participant at a public meeting of the Commission, we need to ensure that “reconciliation is a way of life”. Another acknowledged that the Commission could do no more than ‘kick start’ the process. (TRCR,1998: vol.1:49)

This is necessary, especially when it is observed that apartheid was not just a systematic process of racial discrimination, but also a systemic agenda. It is an agenda that not only created the divisions of the day, but lays a foundation for the futuristic perpetration of violations, for instance; education is a major causality that will long

after apartheid create an unfillable gap of not just the unemployed, but also the unemployable.

The Bantu Education Act laid the basis for a separate and inferior education system for African pupils. Based on a racist notion that blacks needed only to be educated, in the words of Dr Verwoerd, “in accordance with their opportunities in life”, the Act transferred the control of African schools from the provinces to a central Bantu Education Department headed by Dr Verwoerd himself.” (TRCR,1998: vol.1.:32)

Hence, this report further gave a more vivid picture of what was to create further problems of imbalance and unsuppressible conflicts in generations to come by reporting one of the greatest tragedies of apartheid. The reconciliation that later provided equal opportunities for all emerge, but is it able to obliterate 48 years of youths marginalisation? Sadly, this huge class of unemployable youths may eventually spell the doom of the delicate peace arrangement now reached in some future times.

One of the most iniquitous acts of apartheid was the separation of educational facilities and the creation of the infamous system of Bantu education. Mission schools which had provided some schooling to African people were closed down and generation after generation of African children were subjected to teaching that was deeply inferior in quality to that of their white counterparts. Prime Minister Hendrik Verwoerd, the ‘architect’ of apartheid, said: The school must equip the Bantu to meet the demands which the economic life will impose on him ... What is the use of teaching a Bantu child mathematics when it cannot use it in practice? ... Education must train and teach people in accordance with their opportunities in life ...” (TRCR,1998: vol.1:61-62)

The above fact is one of the deep crevices that make unification with harmony impossible, hence the need to deconstruct to unification without harmony, given that unification with harmony would have been absolute and deconstructing absolutist ideas brings us to unification without harmony, which is one of the fundamental ideologies behind the success of the South African peace process.

Chapter 5:

Healing without forgetting and Confession without Remorse

5.0 Introduction To Chapter On Healing Without Forgetting And Confession Without Remorse

This chapter deals with the identification and analysis of the phenomenon of Healing without Forgetting as well as Confession without Remorse within the South African peace process. The chapter will examine the themes underlying the peace narratives in South Africa (SA) as well as the analysis of how the paradoxes were derived and how it operationalises itself within the Agamben's exclusive, inclusive philosophy of the Homo Sacer. This paradoxes like the others have two elements each. Healing and Forgetting, as well as Confession and Remorse. What do these concepts entail and how were they activated as part of the underlying paradoxes with which peace and societal stability returned to apartheid South Africa?

Healing without forgetting

5.1 Healing as a result of forgetting transformed into Healing without forgetting

Reading between the lines of the report of the TRC, there is evidence that supports positing that South Africans saw the opportunity of the TRC as that in which they could heal the wounds of victims of apartheid, by encouraging not just forgiving but also forgetting the traumatising situation they had gone through under apartheid. This drive towards this sort of healing was the purpose of allowing victims and their families to come forward and narrate their ordeal publicly to listening ears and sympathising minds that will acknowledge their ordeal, perhaps for the first time. Some of which they had been living with for so long. This narration was to make it possible for "closure" to take place. It is to help in ensuring that wounds of the heart were healed. However, it soon did on the Commission that forgetting was unrealistic and somewhat unattainable and as long as this remains so, healing is out of reach. Besides if there is no healing, forgiveness, reconciliation and peace would for certain be equally out of reach. It is in fact, this realisation that led to the transition of the above paradox through the process of deconstruction or the what Agamben calls exclusion by inclusion or the "ban" that occurred as a result of the originary violence that was the foundation of the political. This led to the transition from "healing with

forgetting” to “healing without forgetting” it is reminiscent of a transition from the absolute to the relative. , from the realm of the collective to that of the personal. .It was a deconstruction that would ensure that healing is nevertheless delivered, even if it is going to be a palliative kind of healing or a half-measure kind of healing. It is the kind that is without forgetting. Using CDA, the research can embark on linguistic analysis by employing imagery from medicine to depict what transpired here. The image here is reminiscent of that of a sick man, who is diagnosed with a septic leg that will potentially infect the whole body and lead to death. The emerging medical advice is two; one is to sever the infected part, or keep the leg and treat with an antibiotic provided the body responds to treatment. Two situations emerge. Healing with the leg or healing without the leg. The former is the perfect ideal or absolute ideal, while the latter, is a second-order arrangement, a half measure necessitated by compelling circumstance. Translating this to Agamben, the complete healing or perfect healing with all the components of both zoe and bios is what obtained in the polis. However, as a result of the originary violence, there was the sovereign ban that excluded the bios leaving only the zoe, but then the zoe also has elements of bios in it to some degree which made it possible for a solution to emerge. The situation is what supports the paradox that produces peace in the RSA. Agamben describes it as excluded but inclusive, outside but inside.” The fundamental categorial pair of Western politics is not that of friend/enemy but that of bare life/political existence, zoe⁻/bios, exclusion/inclusion’ “(Peters,2014:328)

The paradoxical nature of the discourse reveals something fundamental, which is that the extreme of all ends is not feasible in solving societal issues. The effective parts are those that share in both ends. The paradoxes, at first sight, appear contradictory, but the fact in them after due analysis, it cannot be rejected, yet they could easily be thrown out when taken purely on face value. “This is the fate of Agamben’s homo Sacer who can be killed but cannot be sacrificed. “Homo Sacer, which infamously claims that the paradigm of all modern politics is the concentration camp, proceeds by way of an investigation of an obscure figure in Roman law — the homo sacer (‘sacred man’) who could be killed with impunity but not sacrificed”(Peters,2014:330). It is this in-between position that is called “exception” which ultimately leads to “indistinction” Confirming this, Peters (2014) says “The original political relation is the ban (the state of exception as a zone of indistinction between outside and inside, exclusion and

inclusion) The fundamental activity of sovereign power is the production of bare life as originary political element and as threshold of articulation between nature and culture, *zoe* and *bios*. (Peters, 2014:330). Agamben concludes that “a different economy of pleasures and vital functions would once and for all resolve the interlacement of *zoe* and *bios* that seems to define the political destiny of the West. This biopolitical body that is bare life must itself instead be transformed into the site for the constitution and installation of a form of life that is wholly exhausted in bare life and a *bios* that is only its own *zoe*. Here attention will also have to be given to the analogies between politics and the epochal situation of metaphysics. Today *bios* lies in *zoe* exactly as essence.(Agamben,1995:121)

The above imagery from medicine tends to help make the narrative clearer. It must be recognised that it is an onerous task to heal while remembering vividly the callous and calculative cruelty that ripped families apart, during which spilling of innocent blood was done with impunity. However, with this gory picture, vividly remembered, healing nevertheless was still expected to take place. That may seem logically out of reach. With the aid of rigorous theoretical analysis, we could navigate out of it. How then do we navigate through this awkward situation? Peters,(2014: 331) quoting Agamben says , “What does it mean to say as Agamben’s does in the conclusion of *Homo Sacer* that Only a politics that will have learned to take the fundamental biopolitical fracture of the West into account will be able to stop this oscillation and to put an end to the civil war that divides the peoples and the cities of the earth?” The solution seems to be recognising the mutually exclusive disruption in which healing is expected despite not forgetting. Hence, so long as healing does not take place, then societal peace and stability would remain elusive. In light of the above that Agamben’s exclusive inclusion becomes imperative because it is the philosophy of “exception” that can make healing possible despite not forgetting. To achieve this objective, “remembering” has to be excluded because it stands against healing, while at the same time, it includes remembering of only a sieved, modulated, moderated, regulated, relativistic and positive remembrance; a remembrance that is not potent enough to deter healing. That again is why exclusion does not mean annihilation. Some of the empirical evidence of this paradox can be seen in the words of Desmond Tutu as reflected in the Truth and Reconciliation Report of South Africa (TRCR) where he argues that;

“People were victimised in different ways, and a range of gross human rights violations was committed. The result demands **extensive healing** and social and physical reconstruction at every level of society. Sometimes these different needs themselves compete with one another, leading to fresh conflicts. This makes reconciliation a complex, long-term process with many dimensions.” (TRCR, 1998: vol.5:350)

It is clear here that healing was a necessary ingredient for the nation-building. In this case, “healing” is the constant independent variable. That is the variable factor that takes precedence over forgetting in the couplet formation. That is at the base of the South African peace process in this segment. Whereas, forgetting is the dependent variable that has to be deconstructed. In other words, Forgetting has to be pushed into the realm of bare life where its two elements of “nature” and “nurture” are no longer together. Its got nature though with traits of nurture, which made it possible to be outside two extremes. Potency to disturb the attainment of healing is reduced; it is in this realm that it is rendered impotent. The impotence does not suppose castration, because while it is impotent, it is still useful to some degrees selectively because of the traits left in him. It is this act of being made impotent, yet still partially potent to some real extent, that Agamben refers to as excluded, yet inclusive. Just as the Citizen was stripped of its potency and potentialities and banished, consequent upon which he lost all potent civic and religious rights and made worthless and vulnerable to all forms of attack, in the form of the Homo Sacer, so also is the concept of forgetting. In its impotent state, it is not allowed any form of political expressions that could make it a threat to healing. In this same state, it is still useful at least for positive remembrance that helps to immortalise victims and commemorates the day that freedom was attained for black majority South Africans. This is invariable, the very foundation of the South African new state. It commemorates that there was a time in history when their lot was that of slavery and servitude under apartheid, but that has now become history, and they are now free. The exception and exclusion is a kind of censor of what is allowed to be remembered and what is not allowed because it could threaten the healing which is a fundamental ingredient for nation building, societal peace and stability.

5.2 Healing

What then is healing? Healing according to vocabulary .com dictionary is “the natural process by which the body repairs itself” In other words, it is a self-activating mechanism. This is key because SA looked inwards to resolve their age-long crisis

internally without an external mediator. These scholars went further to identify four variations of healing, which includes, convalescence, recovery, or recuperation; which involves “gradual healing (through rest) after sickness or injury”. The next one is conglutination or union; which implies an ‘a process of healing involving the growing together of broken bones or the growing together of the edges of a wound. Hence, employing CDA, we can link the literary with the accompanying events. For instance, within the South African context, this is like societal unification and harmony. Even literarily, in South Africa, the situation led to several broken bones that need healing. The next is lysis which presupposes “recuperation in which the symptoms of an acute disease gradually subside” which is like the peace process, and finally, we have rally ; which is “a classical recovery of spirits or strength or during an illness” The constant denominator here is the constancy of recovery and gradualism. It is, therefore, understandable that healing is a process that takes time. This fact repeatedly featured in the speeches of Desmond Tutu in the TRC report, (1998)

Similarly, Dictionary.com equally identifies four conceptions of healing to include the act of ‘making whole, healthy, or sound; restore to health; free from ailment’. The next consists of the act of bringing to an end or conclusion, conflicts between groups, or people usually with the strong implication of restoring former enemies together by settling or reconciling them. It also means being free from evil; cleanse or purify.

Lastly, “to effect a cure.” The implication of this is that healing is not just restoration of what had been dislocated or lost from society; it is synonymous with reconciliation. This explains why the terms are all interwoven and interconnected and to that extent, we cannot discuss them strictly in isolation without them crisscrossing each other which may necessarily be an acceptable repetition particularly when it is to buttress new facts.

The origin of the word in English has been traced to 900bc when it was derived from the word “Hale, or the whole” However, the figurative sense of "restoration of wholeness" did not appear until the early 13century whereas, the meaning associated with “touch that cures" dates back to the 1670s. Hence it is clear that the very idea of healing has been with humanity for so long. (Collins, 2017)

5.3 Forgetting

What then is forgetting? dictionary.com equally defines forgetting variously as the act of ceasing or failing to remember; be unable to recall, to omit or neglect unintentionally, to leave behind unintentionally; neglect to take, to omit to mention, leave unnoticed, to fail to think of or take no note of, to neglect wilfully, disregard or slight, to cease or omit to think of something. In the same vein, the online etymological Oxford dictionaries .com introduced two opposing dimensions to the definition of Forgetting; It started by defining forgetting as “failing to remember”. The two versions of this include,

1. Inadvertently neglect to do, bring, or mention something. e.g.
‘I forgot my raincoat’ the second sense is
2. Deliberately cease to think of. e.g.
‘Forget all this romantic stuff.’

It is reasonable to infer through the use of the tools of CDA, that forgetting could be both a conscious or inadvertent action, which is why it could be both descriptive and prescriptive. It should be remarked that the Truth and Reconciliation Commission (TRC) was operating at the prescriptive level, which is the level where the state precludes the individual from remembering certain things while allowing him to remember others that are not harmful to the objective of healing.

However, within the body of the TRC report, the narratives concerning forgetting were painted in such a manner that it highlighted the difficulty in forgetting. It is argued that while it is much easier to forgive, it is much more difficult to forget. Moreover, as long as forgetfulness becomes difficult, the bitterness of past injustices, re-kindles the light of un-forgiveness. There are some narratives across the report which emphasises the inability to forget. Some explicit while others implicitly buried within the enormity of the suffered harm or injustice. According to the TRC report, Mr Ndoysisile Mari was arrested in 1964 and jailed for seven years on Robben Island for underground activities. His wife, Ms Vuniwe Angelina Mari, told the Commission that the family had been harassed repeatedly by police while they searched for him before his arrest. She told the Commission that:

Inside the house if they [the police] don’t find him they used to kick me, chasing my children in and out the house, forcing me to tell of his whereabouts. As a result, my second child from there on suffered from a mental sickness because he was hit against the wall also. He could not manage even to go to school ... [My husband was

eventually arrested.] ... That was the worst day of my life seeing my husband naked, leaving my house to a car, kicked, and I still have that picture. His clothes were like washing hung on a line from his arms. (TRCR, 1998: vol.3:45).

The imagery presented here is not just memory; it is that of a “motion picture” which can be readily played back. The transition from this un-forgetfulness to healing would only be based on a firm theoretical basis for it to be effective.

Similarly, a victim who suffered permanent disability as a result of a grenade attack remarked about the role of memory and why he would never forget. The closest thing to forgetfulness is un-forgiveness, not pardon. How this can then translate into societal peace and stability is critical. In the words of the victim, Mr Weber told the Commission his feelings about the attack:

“My life was changed overnight ... I’ve accepted it and I have to carry on with the daily routine of life. It’s not something that will be forgotten about and it’s something that I think justice should be done about.” (TRCR 1998:vol.3:148)

Sometimes, the pattern of torture and abuse, as well as violations, are not expressly described as unforgettable, but the vivid imagery with which the narrative is being undertaken, confirms this much. The use of CDA helps to identify such implicit facts. Without a doubt, they are harrowing experiences that could not be easily forgotten in a hurry and its implication for societal peace is suspect. Forgiveness does not seem to be logically derivable from the vividness of this narrative. A similar example appears in Vol.3 page 169 where torture was reported in such metaphorically rich expression with a simile that provided a picture of lifelessness and insensitivity often associated with butchers and their meat hanging up . According to this report,

One morning in November 1975, police surrounded Xaba’s house, rounded up all six members of his family and took them to Loop Street police station in Pietermaritzburg. Xaba says he was taken upstairs where he was systematically assaulted, tortured and interrogated for two days. He was bleeding heavily and lost consciousness a number of times. His torture included being hung out of the window by his feet while the policemen swung him backwards and forwards and banged his head against the wall. His arm was broken in the process. At one point during the torture, he said he could hear the screams of his wife in the adjoining room. On his second day of torture, Xaba’s hands were cuffed behind his back and he was suspended from the ceiling like “meat in the butchery. (TRCR, 1998:vol.3:169)

The image is that of meat hanging up in an abattoir. Again, such literary analysis of language is to expose specific facts concerning the difficulty of forgetting and by implication, forgiving is invisibly buried between the lines in the above excerpt. This victim not only goes through the trauma daily, but it has also affected the mental stability of his spouse. The police equally refused her audience. The transition from here can only lead to further bitterness and vengeance, not forgiveness or even the least forgetting.

In a similar chaotic and lawless development created by apartheid, there was also the case of un-forgetful brutality unleashed by a group of South African youths on a woman old enough to be their mother; the TRC report stated that,

The four youths were the same age as her youngest child... They pushed her inside. Meshack Ngubane came out to see what was happening and the couple was pushed into the bedroom where they were repeatedly assaulted. Mr Ngubane was then forced into a chair.... Justice Nkwanyana tore Ms Ngubane's pinafore with a knife and stabbed her on the feet. The others joined in the assault, and she was held on the bed whilst Nkwanyana raped her in front of her husband. The others stood next to Mr Ngubane and, when he averted his eyes or bowed his head so that he could not see what was being done to his wife, they hit him and forced him to watch... It's the most humiliating thing that can happen to anybody. These boys took away my dignity. I don't have the words to express the kind of pain and anguish I experience. I think about this every day. My husband has since been mentally disturbed. Life's very difficult. (TRCR, 1998: vol. 3: 317-318)

This excerpt is very clear. She does not just remember, but it has become a way of life for her because she remembers daily. Even if she forgets, the state of the husband is a constant reminder. Now this tells us that forgetting is just a myth in the situation of SA with which they must live. The way to peace must, therefore, necessarily involve healing despite remembering.

There is also another element about forgetting that seem to appear here below, which is the fact that it can be a conscious pro-active venture to forget, or one can be coerced into forgetting, or instructed to forget in which case, even when you claim to have forgotten, you really haven't forgotten but merely obeying a command. Such command to forget is evident in the excerpt; "I was visited by a Sergeant who tried to bribe me to testify against my comrades. He came to me carrying a bottle of Klipdrift brandy. I told him I would not co-operate. He then told me I must forget about being released." (TRCR, 1998: vol. 3: 449)

The type of forgetting here is an imposition in which one accepts unfavourable state bitterly. It has got nothing to do with memory. It is an imposition and demonstration of the power of subjugation and dominance expressed in oppression and repression.

5.4 Healing without forgetting

The narrative here follows the same pattern as the previous ones. As a result of the overlapping nature of the narratives, they could hardly be separated from each other entirely. From this particular narrative flowing from the previous ones above, we could argue that it would have been the desire of the founding fathers of the TRC for the healing of wounds of the heart to be delivered on the total obliteration of the memory, then societal peace and unification would have been automatic. Unfortunately, a significant hindrance to healing is memory or remembrance of pains of gross violations. To that extent, a perfect option to achieve societal peace would have been to forget the past entirely. That is why the architects of the TRC would have desired the delivery of healing on the platter of forgetting, but because forgetting cannot be excluded, Remembrance itself is a positivity that gives the struggle its meaning and which in turn provides credence to the very essence of healing. The dominant narrative, therefore, became healing without forgetting, or healing, despite not forgetting. However, what kind of remembrance is it? “Respectful remembrance.”

The importance of respectful remembrance was clearly expressed by Mr Haroon Timol, testifying about the death in detention of Mr Ahmed Timol, at the Johannesburg hearing, 30 April 1996: ...what many South Africans would like to have, is that their loved ones should never, ever be forgotten...in Ahmed’s case a school in his name would be appropriate. But at the end of the day I believe that South Africans in future generations should never, ever forget those that were killed in the name of apartheid. ...The road to reconciliation requires more than forgiveness and respectful remembrance. It is, in this respect, worth remembering the difficult history of reconciliation between Afrikaners and white English-speaking South Africans after the devastating Anglo-Boer/South African War (1899-1902) (TRCR,1998:vol.1 116-117

Hence, the narrative of healing without forgetting is further projected clearly in vol.5 of the Truth and Reconciliation Report, where it states that “Reconciliation does not wipe away the memories of the past. Indeed, it is motivated by a form of memory that stresses the need to remember without debilitating pain, bitterness, revenge, fear or guilt. It understands the vital importance of learning from and redressing past violations for the sake of our shared present and our children’s future”.

(TRCR,1998:vol.5:435) To get to this level of not forgetting, and yet achieve healing, is a function of deconstruction. Forgetting was stripped of its bios and reduced to “bare life” before it became a potent instrument for peace in SA.

Furthermore, running through the volumes of the TRC report, we found some narratives that reaffirms the impossibility of forgetting, which is why the only option left was to ensure healing without forgetting. This is because healing with forgetting will be incompatible. It is compelling to reel out some such circumstances here undiluted with the voices of the victims, being heard. However, some other narratives have appeared in which healing is tied to other elements within the same geometry.

The phenomenon of healing became somehow extended to even some members of the Commission who only listened to the different narrations; This ended up in making us become emotionally messed up. This research found out that even at such indirect level, members of the Commission equally needs healing and if that is the case, then the need for healing by the direct victims themselves and their families cannot be overemphasised. It was further revealed elsewhere that, even those typing the reports confirmed how emotionally engrossed they were when listening to some of the moving pathetic stories of violations. They sometimes get so carried away with the need to be politically correct that they seldom realise that they were weeping until tears suddenly drop on their hands. This explains why even members of the Commission especially, “Those who, through the Commission, witnessed the scars on so many human bodies and spirits as well as the deep scars on the country as a whole, found themselves unable to remain onlookers. They came to acknowledge their own complicity, their own weakness, and accepted their own need for healing”. (TRCR.,vol:5:1998:.307).

There is no doubt that some of these violations cannot be forgotten, no matter how we try. It is worth recalling a few of them here as were recorded in the Report of the TRC in order to further justify the assertion that forgetting was impossible even though we know that time heals.

Mr Mthembeni Siphon Magwaza was attending a peace rally when members of the Inkatha Freedom Party (IFP) abducted him and five of his friends. One of his friends and five other people were shot and killed. His shop was later looted and destroyed. He described his psychological state: I am a living zombie; psychologically and emotionally, I am dead. (TRCR,1998: vol.5:131).

Similarly, the TRC report gave an account of how in '1981, Brigadier Rodney Goba Keswa was arrested and eventually detained by the Security Police in the Transkei. There, he was exposed to mental torture. At the Lusikisiki hearing, he described his first view of his cell the morning after his first bitterly cold night in detention in his submission, he said,

When dawn eventually broke, I had the first opportunity of looking around my cell. What I saw still haunts me to this day. The wall on the one side of my cell was smeared with faeces. The spot where the night soil bucket stood was a pool of urine ... The blankets were old, threadbare, smelly, dusty, coarse, with tell-tale signs of perverse sexual acts. I tried walking towards the door, but I staggered about sick to the bottom of my gut ... I remembered stories about tactics of killing someone without laying a finger on them.(TRCR,1998: vol.5:129)

In this case, *he* did not only remember, but he also had a vivid picture of it boldly engraved in his heart. Despite this, the TRC requires healing. What type of healing would it be? “healing without forgetting”

Similarly, The TRC report also gave an account of how Mr Sizwe Kondile went into exile as a result of constant harassment by the police. However, in 1981, he was arrested and eventually killed in detention. His mother, Ms Charity Nongqalelo Kondile , at the East London hearing described the effects and aftermath on the family who had never forgotten. According to the TRC report,

Lindiwe and Sizwe have been very close, were very closely placed. Lindiwe never reconciled. She never accepted the fact that her brother [had] been killed. Until recently she suffered from depressive psychosis which the doctors at the hospital referred to as some depression that has been bottled up for a long time, and I feel that this [was] the result of all that she has been bottling up for all these years.(TRCR,1998:vol.5:130)

It should equally be noted that this account emphasises the therapeutic role of the commission in allowing people to come and un-bottle all that had been forcibly sealed in them during the apartheid days with a view that some category of healing would take place.

Some of the ripple effects of such human right violations that cannot be forgotten even though healing is expected to take place include the ‘recurring thoughts of traumas that have been experienced. Some of these traumas have continued to invade the lives of

many South African, includes that of Mr Madala Andres Ndlazi's sixteen-year-old son who was shot by the police on 16 of June 1986 He told the Commission, at the Nelspruit hearing, that memories of his son's death haunted him to that day. In his exact words;

I found my child brought to the home. I found him in the dining room. He was lying dead there in the dining room. When I looked at him, it was very painful for me to see how injured he was - and I controlled myself together with my wife as Christians. We knew very well that we will have to die one day but we know there are many ways to pass away from this earth. But the way in which my son, Sidney Ndlazi, was injured, it makes me very painful. I cannot forget this. It is almost ten years now.(TRCR,1998:vol.5:134)

The remark here is scary! They say time is a healer, but even after a decade, this victim could still accurately remember what happened. It is apparent that forgetting had not taken place, yet healing is expected to take place by the simple fact that this victim is allowed to express it, it is going to be difficult.

Furthermore, the TRC report equally gave another account of people who were not direct victims, yet have not been able to recover from the trauma created by their experiences. If this is the situation, how would anyone expect direct victims to forget? It became apparent that forgetting was impossible, and consequently healing would therefore equally be unattainable, but here is the TRC that was set up to ensure among other things, that healing takes place since it is one of the first steps in achieving societal peace and stability. With this goal being imperative, then there is no other choice than deliver healing without forgetting. The feasibility of this now lies within the Agamben's exclusive, inclusive philosophy of the Homo Sacer. In his account, Mr Sean Callaghan told the Commission at the health sector hearing that;

[I was] confronted with a patient who had no arms or legs, was blind and was deaf. [He] had been in a mortar pit launching 80mm mortars when one of them exploded in the pipe. That was the first patient I ever saw in the operational area. Right there and then I realised that, as an eighteen year old, I am not going to be able to handle this after six months of training. I had applied for medical school ... and I went for an interview with Wits medical school during [my] leave, and said to them, "I don't want to be a doctor anymore, not after what I've seen" ... I was hyper-vigilant. I was having screaming nightmares every night for at least six months. I was very anti-establishment, anti-social. I was cold. Whenever I heard a loud noise, I would dive to the ground. When I heard helicopters, I would look for somewhere to hide. (TRCR,1998:vol.5:135)

Similarly, the TRC report equally gave a detailed account of how ‘Mr Lennox Mbuyiseli Sigwela was paralysed as a result of a police shooting and attack by Witdoeke vigilantes in Crossroads in 1986. A man who was once the family breadwinner became dependent on family members. His situation, as reported, provides an example of the interconnectedness of psychological, physical and economic consequences of human rights violations. At the KTC hearing, he was reported to have told the Commission in his words that’;

We are struggling; we are struggling. The children at my home are suffering for new school uniforms, for clothes. That is why I will never - although I have accepted this - I will never, I will never forget what happened because, when I look at the way we struggle at home, sometimes I feel like committing suicide. It is therefore difficult to distinguish between the response to the psychological effects of the violation and other stressful events in the life of the victim. (TRCR,1998:vol.5:136)

The above is not an isolated case, The cruelty and impunity with which some of the crimes were committed were shocking. The pathetic case of Ms Evelyn Masego Thunyiswa who was arrested on her way to attend the funeral of Steve Biko in 1977, was harrowing. At the Mmabatho hearing, she was reported to have told the Commission that she had been beaten and shocked on her genitals. In her account, she said,

After torturing me like that, they trucked us off the road. When I tried to urinate, I was urinating blood. Because I left on my own - it was not through the permission of my parents - I was scared to even tell my mom where I had been to because of the whole situation. I stayed like that for a month or two. I remember I went to the doctor in the beginning of November and then I said to my mother I have tonsils, because I realised this sickness of mine was getting worse and worse despite receiving treatment”, Evelyn was said to have reported recurring symptoms. According to her, “ In 1992, the pains came back. The pain that I felt when I was tortured came back in 1992. That was the same pain that I felt when I was tortured. As I [told] you, when it attacks me I stay three or four days not going outside and I cannot even urinate. I have never given birth since that time and I am a married wife. (TRCR,1998:vol.5:138)

With this regular painful reminder, forgetting was impossible. Despite that, healing must necessarily take place. This trauma is a dominant narrative in the drive towards peace in Apartheid South Africa.

In a similar development, the TRC report gave a similarly detailed account of how the mystery of the death of a young man was revealed to the family and how not knowing had helped to sustain their grief. However, then a vital fact was emphasised here that anniversaries can help re-kindle the trauma or pain that had remained on the soul for a long time. The TRC report says;

with Wallace, there are so many questions that are still unanswered. In my struggle with my grief, I would like to know where exactly he died. How it had happened. Who was there with him when it happened? Did anybody help him to prevent it from happening? Who was the doctor who attended to him? I've never had the opportunity to ask these questions. Nobody has ever explained anything to me about my son's death. They can say nobody asked, but who do you ask? And even if you do, you will not get any answers. I sometimes see Wallace in the streets. I remember two distinct occasions, when I thought I was seeing him. And it turned out to be somebody who looked like him. My grief becomes more intense on the anniversaries of my son's death and on his birthday. He would have turned thirty in January. I've kept an album of all his photographs, as a way of dealing with the many feelings I have about the loss. But it is very hard, when there are so many things you are not sure about. In a very poignant follow-up to this statement, the Commission facilitated a meeting between Ms MacGregor and a young man who had been with Wallace when he died. He told her exactly what had happened. As he described Wallace's last moments, she looked at him and said, "So, Wallace is really dead" and wept inconsolably for about ten minutes. It was only at that moment that she actually acknowledged and accepted that her son was dead.(TRCR,1998: vol 4:242)

Now it is possible for closure to be made here but not forgetting. There is no doubt that with time, this closure could bring about some forms of healing but "forgetting" may be impossible which is why the TRC report argues that,

The transition to a democratic South Africa, coupled with the very public process of the Commission, has complicated the healing process for many ex-convicts suffering from post-traumatic stress disorder. Many of the convicts treated by Ms De Ridder reported a recurrence and/or intensification of their symptoms as a result of some of the testimonies to the Commission and, particularly, the trial of and television documentary ("Prime Evil") about Eugene de Kock. To some extent, the Commission has helped release traumatised ex-convicts from 'the prison of silence' surrounding their experiences and, more importantly, their emotional responses to their experiences. Ms De Ridder says, however, that many others experience the current process as a form of re-traumatisation (TRCR,1998:242)

The implication here is that in achieving healing, wounds have to be opened and pain needed to be expressed which is why Desmond Tutu while discussing reconciliation was unequivocal in arguing that,

Many people also saw reconciliation as an activity that could take place without tears: they felt threatened by the anger of victims. It is, however, unrealistic to expect forgiveness too quickly, without providing victims with the necessary space to air their grievances and give voice to previously denied feelings. “It would not have been even remotely decent for a non-Jewish person to have suggested to Jews that they ought to become reconciled to the Germans immediately after World War II”, observed a Dutch visitor to the Commission. Relationships can only be healed over time and once feelings of hurt and anger have been acknowledged. The resistance and hostility of some victims, directed at times at the Commission itself, required understanding and respect. (TRCR,1998:vol.4:115)

The further panacea for healing as identified in the TRC report includes, the fact that

In order to heal, trauma victims must ultimately put words to their experience and thereby integrate the traumatic experience in order to find new meanings for themselves and their place in the world. An essential feature of recovery from trauma is re-establishing and normalising relationships of attachment with others... Yet, while many victims of violations spoke of psychological problems that resulted from trauma, many others spoke of the strength and resilience they drew from friends and comrades in times of hardship. Courage, love and support networks kept many families and communities functioning and intact.(TRCR,1998: vol.4:137-138)

Members of the commission were affirmative in declaring that “*without adequate reparation and rehabilitation measures, there can be no healing or reconciliation*”. (TRCR,1998:170) . This was not all; there were other criteria to be fulfilled before reconciliation can be achieved. All these were laid down in the excerpt below. Although part of this quotation has been cited above, a detailed analysis of the point being discussed compels us to quote it more vividly. The TRC report states that;

There were others who urged that the past should be forgotten - glibly declaring that we should ‘let bygones be bygones’. This option was rightly rejected because such amnesia would have resulted in further victimisation of victims by denying their awful experiences. In Ariel Dorfmann’s play, *Death and the Maiden*, a woman ties up the man who has injured her. She is ready to kill him when he repeats his lie that he did not rape or torture her. It is only when he admits his violations that she lets him go. His admission restores her dignity and her identity. Her experience is

confirmed as real and not illusory and her sense of self is affirmed. The other reason amnesia simply will not do is that the past refuses to lie down quietly. It has an uncanny habit of returning to haunt one. “Those who forget the past are doomed to repeat it” are the words emblazoned at the entrance to the museum in the former concentration camp of Dachau. They are words we would do well to keep ever in mind. However painful the experience, the wounds of the past must **not be allowed to fester**. They must be opened. They must be cleansed. And balm must be poured on them so they can heal. This is not to be obsessed with the past. It is to take care that the past is properly dealt with for the sake of the future. In our case, dealing with the past means knowing what happened. Who ordered that this person should be killed? Why did this gross violation of human rights take place? We also need to know about the past so that we can renew our resolve and commitment that never again will such violations take place. We need to know about the past in order to establish a culture of respect for human rights. It is only by accounting for the past that we can become accountable for the future. (TRCR,1998vol,1:::7)

The implication of the phrase “not be allowed to fester” above is ensuring that though they are remembered, they are not allowed any political expression. They are gaged and restricted regarding what can be allowed to be expressed and what cannot be allowed. This censorship is only possible if the phenomenon had been pushed outside bios into the realm of bare life. It is only this way that healing can take place despite remembering. The refrain “They” is a reference to deconstruction. That has been stripped of its bios before application.

Nevertheless, the dominant theme here is healing and forgetting; it is difficult to restrict discussions exclusively to only these concepts here because they are all inter-linked, as we have continuously mentioned. This is why we argue that as a result of the overlapping nature of the narratives, they could hardly be separated from each other entirely. This particular narrative, therefore, flows from the previous one above, it would have been the desire of the founding fathers of the TRC for the healing of wounds of the heart to be delivered on the total obliteration of the memory, and then societal peace and unification would have been automatic. However, then, a significant hindrance to healing is a memory, remembrance of pains of gross violations. To that extent, a perfect option to achieve societal peace would have been to forget the past completely. Which is why the architects of the TRC would have desired the delivery of healing on the platter of forgetting, but because forgetting cannot be excluded, Remembrance itself is a positivity that gives the struggle its meaning and which in turn

provides credence to the very essence of healing. The dominant narrative, therefore, became healing without forgetting, or healing, despite not forgetting. Nonetheless, what kind of remembrance is it? “Positive remembrance”.

As we can see below, the word reconciliation is at times used as a synonym for peace. Hence, the narrative of healing without forgetting is further projected clearly in vol.5 of the TRC report where it states that; “Reconciliation does not wipe away the memories of the past. Indeed, it is motivated by a form of memory that stresses the need to remember without debilitating pain, bitterness, revenge, fear or guilt. It understands the vital importance of learning from and redressing past violations for the sake of our shared present and our children’s future”. (TRCR,1998:vol.5:435)

To get to this level of not forgetting, and yet achieve healing, is a function of the Agamben deconstruction. Forgetting was stripped of its bios and reduced to “bare life” before it became a potent instrument for peace in SA. Furthermore, the narrative of healing without forgetting was demonstrated in the TRC report where it says categorically, that;

The Commission sought to uncover the truth about past abuses. This was part of ‘the struggle of memory against forgetting’ referred to by Milan Kundera. But it was, at the same time, part of the struggle to overcome the temptation to remember in a partisan, selective way; to recognise that narrow memories of past conflicts can too easily provide the basis for mobilisation towards further conflicts, as has been the case in the former Yugoslavia and elsewhere. An inclusive remembering of painful truths about the past is crucial to the creation of national unity and transcending the divisions of the past. (TRCR, 1998:116)

Furthermore, in the interest of national unity, exclusion and abandonment of the phenomenon of forgetting were crucial. Also, it is clear here that the phrase “without forgetting” does not refer to “vivid remembrance”, but partial and relative one in which case what is allowed to be remembered are “partisan and selective” such that they must not be potent enough to derail healing. The commission interestingly used the phrase “inclusive remembering” though without mentioning Agamben. That goes to show that what was happening was an interesting theoretical framework at play, and that is what largely accounted for the success of the TRC’s work. It should also be noted that all the paradoxes were at the base of the policies, decisions, negotiations and the entire peace narrative that brought apartheid to its knees.

There seems to be some a form of corroboration of these arguments that the South African peace process must have been set against some rigorous theoretical background which accounted for its success after 48 years, in the works of Nietzsche as cited by Petar Ramadanovic who in his analysis, maintains that in,

the second of his untimely meditations, Nietzsche suggests that a cow lives without boredom and pain, because it does not remember. Because it has no past, the cow is happy. But the animal cannot confirm its happiness precisely because it does not have the power to recall its previous state. It lives unmindful of the past, which, as it gives happiness, also takes it away from the animal. Nietzsche uses this example to point to the liberating power of what he terms "active forgetting," a willfull abandonment of the past that is beyond the capacities of the cow (Ramadanovic, 2001:1)

It will be recalled that it has already been established at the beginning of this section, that a remembrance of the inhumanity and pain suffered from the perpetrators of apartheid could only breed nothing but hatred, bad blood, and disunity. However, one of the objectives of the TRC is to ensure healing from all those past traumas. Nevertheless, here is one element that stands against the realisation of this noble objective; it is the phenomenon of "remembrance," i.e. "not forgetting". Hence, it is given that natural human traits of un-wilful forgetting were impossible, and to that extent, healing was unrealisable. It is at this juncture that the need for deconstruction or exclusion that would help in delivering healing even without forgetting becomes necessary. Therefore, healing with forgetting would have been ideal, but it is impossible because we cannot forget, which is why we have to deliver healing without forgetting.

Nevertheless, that also poses a problem. How do we achieve this? This is where Nietzsche comes in. He agrees that one cannot forget naturally, but one has to consciously do what Nietzsche calls "Wilful abandonment of the past or active forgetting". By this he means, yes, One has not forgotten, but to achieve healing, one must actively take control of that faculty and deliberately refuse to remember. It is there in the subconsciousness, but one is under obligation to refuse to allow it to come into consciousness. This is what Agamben sees as a de-politicisation process. This is where things that are inimical to the success of the dominant theme are not allowed any political expressions. This is because they have been pushed into the realm of zoe. Nietzsche, just like Agamben, argues that any element that could be a threat to the primary objective or phenomenon should be excluded while including only aspects

that are complementary to that objective. This selective deconstruction is what Nietzsche seems to be referring to here as active forgetting- selective remembrance, which is what we in this work refers to as “without forgetting”. Hence, without forgetting does not refer to the vivid remembrance of all that had gone awry, but selectively remembering only those that help in the actualisation of the central discourse. This is made more explicit in the excerpt below;

Nietzsche calls for an abandonment of the past because, as he says, it "returns as a ghost and disturbs the peace of a later moment". Too much past precludes action, happiness, and further development. As an antidote to this predicament he suggests a critical discourse on the past that would be attentive to the needs of the present and able to distinguish between what in the past is advantageous and what is disadvantageous for life. Thus "active" forgetting is selective remembering, the recognition that not all past forms of knowledge and not all experiences are beneficial for present and future life. Active forgetting is then part of a more general attempt to rationalize the relation to the past and to render conscious--in order to overcome--all those haunting events that return to disturb the calm of a later moment. (Ramadanovic, 2001:1)

It is interesting to note that what is spelt out here is undoubtedly Agamben's exclusive, inclusion but done without the mention of Agamben. It is also a confirmation of the underlying theoretical framework of exclusive inclusion, which is crisscrossing in this narrative. Hence “without forgetting” connotes not forgetting, but not the traditional absolute forgetting, instead, it is partial remembrance. It is a selective one where there is consciousness in the selection of what is to be forgotten and what is allowed to be remembered because of how lethal or fatal they could be to the dominant rhetoric. Arguing further, Ramadanovic says;

Near the beginning of the second meditation, after he has emphasized the transitory nature of existence, Nietzsche counsels caution with respect to both the degree of forgetting and the imperative to know or remember the past. He notes that: There is a degree of sleeplessness, of rumination, of the historical sense, which is harmful and ultimately fatal to the living thing, whether this living thing be a man or a people or a culture... The unhistorical and the historical are necessary in equal measure for the health of an individual, of a people and of a culture... An individual or a people, when actively forgetting, seeks to strike a balance between knowing and not knowing, between remembering and forgetting the past, for life demands not simply an oblivion of the past, but a balance between the historical and the active, between reflection and experience. (Ramadanovic, 2001:1)

This is not all. Ramadanovic, concludes by arguing that,

The man wondering at the cow begins next to wonder at himself and realizes that he cannot learn to forget but clings relentlessly to the past: however far and fast he may run, this chain runs with him." Nietzsche describes time as "a moment, now here and then gone, nothing before it came, again nothing after it has gone." The moment "nonetheless returns as a ghost and disturbs the peace of a later moment...Moreover, with active forgetting, Nietzsche is attempting not to avoid the past but to open up a possibility for the future together with a different understanding of what history is.(Ramadanovic, 2001:1)

Similarly, when Tutu says, that "We pray that wounds that may have been re-opened in this process have been cleansed so that they will not fester; that some balm has been poured on them and that they will now heal." (TRCR. 1998: Vol.1:20) Desmond Tutu is invariably confirming that the process of TRC itself is a process that not only annihilates forgetting; it essentially thrived in promoting remembrance. However, in promoting remembrance, it was done in the spirit of Agamben's excluded inclusion such that the remembrance was selectively non-toxic, it was a remembrance that had been stripped of all its negativity such that what it was capable of eliciting was only healing not disunity. This was part of the narrative that returned peace to South Africa.

5.5 Summary of the paradox of Healing without Forgetting

In this chapter, we have argued that a major requirement for the return of peace to South Africa was the phenomenon of healing. This time around, we are talking much more beyond the physical healing of the injuries created by apartheid but also those of the mind. Unfortunately, a major hindrance for the actualisation of this phenomenon is the concept of "forgetting". In order to heal, the option is to forget the cruelty and pain that had rested on the heart and minds of the people. However, narratives undoubtedly revealed that forgetting was impossible. Nevertheless, healing is highly desirable because, without it, societal peace would remain a myth to South Africa. The way to go was to ensure healing despite not forgetting. This is difficult. Hence the need to deconstruct forgetting in line with Agamben's philosophy until it is reduced to bare life when it is no longer potent enough to derail healing, and it is when this was achieved that healing became possible. There was still remembrance, but a qualified, modulated and controlled remembrance in which what was permitted to be remembered was not fatal enough to derail the peace process. Instead, it was to immortalise victims.

Confession without Remorse

5.6 Introduction to Confession without Remorse

This chapter deals with the identification and analysis of the paradox of Confession without Remorse within South African peace process. It examines the themes underlying Confession without Remorse in South Africa (SA) as well as the analysis of how the paradox of Confession without Remorse was derived and how it operationalises itself within the Agamben's exclusive, inclusive philosophy of the Homo Sacer. This paradox like the others, has two elements, Confession and Remorse: What do these concepts entail and how were they activated as part of the underlying paradoxes with which peace and societal stability was returned to apartheid South Africa? In this couplet, confession is the constant independent variable that does not change. It is that which needs to be fulfilled at all cost in order to achieve societal peace while remorse is the dependent variable that needs to be excluded and fragmented through a process of reductionism leading to some form of abandonment in order to fulfil the objective of the dominant variable which in this case is Confession.

5.7 Confession with Remorse transformed into Confession without remorse

As was the case in other couplets, this particular one equally comprises of two phenomena that are paradoxical in demand for analysis not just as interpreted in the TRC but as intellectual, philosophical concepts. Again just as with the previous concepts, the architects of the TRC desired Confession with remorse, which would have made their job less problematic, but the trend and narrative that emerged were unwittingly tailored towards Confession without Remorse. Linguistically, it looks like an adverbial clause of manner, which details how the confession has to be done for it to be effective and potent in the establishment of societal peace and stability in apartheid SA. The methodology of CDA has enabled us to dig deep into this modus operandi with the ultimate aim of sieving from it, relevant information that helps in the analysis of this narrative.

There is a significant question to ask here; Why confession without remorse? What is the implication of confession with remorse? What are we confessing? All these are important because the entire TRC work is fundamentally tied to this fact. What needed to be confessed to, are the truth that had either been denied, suppressed, or distorted concerning gross human right abuses in the apartheid years. The enabling act of the

TRC already made such confessions the condition for granting amnesty to perpetrators. This is, in other words, state pardon. However, how does the state who is an indirect second order victim grant pardon without fusing it directly with those of the primary victims? This interrogates the legitimacy of such pardons. In other words, how does the state justify such pardon as deserved? Hence a set of the criterion was listed among which is confessing to the whole truth but carefully avoided the manner of such confession because it could annihilate the entire process. From the earlier analysis, some of the perpetrators believed that they were fighting a just cause against communism and to get remorse from such category of people may be a great dream. Besides, the goal of societal peace and stability, as well as the continued existence of SA as one peaceful indivisible political entity, were superior to other nuances such as the manner of confession. To that extent, any phenomenon that would tamper with that process is pushed outside the realm of relevance in the Agamben fashion. Unfortunately, an average victim in SA if unable to bring perpetrators to book, for the fact that they have confessed willingly, wants to be sure that such pardon was well deserved. In which case, they would love to hear and see a genuinely broken-hearted perpetrator displaying regrets, genuinely sorry indeed, sufficiently apologetic and sympathetic in the narration of such bitter cruelty perpetrated. Unfortunately, the tensions between the belief of such perpetrators and the desire to see a remorseful perpetrator would negate the entire peace process. Moreover, in the interest of the overall objective of societal peace and peaceful coexistence, it was safer to align with confession without remorse which is not the same as a confession with no remorse at all in the operation of the TRC.

Again, there are two terms here: Confession and Remorse: what do they entail and how have they contributed to the development of peace in apartheid South Africa.

5.8 What is Confession?

There is a close affinity between the word confession and truth. One confesses to the truth. The truth is the product of the process of confession. Hence, the process of unveiling what is hitherto unknown is the confession, while the information that is brought forth is the truth. In this section, our interest is not in the product, but in the process.

What then, is a confession? Online Dictionary.com variously defines confession as the act of ‘Acknowledgment; avowal or admission. It also connotes disclosure acknowledgement of sin or sinfulness, particularly to a priest to obtain absolution, something that is confessed, a formal, usually written, acknowledgement of guilt by an accused person. This is also called confession of faith, which is a formal profession of belief and acceptance of doctrines, as before being admitted to church membership. The origin of the concept has been traced to the late 14c., when it implies the "action of confessing," which occurs originally in religion, It took its source from both Old French word, confession which came into effect in the 10c., and from the Latin word “confessionem” whose nominative word is confession, meaning "confession or acknowledgement." It is a noun of action that originates from the past participle stem of confiteri or confess. Historically, the word as used in law, began in the 1570s, when it implies "that which is confessed" whereas, in the mid-15c. it is traced to an Old English word ; andettung, or scriftspræc.’ (Harper, 2001.)

Going beyond this classical history of the word, confession, Desmond Tutu equally explored another major theme upon which the mediation process lies. It is the theme of punishment, by which we mean for offences committed under retributive justice. Although, within the confines of restorative justice, the confession itself is considered a form of punishment even, though other forms of punishments take the form of injury to the offender. Nevertheless, punishment to an offender has no direct restorative role to the victim except that it has a psychological satisfaction to see the other suffer despite that it has not removed his pain or suffering. Similarly, confession is both a form of punishment for the offender and a form of therapy for the victim.

This is reminiscent of Foucault’s view which argues that; “ if examination is the technique of objectifying people, then of course confession is the technique of subjectifying them. Hence he affirms that ‘the western man has become a confessing animal’ (1981:174) fundamentally, therefore, the theme of confession is a major one to be undertaken in this research. In Foucauldian terms, confession is about performing subjectivity and represents a bio-political use of power by the TRC. Hence, Foucault defines confession in overtly discursive terms as a ritual of discourse’.

Similarly, Fairclough, argues that confession is defined first by topic-the speaking subject is also the subject of the statement’ and then by the power relationship between

those involved. One does not confess without the presence (or virtual presence) of a partner who is not the interlocutor but the authority who requires the confession, appreciates and prescribes it, and intervenes in order to judge, forgive, console, and reconcile. (Fairclough, 1981:61)

From what Fairclough is saying here, we can posit that confession is like a double-edged sword that works in 2 opposite directions. One for the confessing victimiser and the other for the victim who gets some therapeutic satisfaction similar to the ones we get when an offender has been made to suffer pain under legal justice system even if the damaged done is irreparable. People often go to rest and gets contented that they have gotten justice. Hence for him, confession has the peculiar feature that the very act of doing it changes the person who does it. In other words, it ‘exonerates, purifies and redeems him; it unburdens him of his wrongs, liberates him and promises him salvation’ Fairclough (1981:62) Furthermore, Fairclough, (1992:54) maintains that “the value of confession, is increased by the obstacles and resistance one has to overcome to make it. For instance, the examination includes medical, educational, interviews while confession includes religious, therapeutic, and counselling of varying forms. Fairclough (1992:54).

5.9 What is Remorse?

The word remorse, according to the English dictionary, means deep and painful regret for wrongdoing; compunction. It also means, *Obsolete*. Pity or compassion. Its origin is traced to the late 14c., from an Old French word “*remors*” which is *pelt* in Modern French as “*remords*”. This actually took its source from a Medieval Latin word; “*remorsum*”, with variations such as “*remorsus*” or “*conscientiæ*” which translates into Middle English as *ayenbite of inwit*. Its verb, form is “*remord*” meaning “to strike with remorse, touch with compassion or prick one's conscience.” Hence to be remorseful is to be repentant, to be sorry for wrongdoing. (Harper, 2001).

There is a close affinity between remorse and forgiveness, and because we have discussed forgiveness extensively, what we shall do here is just the bit as related to remorse. Another word for remorse is repentance. However, one only repents when one has the conviction that one is wrong. Nevertheless, within South Africa, both the perpetrator and the victim believed that they were rightly fighting a just war and that created a problem for forgiveness. Besides, as it is portrayed under the section on

forgiveness that scholars were divided over what kind of forgiveness was required. Is it a forgiveness that is conditionally based on repentance as in the Christian theology or the unconditional forgiveness as in the Derridean philosophy that does not require remorse, but remains ideologically in-existent, otherwise, it gets negated, while confession is a voluntary uncovering of hitherto covered facts as a result of some form of inducements, depending on context.

Zaibert (2009:374) did try to show that there is this relationship between forgiveness and repentance, which determines mostly what its outcome would be. Scholars are divided over this, and it reduces the venture to either a descriptive one or a prescriptive one. According to Zaibert,

The widespread claim that forgiveness requires repentance is often hard to assess because it is not clear whether what is meant is that, as a matter of logic, it is impossible to forgive the unrepentant, or, rather, that as a normative matter, forgiving the unrepentant is objectionable. This is not only the result of the looseness with which many authors shift between descriptive and normative enterprises For, as we have also seen, the very paradox of forgiveness which occupies our attention has a part which is purely descriptive and a part which is to an extent normative. ... the appeal to repentance is unsuccessful in resolving the paradox. Although there are numerous defences of the thesis that forgiveness requires repentance, the best starting point for this discussion is Kolnai's seminal article, ... In this article Kolnai forcefully argues that if so-called forgiveness were to be granted to the unrepentant, then it would not really be forgiveness, but, at best, mere condonation . Kolnai's distinction between forgiveness and condonation occurs in the context of distinguishing forgiving from all sorts of related phenomena, such as pardoning, absolving, forgetting, and the like. Surely this is a salutary enterprise, which by now has become rather common. In fact, Kolnai's distinction is particularly valuable in that it also contains a rather enlightening account of the terms used to refer to forgiveness and related phenomena (Zaibert ,2009:374)

Although our immediate interest here is not forgiveness, yet repentance or lack of it undoubtedly shapes the narrative that ensues when forgiveness becomes an important subject matter. In South Africa, the resolution of the conflict began with the invocation of the Christian doctrine of forgiveness which is personified by Archbishop Desmond Tutu, yet it was not smooth sail because it requires repentance yet, despite coercive attempts to technically enforce repentance or even feign it, it was not a smooth sail either. Then, of course, a Derridean conception of forgiveness without repentance would have been a natural alternative. Unfortunately, that again only ends up in an ideological nihilism. When this happens, then it again perhaps lead to the invocation

of the philosophy of Ubuntu which seems to absorb the limitations primarily as it is founded on the Agamben's philosophy of exclusive inclusion where any element that poses a threat to the primary objective is pushed into the realm of irrelevance and impotence through being depoliticised. Hence, the narrative for the successful de-escalation of the South African conflict emerged as "confession without remorse."

5.10 What is Confession without Remorse?

The very idea of confession has religious undertones, especially as in Catholicism. The purpose of confession here is to elicit forgiveness. However, this Christian forgiveness must come from a demonstration of repentance, being sorry for wrongdoing and must be done in such pious, diligent, and remorseful manner that shows that it is genuine before forgiveness can follow. Transporting this to the political realm, It would have been confession with true repentance or remorse, but the reality of the elements of state building in Apartheid South Africa did not support this assertion. Insistence on this would probably have truncated the mediation process in SA. This perhaps explains why the architects of the TRC excluded remorse from the terms of the mandate. The confession was enough. The manner of doing it was not significant in achieving amnesty. This again justifies this same phenomenon which had consistently run through the entire process; it is the deconstruction of the absolute. Hence, the narrative changed after being stripped of all political expressions. Otherwise, it will stand against the overall goal of reconciliation and societal peace, which is why the narrative for peace in SA became partly, "confession without remorse" It is a given constant that the independent variable here is "confession", It is a requirement before amnesty can follow. Unfortunately, the enabling Act was silent over the modus operandi of such confessions. To that extent, its manner became irrelevant towards securing amnesty but not to the victims who believe that detached, unemotional, unrepentant manner in the fashion of reeling out a shopping list was incongruence with forgiveness. Hence, such insensitive confession may be capable of ensuring state pardon, (amnesty) but not those of the individual direct victims who are direct stakeholders and think that unless there is a show of true repentance, they were not ready to forgive. This raises other questions such as the legitimacy of a third party granting forgiveness or pardon on behalf of victims. This bit about the expectations of the victims regarding the modus operandi of confession was visibly presented below. According to the TRC report;

The religious conversion model of confession, repentance and forgiveness is by the very dogma of religion at the level of the very personal, of the individual as against his or her God or offended neighbour. There is no short cut. Yet with regard to the crime of apartheid (and its evils), there was much rhetoric about how whites or Afrikaners should acknowledge the violations, accept the responsibility apologise to blacks and experience the liberation of their forgiveness. The religious paradigm is tendered as a solution for our ills. There is a call for representative confession, repentance and forgiveness. Experience shows that, despite “handsome apologies” by leaders in virtually every sphere of Afrikaner society, there are continued calls for an Afrikaner leader to stand up and apologise in order to experience the level and extent of black readiness to forgive. (TRCR, 1998: vol.5: 442-443)

At the hearings, was not only the clear existence of accusations of outright lies and denials, especially of the higher category of leaders but also that only half-truth was presented as whole truth to get amnesty. Sadly they were often with arrogance and without remorse. Unfortunately, such criticisms were incapable of derailing the process because the mandate of the commission already excluded “remorse” which again leads to the question of whether justice exist in that bracket or not? Demonstrating this, as recorded in the TRC report was the testimony

illustrated in the recent book by Vlakplaas operative Colonel Eugene de Kock, where repeated acts of violence are described in a matter-of-fact manner: I continued to shoot at him. He finally fell down dead. Nortje shot him in the temple ... he died instantly. I took the decision to kill them because I was convinced they were armed. We beat him very badly and for a long time. He was a broken man by the time we were finished. I shot him with a .38 Special revolver. He died instantly. The body was destroyed ... Mabotha was utterly blown up. I reduced the charges to about 60kg to 80kg. They were placed in the cellar. The explosion shook Johannesburg, and we celebrated at Vlakplaas with the Minister of Police, Adriaan Vlok. [On blowing up Khotso House.] (TRCR,1998: vol.5:271-272)

It must, however, be reiterated here that the dominant narrative that was supposed to have, returned peace to SA, in conjunction with others, was confession irrespective of whether it was done callously and without repentance. It was sufficient that confession is made. Its potency does not lie in its mannerism, but the very fact of its revelation. Except that, confession without remorse can only lead to amnesty but without forgiveness. Forgiveness here refers to those of the victims themselves as the state is incapable of granting forgiveness for crimes committed indirectly against the state.

Perusing the TRC report, we equally found another similar show of insensitivity and heartlessness in the testimony of a *Koevoet* member in the then South West Africa, dealing with a wounded SWAPO operative who said that ;

Even at that stage he was denying everything and I just started to go into this uncontrollable rage and he started going floppy ... and I remember thinking, “how dare you” and then – this is what I was told afterwards – I started ripping. I ripped all the bandages, the drip which Sean had put into this guy ... pulled out my 9mm ... put the barrel between his eyes and fucking boom ... I executed him. I got on the radio and said to Colonel X ... “We floored one ... we are all tired, and I want to come in. (TRCR, 1998:vol.5: 272)

Similarly, talking about the show of arrogance and demonstration of lack of regret or repentance came not just from the foot soldiers, as expressed above, but also top policymakers of apartheid. The peaceful manner in which the commission handled such matters, attracted so many criticisms which are suggestive of the fact that it was a demonstration of the tilt of the balance of power that was mostly in the hands of the perpetrators of apartheid. Hence, dealing with them required a delicate and cautious procedure that evidently, demonstrates helplessness on the part of the majority anti-apartheid forces who saw that confession itself was somewhat selective and the manner of rendition, was equally without repentance. Unfortunately, that was the narrative that was capable of guaranteeing a smooth transition from apartheid to democracy. This seems to be what is being partly expressed here below;

Many here and overseas have criticised us sharply for having been so conciliatory and accommodating towards Mr PW Botha. We have been accused of handling him with kid gloves; of bending over backwards whilst he has responded with arrogant defiance and intransigence.(TRCR,1998: vol.1:9)

The narrative of confession without remorse, was not restricted to the apartheid forces only, even the anti-apartheid forces not only confirmed this narrative but tries to justify their insensitivity under the “ argument of just war” as can be seen in the excerpt below;

General Andrew Masondo was national political commissar of the ANC between 1977 and 1985, and earlier a Robben Island prisoner. In a section 29 hearing, when responding to enquiries about atrocities, including executions in the Angolan Quatro camp, he repeatedly stated that “we were at war”: You remember I said we were at war ... There might be times that I will use third degree, in spite of the fact that it is not policy. People who it was found that they were enemy agents, we executed them, and I wouldn’t make an apology. We were at war. (TRCR,1998: vol.5:262)

From the above excerpt, the statement “*we executed them, and I wouldn’t make an apology. We were at war*“, is a clear demonstration of the narrative of “confession without remorse” There was also the argument that not only were there confessions without remorse, but some of the so-called confessions were also either, half-truths or no truths at all. The commission not only demonstrated its impotence in dealing with top leaders of apartheid, they selectively celebrated confessions of foot soldiers while the source of commands was allowed to flutter away. There were narratives to confirm that these were no errors but consciously part of the design for peace. This created anger, that was variously expressed by some of the foot soldiers, who not only felt used but betrayed. Although, the fact remains that such critics do not understand that the underlying narrative was to ensure societal peace and stability within the structure of nation-building, than of any redress that is justice-seeking. The excerpt below affirmed the same;

Colonel Eugene de Kock in the closing pages of his book:⁴ Yet the person who sticks most of all in my throat is former State President FW de Klerk. Not because I can prove, without a shadow of doubt, that he ordered the death of X or cross-border raid Y. Not even because of the holier than thou attitude that is discernible in the evidence he gave before the [Commission] on behalf of the National Party. It is because, in that evidence, he simply did not have the courage to declare: “yes we at the top levels condoned what was done on our behalf by the security forces. What’s more, we instructed that it should be implemented. Or – if we did not actually give instructions we turned a blind eye. We didn’t move heaven and earth to stop the ghastliness. Therefore let the foot soldiers be excused (TRCR.1998: vol.5:264)

After reading some of the confessions, the question that comes to mind is that are these human beings, or animals in human clothing? Moreover, do these “animals” deserve amnesty? While contemplating that, we remember that elsewhere, Desmond Tutu has said that we should not forget that “amnesty is not for good people.” The TRC report did a sort of comparative analysis of the perception and impact of gross violations on the perpetrators on the one hand, and the victims on the other. The analysis reveals unmistakably that the victims were always at the receiving end while the perpetrators were at the giving end, and that determines the extent to which an individual is affected by the events. Unfortunately, the arrogance and impunity with which these perpetrators go about these acts is everything but remorseful. The pain often inflicted on the soul and heart of the victim remains traumatising ad-infinitum. The explanation for such

inhuman cruelty is incomprehensible by the victims while the perpetrators find sufficient justification for their cruelty. This is demonstrated in the excerpt below;

the magnitude gap manifests in different time perspectives. The experience of violence typically fades faster for perpetrators than for victims. For victims, the suffering may continue long after the event... Moral evaluations of the events may differ: actions may appear less wrong, less evil, to the perpetrator than to the victim. While victims tend to rate events in stark categories of right and wrong, perpetrators may see large grey areas...Discrepancies exist between victims and perpetrators regarding the question of motives and intentions, the crucial question of why? Victims' accounts show two versions, one which emphasises sheer incomprehensibility – the perpetrator had no reason at all – and the other which presents the perpetrator's action as deliberately malicious, as sadistic, as an end in itself. By contrast, the vast majority of perpetrators, even if they admit wrongfulness, provide comprehensible reasons for their actions, and almost never admit to being motivated by sheer maliciousness or the wish to inflict harm as an end in itself. (TRCR. 1998:vol.5:271)

In furtherance to this comparative analysis carried out by the TRC, they equally examined one particular individual who was a principal perpetrator of violence against black South Africans and at another time, he was a victim of violence himself, and his view on both ends was quite remarkable and crucial in understanding the temperament that features on both sides.

The report in Vol.5 page 272 says ; “ This perspective gap may be illustrated by the case of Mr John Deegan, a former member of the Security Branch and a Koevoet operative responsible for various atrocities. In a testimony dated 30 June 1996, he reports as follows on the recent death of his father: “ He was cold-bloodedly shot dead and his murderers escaped. I cannot come to terms with his death in that it was a senseless act of violence in the pursuit of greed. This is the first time that my family and I have come so close to experiencing the horror of violence so directly in this country. (TRCR. 1998: vol.5:272)

It is interesting to note that the same man who was the victim above, was the same one who arrogantly narrated how he got into a rage and blew up somebody.

Here is the perspective of the victim. But this is the same man who, in a report dated 23 August 1993, appeared as perpetrator, a Koevoet member in then South West Africa, dealing with a wounded SWAPO10 operative: “ Even at that stage he was denying everything and I just started to go into this uncontrollable rage and he started going floppy ... and I remember thinking “how dare you” and then – this is what I was told afterwards – I started ripping. I ripped all the bandages, the drip which Sean had put into this guy ... pulled out my 9mm ... put the barrel between his eyes and fucking boom ... I executed him. I got on

the radio and said to Colonel X ... “We floored one ... we are all tired and I want to come in.(TRCR,1998: vol.5:272-273)

The TRC did not stop just at presenting the two sides of this same coin, They subjected it to brief critical analysis and came to the conclusion of irreconcilability but failed to realise that human nature is inherently selfish and egoistic. It is all right to be monstrous to others but unfair for others to be monstrous to us. The golden rule does not seem to exist anymore. We must equally recall that it was in an attempt for man to flee from himself that made him submit to the social contract in the first place which in turn threatens his freedom with the emergence of absolutism as evident in both Hobbes and Rousseau. Of important remark is the arrogance and insensitivity as well as lack of remorse with which this man dealt with the captive without sympathy and in turn, seeks sympathy when he was a victim himself. This seems to be what is being expressed in the excerpt below.

From the point of view of the victim, violence is a “senseless act” and he experiences it with horror (the first time he claims to have had such an experience), yet as the perpetrator he has reasons and strong emotions, even expressing outrage (a moral stance) at the apparent defiance of his captive. The magnitude gap is a discrepancy between two quite different and irreconcilable positions. (TRCR.1998: vol.5:272-273)

Similarly, we found an interesting twist to the argument of confession without remorse as a dominant narrative with most of the white perpetrators of apartheid essentially confessing without remorse, but the exception found did not as it obliterated the dominant narrative of “confession without remorse”. In the Excerpt below, the anti-apartheid ANC leader confessed but with remorse. He was not diplomatic with this; he mainly used the phrase “I express my deep regret”, while this is encouraging, it does not seem to be the general trend or rule as the case may be. The report says;

Mr Ismail described the Dolphin Unit, established in 1982, which “had been established inside the country to carry out operations within the broad mandate of the ANC and MK [the ANC’s armed wing, Umkhonto weSizwe]”. In an amnesty hearing in May 1998, Mr Mohammed Shaik, head of the Dolphin Unit, described thirty-two carefully planned operations against police, embassy, magistrate’s court and state department targets within South Africa. Mr Shaik stated in conclusion that: At all times I acted within the policy and guidelines laid down by the ANC; I was comprehensively briefed on the modus operandi of special operations in MK. I accordingly attempted to avoid or minimise civilian casualties whenever I conducted operations. To this end, whenever circumstances permitted, I timed my operations after hours, when targeted buildings had been vacated by civilians. I

accept that, in the end, there was always a possibility of civilian casualties. Where there were civilian casualties these were never at any stage intended to be targets, but were rather caught in the crossfire. To the extent that there were civilian casualties, I express my deep regret to those who experienced pain and suffering. The apartheid state left us no choice but to take up arms. (TRCR.1998: vol.5:262)

Let us reiterate, why is the issue of confession without remorse or without repentance or more like it, confession without feeling sorry or regret. This is closely related to the issue of forgiveness. Within the context of Christianity, confession is a significant phenomenon. What then is its purpose? It is intended to facilitate forgiveness. However, its modus operandi is vital as stated in the bible, for instance in the book of Proverb, chapter, 28, verse 13 says that “He who conceals his transgressions will not prosper, But he who confesses and forsakes them will find compassion”. The word forsakes them here connotes repentance. Meaning when one confess and repent of it, which is the same thing as being remorseful, then one find compassion, which is a reference to forgiveness.

Similarly, the book of 2Chronicles, chapter 7 verse 14 says “If my people, who are called by my name, will humble themselves and pray and seek my face and turn from their wicked ways, then I will hear from heaven, and I will forgive their sin and will heal their land”.(Bible, Chronicles:7vs14) This other one is even more precise. It means confession must be done humbly in an attitude of humility, through prayer, which connotes solemnness, and then change of attitude in which the offender would cease from his old ways, then he would have been deemed to have met the requirement for forgiveness and healing can also follow.

It is against this backdrop of expectations that the concept of confession within the TRC is popularly conceived. Presumably, perpetrators of apartheid were expected to come before the commission, apologetically, remorsefully, regrettably and sorrowfully to confess their atrocities before they can be forgiven and then possibly get the state pardon which is amnesty. Unfortunately, it was not going to be so. This sort of expectation and picture belonged to the initial equation of confession with remorse, which is the perfect ideal that the TRC would have desired, but such cannot come from a people who felt that they were doing the right thing fighting agents of communism. To them, confession is a hand twisted exercise that they unwittingly submitted to, which is why Tutu practically coerced amnesty seekers into doing. Unfortunately, the

enabling act did not subject or subsume confession to the harrowing claws of remorse. Neither did it subject it to the uncontrollable discretionary whims and caprices of individual's forgiveness, which would have derailed the entire process because that way, remorse would have been given political expressions that it should have been stripped off, in the interest of societal peace and stability, which Agamben allows.

So what was done was that confession remained the independent variable, while remorse, the dependent variable. However, because confession with remorse was impossible, the deconstruction had to push remorse into the realm of Zoë, where its potency at destabilisation of societal peace, becomes minimal. This again is so if we remember that with Agamben, confession without remorse does not mean confession with no remorse. It only means that what is obtained is not full-blown remorse but some fragments of it, which does not constitute an obstacle to confession. Otherwise, the individual victims, coming from the background of deep sorrow, would have impeded the smooth transition. On the other hand, on the part of the arrogant perpetrator who is still fully aware of his strength, given the balance of power that still existed at the time of the negotiation, would equally have provided the alibi for why societal peace would have been unattainable.

Hence, the architects of the TRC came up with a safe narrative in which confession, even without remorse, was still able to guarantee societal peace and stability. This is even though the individual victims could not forgive, yet it did not derail the transition. No matter how unfair or unjust that this may sound, hence, within the Agamben's philosophy, the only plausible narrative, within which peace could return to South Africa, was confession without remorse.

Furthermore, the TRC report in vol.6, sect.3 page 206, gave a vivid account of how a small proportion of the security force engages in torture. The report captured horrifying testimony of torture techniques used by members of the Security operatives, which technically creates more problem for forgiveness. One applicant described it as follows;

C A P T. ZEELIE: ... there were methods used, common assault, slapping with an open hand or with fists. Then there was also the tube method that was used and at that stage we used a wet bag that was pulled over a person's head ... and basically the person was suffocated for a short while. And then we also used shock methods

where, at that stage, two electrical wires which were connected to a telephone-like device, was attached to the person. We would at that stage put a stick between a person's teeth so he can bite on it and then the telephone handle was turned and this sent a shock through the person, and at that stage that also sort of suffocated the person. And then what I can recall now is the method of a broomstick where a person is handcuffed and his hands are pulled over his knees and the broomstick is pushed in-between, through his arms and legs and he's hung between two tables, and it is in that position that he is questioned...you took the person's mind and you made him believe that something could happen to him ... I took a hand grenade and it was a hand grenade that has been secured, there's no explosives in it, there's no detonator that could go off. And then that hand grenade, this is what I did, I would for example, take it and have the person hold it between his legs while his hands are bound behind his back and then psychologically you made him believe that if he opens his legs the hand grenade will drop to the floor and it will blow him up. .. and then, for example, we also used methods where persons would be assaulted by an interrogator and then the assault would be ceased and then perhaps the following day you would use another interrogator and that interrogator would be the so-called 'nice guy' and he would speak nicely to the person and then psychologically that man will, this guy who is nice to him, he would trust this guy more and supply information to him ... I will honestly say that it was general practice in the Police and specifically in the final years where I was involved in the Security Branch. There was never any person that was ashamed to say that he had assaulted a person or had applied certain techniques in order to obtain certain information. (Bloemfontein hearing, 9 October 2000.) (TRCR,1998:vol.6:206)

The above excerpt is a sort of dispassionate confession that is devoid of any emotions. No signs of regret or remorsefulness could be seen in this confession. He declared at the end that no one was ashamed of such inhumanity. In other words, it is a thing of pride to them all. When such attitudes come to the public glare, it could elicit nothing but un-forgiveness.

In a similar narrative, "A former member of a KZP hit squad, now serving a number of life sentences for murder, told the Commission: There was no difference between the KwaZulu Police, the IFP and the KwaZulu government. In my opinion they were one entity. I received instructions [to kill people] from Captain Langeni (KZP), Mr MZ Khumalo (KwaZulu government) and [Mr Daluxolo] Luthuli (IFP). (TRCR,1998: vol.5:230)

Again, the attitude of the speaker here is that of a carefree person who is not bothered about human life and quite unremorseful. It is the same kind of argument that is being projected here below; rather than regret, the human right violation was a thing of pride among perpetrators. This is especially so because there is a kind of psychological

conviction that they were fighting a just war. This is what is being expressed here below ;

In a situation regarded as war, violent actions were undertaken with pride rather than with distress and embarrassment. In this regard former senior security force member Major Craig Williamson said: The psychological effect of fighting such a counter-revolutionary war should not be underestimated, especially when this entailed long periods of covert operations. The members of the security forces, especially in covert units ... saw themselves as the elite frontline troops in a critically important theatre of the overall war. Security force successes ... produced praise, pride and relief from pressure. (TRCR,1998: vol.5:263)

There is another twist to the above narrative, in the course of confession, denying that errors were made and wrong decisions that were taken could not possibly have thrived, yet, the humility to be remorseful was still not there. Hence, its deconstruction was such that it could still not prevent amnesty even though it could not elicit forgiveness.

This is evident in Mr FW de Klerk's submission below;

Mr FW de Klerk, answering questions on widespread torture during the 1980s in the second NP submission, said: I'm not saying we were perfect ... I'm not saying we didn't make mistakes. Detailed operationalisation (of security policy) takes place at a much lower level ... that is where, either through over-zealousness or a male fide approach, where things get out of hand. History has subsequently shown that, as far as the policy of apartheid was concerned, they were deeply mistaken. None of these unconventional projects was intended to lead to any gross violations of human rights ... but ... they did create an atmosphere conducive to abuses. (TRCR,1998:.vol.5:267)

Although this quotation has been used elsewhere, one is compelled to quote it again to buttress our argument here because it provides an explicit picture of the argument here that though confessions were made, they were unrepentant both in their spirit and in the letter. The implications, therefore, were that it creates a problem for forgiveness, particularly from the victims, yet it could not preclude amnesty from being granted. That again leaves the future with some bleakness of some sort, despite immediate attainment of peace.

Chapter 6: Amnesty without forgiveness and Tolerance without Friendship

6.0 Introduction to Chapter On Amnesty Without Forgiveness And Tolerance Without Friendship

This chapter deals with the identification and analysis of the phenomenon of Amnesty without forgiveness as well as that of Tolerance Without Friendship within the South African peace process. It examines how these narratives emerged and how they contribute to the success of the peace and nation-building process in South Africa (SA) as well as how the narratives operationalise itself within the Agamben's exclusive, inclusive philosophy of the Homo Sacer. These paradoxes, like the others, equally, have two elements each. Amnesty and forgiveness, tolerance and friendship. What do these concepts entail and how were they activated as part of the underlying paradoxes with which peace and societal stability were returned to apartheid South Africa? In these couplets, Amnesty and tolerance respectively are the constant independent variables that do not change and that needs to be fulfilled at all cost in order to achieve societal peace. On the other hand, forgiveness and friendship are the dependent variables that needed to be deconstructed and fragmented through the process of reductionism in order to fulfil the objective of the dominant variables which in this cases are Amnesty and Tolerance.

6.1 Amnesty flowing from forgiveness transformed into Amnesty without forgiveness

The idea of Amnesty and especially forgiveness is most central to this thesis. It is the most fundamental of all the paradoxes that animate the mediation process. Next to it is that of truth and justice. Hence the elaborate and extensive treatment that we shall dedicate to it. Just as it is with other paradoxes in the mediation process, the original intention of the TRC was to deliver amnesty to the perpetrators of human right violation in such a manner that victims are not opposed to it, because of they too in their capacities as individual victims, would have forgiven the perpetrators. The result of such a perfect smooth sail arrangement would be a serene and peaceful society devoid of any form of animosity. Hence, the architects of the TRC were eager to pacify not just the aggressor by granting them amnesty, but also the aggressed by ensuring that such amnesty granted, does not appear to promote grudge or seen to encourage impunity. In other words, they desired a granting of amnesty that is not only acceptable

to the aggrieved but justifiably seen as deserving even by the violated. It was an amnesty that should not be seen as irresponsible and recklessly granted out of the display of desperation to pacify those who should have been handled as criminals. It is essential that if such an arrangement were possible, it would be in the class of absolute perfection. Unfortunately, the generality of victims of apartheid saw it differently. The danger in subsuming amnesty to individual's whims and caprices was dangerous and could derail the whole process because it is complicated to move people from grievous hurt, and painful losses that have in some cases chattered people's lives irretrievably to the point of forgiveness or pardon, all in the overall interest of societal peace and nation-building. It became imperative and prudent that state pardon should be given despite the denial of the individual pardon in a manner that societal peace and stability is not compromised. This again is a problematic contradiction, and it can only make sense when situated within the Agamben's exclusive, inclusive philosophy of the Homo Sacer. It became clear within the contradictions that emerged, that Amnesty with forgiveness was unrealistic in the face of violations that took place in apartheid, South Africa.

Nevertheless, amnesty must be granted for societal unification and continuity. In order to achieve this, stability, an exclusion must take place that would ensure that state pardon is granted, irrespective of victims' denial of pardon. In a way, it is akin to saying that there is forgiveness despite un-forgiveness. That is amnesty without forgiveness.

6.2 What is Amnesty?

The complexity involved with amnesty can be understood more when we peruse the report of the TRC extensively. It must be emphasised that not only is amnesty the Independent variable in this equation with forgiveness as the dependent one, the enabling act carefully guided, safeguarded, protected and insulated "amnesty" even from members of the Commission because it is one element that carries the burden of the TRC. In volume one, page 116 -117, of the TRCR, some of the safeguards were revealed which seem to undermine justice and level playing ground technically. However, it must be understood that the South African peace process was not anchored on justice at least in the traditional sense, though not on injustice either, even though, some narratives, particularly from victims, seems to be suggestive of this. Otherwise, it would have failed. According to the TRC report,

The negotiated agreement in South Africa averted the costly return to the politics of confrontation and mass mobilisation. It made the historic bridge provided for by the interim Constitution possible. It did not, however, allow for a choice between amnesty and justice in the sense of large-scale prosecutions and punishment. Indeed, Nuremberg-style tribunals were simply not a viable political option, given the balance of military and political forces that prevailed at the time. (TRCR,1998:vol.1 116 -117)

The impression given here is that of a carefully and cautiously managed peace arrangement where machinery was set in motion, with a clear directive of its path and route of navigation that are not subject to the control of the captain, who is helpless especially as its operation is not within his whims and caprices. This is precisely the fate of the TRC as the narratives show. Further substantiation of this claim, is revealed in the subsequent excerpt here below;

The postamble of the interim Constitution states: In order to advance such reconciliation and reconstruction [of society], amnesty shall be granted in respect of acts, omissions and offences with political objectives and committed in the course of the conflicts of the past. The implementation of this amnesty agreement proved to be very difficult indeed: [The granting of amnesty] is a difficult, sensitive, perhaps even agonising, balancing act between the need for justice to victims of past abuse and the need for reconciliation and rapid transition to a new future; between encouragement to wrongdoers to help in the discovery of the truth and the need for reparations for the victims of that truth; between a correction in the old and the creation of the new. It is an exercise of immense difficulty interacting in a vast network of political, emotional, ethical and logistical considerations. Two particular tensions need to be noted: a First, if justice is seen merely as retribution, it becomes difficult to make the appropriate connections between amnesty and justice. While both the interim Constitution and the Commission expressed strong opposition to acts of revenge, it is necessary, nevertheless, to acknowledge that the desire for revenge is an understandable human response. Suppressed anger undermines reconciliation. (TRCR,1998:vol.116 -117)

Further analysis reveals that there is so much controversy and justification of this phenomenon and that can be seen in the following lines in which the place of justice was interrogated. It argues extensively that the,

tendency to equate justice with retribution must be challenged and the concept of restorative justice considered as an alternative. This means that amnesty in return for public and full disclosure (as understood within the broader context of the Commission) suggests a restorative understanding of justice, focusing on the healing of victims and perpetrators and on communal restoration. b Second, amnesty as an official act of pardon can all too easily be misinterpreted as ignoring responsibility and accountability. As such,

amnesty can be seen to be encouraging a culture of impunity. Some victims felt that amnesty results in insufficient social repudiation and that, by refusing to punish those responsible and allowing perpetrators to walk free, it constitutes a failure to respect their suffering. It is important, therefore, clearly to understand the various justifications for the concept of amnesty implemented by the Commission, with its unique focus on individual accountability. Similarly, the relationship between the Commission and the formal justice system merits attention: The context of transition: accountable amnesty versus impunity (TRCR,1998: vol.1:117)

The general underlying principle of the South African TRC was everything short of absolutist ideas. The relative and perspectival approach were upheld in almost all cases. Reading between the lines carefully and taking note of the choice of words in the excerpt below, we could make some logical deductions that are suggestive of the fact that a full-scale resolution was undeniably not even the target in South Africa especially when we consider some of the underlying tones. We must remark that it is only the methodology of CDA that gives us such opportunities to make deductions from the linguistic and literary rendition of the report.

“The postamble of the interim Constitution thus placed an **obligation** on South Africa’s first democratic government to make provision for the granting of amnesty, while giving it **some discretion** as to the circumstances in which amnesty could be granted. The choice was, essentially, between blanket amnesty and qualified amnesty. Through extensive negotiations, which included broad-based public debate, the notion of a blanket amnesty for undisclosed deeds was rejected as an inadequate basis for laying the past to rest. A **middle path** was required, something that lay between a Nuremberg option and total amnesia. The choice, ultimately, was for **amnesty with a considerable degree of accountability** built into it”. (TRCR,1998:vol.1:117)

From a CDA point of view, one could argue that the use of the word “**obligation**” above seems to connote compulsion. The South African first democratic government does not have a choice but must comply. Moreover, what the enabling act gave was not absolute power but “**some discretion**”. Similarly, it must be noted that it does not concern itself with whether amnesty should be granted or not. This has already been taken out of its jurisdiction. What it was to decide is modality. The phrase “**A middle path**” here is a reference to the non-absolute principle underlying the entire mediation process.

Moreover, within the same geometry of analysis, what they are after is “*amnesty with a considerable degree of accountability*”. Just a considerable degree would be sufficient not necessarily full-scale accountability. Hence, when former agents of apartheid come forward to give what people perceive as half-truths, and yet got amnesty, it is no doubt still consistent with the intention of the founding fathers of the TRC who expects only “*a considerable degree of accountability*” and not a full scale one despite what the mandate of the TRC spelt out. This gives credence to the overriding principle behind the entire process; it is “deconstruction of absoluteness.” in favour of a relative, imperfect and less ideal. what we can see here are principles of relativity and not of absoluteness. It then means that the South African peace process was hinged upon a system that tries to exclude absolute ideas in favour of relative ones in every sector of the mediation process. This is not superimposed; it is manifestly clear from the emerging narratives.

What then is amnesty?

a general pardon for offences, especially political offences, against a government, often granted before any trial or conviction. Pushing the argument further, it maintains that it is “an act of forgiveness for past offences, especially to a class of persons as a whole”. According to these scholars, It equally refers to “the act of “forgetting or overlooking of any past offence”. Generally, speaking, therefore, ‘to grant amnesty to, is to pardon’. The word is said to have appeared between 1570 and 1580 and it has its root in both French(*amnestie*) and Greek (*amnēstía*) origins. Similarly, Vocabulary .com added the dimension of “forgetting” and argued further that “Amnesty can mean a pardon for a wrongdoing, or it can also signal a government's willingness to overlook something. In its own analysis, He maintains that “Amnesty sounds a little like “amnesia,” and that's because in its more specific sense amnesty means “forgetting.” And to that extent, “The government will essentially forget about whatever crime was committed, or whatever horrible things were said. As part of a truce, amnesty can be granted to opposition forces in civil disputes. Amnesty to illegal aliens means the government will deliberately overlook their illegal entry to the country. There can also be a period of amnesty when people can turn in something that they would otherwise get in trouble for. An example of this given by Dictionarycom is that “The city offered a period of amnesty for everyone to turn in illegal guns. (Dictionarycom, 2016:1)

Following CDA, it is possible to argue that there is a consensus from the above excerpt, that amnesty does not imply “not guilty” but implies a pardon for whatever illegality or offence committed, and this pardon is not at the individual level but the corporate state level. Corroborating this assertion further is Thesaurus.com which argues that

pardon itself is a “kind indulgence, as in forgiveness of an offence or discourtesy or intolerance of a distraction or inconvenience, a release from the penalty of an offence or a penalty remission by a governor. Alternatively, the document by which such remission is actualised. It could also be forgiveness of a severe offence or offender, a papal indulgence, to make courteous allowance for or to excuse, to release (a person) from liability for an offence. To remit the penalty of an offence. (Thesaurus.com, 2016:1)

There are a couple of synonyms that are closely associated with this idea of amnesty. These synonyms were espoused in the excerpt below. It left no one in doubt about what amnesty entails. It was clear that amnesty is not an acquittal. It is mere discharge, not conditional, neither is it based on remorse. It is discretionally detached from all conditionalities;

Pardon, amnesty, reprieve are nouns referring to the cancellation, or delay with the possibility of eventual cancellation, of a punishment or penalty assigned for the violation of a military regulation or a civil law; absolution from guilt is not implied, merely a remission of the penalty. A pardon is granted to an individual, often by the action of a government official such as a governor, president, or monarch, and releases the individual from any punishment due for the infraction of the law, as a death sentence, prison term, or fine: to be released from prison with a full pardon. An amnesty is a pardon granted to a group of persons for past offences against a government; it often includes an assurance of no future prosecution: to grant amnesty to political prisoners; an amnesty period for delinquent taxpayers during which no penalties are assessed (Thesaurus.com, 2016:1)

The critical point to note is that amnesty is incompatible with justice in any form or shape. Its concern is not with whether the pardoned person was guilty or not; it only presupposes that the guilt is overruled. Furthermore, amnesty is non-conditional, nor is it depended on any requirement, as we would find in forgiveness. However, within the TRC, it was attached with conditions, yet the conditions were not above the underlying rule to ensure that it is not held down by absoluteness. Which is why a significant level of leverage and flexibility was applied in its implementation that made critics argue that it encourages impunity as we shall see in the arguments as they unfold.

6. 3. The idea of Forgiveness

Zaibert, (2009: 367) dealt with this idea of forgiveness extensively. He had three central conceptions of the idea. One is personal to him, next is that of Derrida, and the

last is that Kolnai. Zaibert's analysis of the three fundamental conceptions of forgiveness began with that of Kolnai, The interesting bit here is that what seemed to be paraded regarding the notion of forgiveness in operation in South Africa, was a mere smokescreen covering the real conception that of forgiveness upon which they based the functioning of the TRC. The fact is that it appeared as though, it was the Christian conception of forgiveness that was in operation with the imposing image of Archbishop Desmond Tutu, but the Christian conception of forgiveness could not have successfully sailed through the process. The reason is that it is deficient at least in the sense that it cannot be logically and coherently pushed through conclusively if one is not a Christian or religious, This was why "Ubuntu": the African philosophy of societal unification was brought about to compliment it. The actual narrative at work, in South Africa, seems a bit elusive or more of a hybrid between Aurel Kolnai , Derrida and Leo Zaibert as well as those of some other scholars who toiled with the concept. In his analysis, Zaibert, (2009:367) began by quoting Kolnai who maintains that,

either forgiveness is objectionable and ungentle inasmuch as there is no reason to forgive, the offender having undergone no *metánoia* ('Change of Heart'), but persisting in his plain identity *qua* offender ... [or] at the other end of its spectrum, forgiveness seem to collapse into mere redundancy , or the mere registering of moral value in the place of moral disvalue.(Kolnai, 1973:98)

This position of Kolnai is similar to most victims of apartheid in South Africa who could not see reasons to forgive. However, in his analysis, Zaibert (2009:366) argues that Kolnai's idea of forgiveness is internally incoherent and schematically, synonymous with the famous request that Jesus made on the cross. He is referring to where Jesus said, 'Father, forgive them; for they know not what they do'. Zaibert argues that if, on the one hand, they truly know not what they were doing, then, of course, assuming that this ignorance was not itself culpable, it then follows that they should be excused, which is not the same thing as forgiveness. Forgiveness, as a matter of logic, presupposes (perceived) culpable wrongdoing. Whereas, if they did know that they were doing something wrong, then presumably they should have been punished, and, again, that would ostensibly not be forgiveness. For him, forgiveness can only happen when there is remorse; otherwise, it is not forgiveness even if it has a resemblance to it. This was what Zaibert was referring to when on page 367 he argues that,

the Kolnaian paradox has two parts. The first part is indeed 'chiefly logical': putative instances of forgiveness are in fact spurious since

they are instances of other sorts of phenomena: often what looks like forgiving is something else: excusing, exonerating, forgetting, exculpating, or, crucially for Kolnai, condoning. The second part of the paradox, however, is not ‘chiefly logical’, since it relates to the robust normative discussion concerning the justification of forgiveness”. (Zaibert,2009:367)

Unfortunately, the enabling act that granted state “forgiveness” or amnesty to perpetrators of apartheid did not make remorse a condition for amnesty nor did it make individual victim’s forgiveness a condition for the state one. Hence we had victims saying we did not forgive yet the state” forgave” or gave amnesty. However, Kolnai would probably say that what they got was not forgiveness but other things such as condoning because forgiveness, in his opinion, was not possible without remorse. However, a closely related but distinct position was that of Derrida whom Zaibert (2009:367) pitched against Kolnai. According to Derrida (2001:32-33)

the very concept of forgiveness, logic and common sense agree for once with the paradox: it is necessary ... to begin from the fact that, yes, there is the unforgivable. Is this not, in truth, the only thing to forgive? The only thing that calls for forgiveness? ... One cannot, or should not, forgive; there is only forgiveness if there is any, where there is the unforgivable. That is to say, that forgiveness must announce itself as impossibility itself. It can only be possible in doing the impossible. (Derrida, 2001:32-33)

The implication of what Derrida is saying here is that the very criteria which Kolnai argues authenticate forgiveness in order to be forgiveness, (remorse) is in fact that which renders it invalid with Derrida. Hence for forgiveness to be forgiveness, in the Derridean sense, the offender must still be fully culpable, and in fact, his offence must be so grievous that he is unforgivable or unpardonable. Hence it is forgiveness only when it is impossible to forgive.

Throwing more light on this, assertion, Zaibert (2009:367) argues further argues extensively that ;

The main reason why I pit Kolnai and Derrida against each other is that that the former is primarily interested in what is widely known as ‘conditional forgiving’, whereas Derrida can be seen as primarily interested in ‘unconditional forgiveness’, and the opposition between these two views of forgiveness ... As we shall see, Kolnai ‘resolves’ the paradox of forgiveness by appealing to the idea of repentance (*metánoia* , in the preceding quotation): what renders forgiveness ‘genuine and unobjectionable’ is that the wrongdoer has (in the forgiver’s eyes, at least) repented—as we shall also see, this is a rather influential view. In what follows, ... the Kolnaian move, arguing that

the appeal to repentance does not help us overcome the paradoxical nature of forgiveness. In contrast, by linking forgiveness to the unforgivable, Derrida simply refuses to ‘resolve’ the paradox of forgiveness; and he, rightly in my opinion, suggests that the phenomenon of forgiveness chiefly worth our attention is independent of whether the wrongdoer repents or apologizes. I will argue that forgiveness is also independent of many things with which it is usually considered (even by Derrida himself) to be essentially linked. Unfortunately, however, Derrida’s formulation of the paradox is yet more unhelpful than Kolnai’s, as Derrida fails to adumbrate, even in rough outline, what the analysis of this forgiveness-without-repentance which he describes could turn out to be, and thus I cannot defend his position on the matter. I think, however, that, if I understand him correctly, I will here defend the spirit of the Derridian position (or at least part of it). Going beyond Derrida, I shall present an analysis of the sort of forgiveness I think he has in mind...to forgive is to deliberately refuse to punish. This account sounds, perhaps, too broad, and while it may still sound problematically broad (Zaibert, 2009:367-368)

To further elucidate much more elaborately, the Derridean argument and its ambiguity, we shall rely on Zaibert (2009:368) who threw further light on the arguments extensively maintaining that;

Derrida’s style may be unique, but in the passage quoted he commits a rather ordinary mistake. The error has to do with the ambiguous use of the term ‘unforgivable’. Although there is great obscurity as to what exactly this locution means, it typically seeks to suggest that some wrongs are of such immense gravity that they should not be forgiven. Nazi atrocities, say, or child molestation, are customarily held to be in this sense unforgivable; arguably the point being made is that these very serious wrongs should be punished, and should not be forgiven. To be sure, it is only by assuming that Derrida uses ‘unforgivable’ in the sense of ‘ought not to be forgiven’ (and not in the sense of ‘cannot (logically) be forgiven’) that his quoted views make sense. Forgiveness presupposes, on my interpretation of Derrida, that the act to be forgiven is, *prima facie* at least, something that we should not forgive. For if we ought to forgive a given act, then, and indeed paradoxically, this act would no longer be as interesting a case for being forgiven (it will often just be a case in which the alleged wrongdoer is excused, justified, not really a wrongdoer, etc.). What Derrida means by ‘there is only forgiveness ... where there is the unforgivable’, is, then, that forgiveness can only occur as a response to something that should, in principle, in some sense, not be forgiven. (Zaibert, 2009:368)

In putting this Derridean thesis in clearer perspective, Zaibert appeals to Collingwood whose argument Derrida equally at some point alluded to. This is to the effect that “to forgive the no longer guilty is no longer to forgive” and arguing within the same

geometry of analysis, Zaibert maintains that there is, a kind of analytic connection between punishment and forgiveness which is in the fact that it is only what is punishable, that is forgivable, and vice versa. Whereas, not just wrongdoing, but culpable wrongdoing, has a logical precondition of both punishment and forgiveness. Demonstrating this relationship, he presented the argument of some scholars such as Hannah Arendt, who argues that,

we 'are unable to forgive what [we] cannot punish'. Now, this thesis entails neither that (1) whenever we blame someone for her wrongdoing, we must either punish or forgive her, for punishment and forgiveness are not jointly exhaustive—not only can we do other things too, but we can refuse to do anything at all, as we shall see in due course, nor that (2) if we do punish the culpable wrongdoer, then we cannot forgive her (or vice versa). While I will eventually suggest that punishment and forgiveness are mutually exclusive (synchronically), the analytic connection just uncovered does not by itself support the mutual exclusivity thesis. My suggestion thus far is strictly this: (perceived) culpable wrongdoing is a necessary condition for the very possibility of forgiving X, just as it is for punishing X. Strictly speaking, then, whatever on these grounds cannot be forgiven cannot be punished either (and vice versa)—of course, something may, on some other grounds, be unpunishable but forgivable (and vice versa). But whether something should be punished or forgiven is a different discussion. The paradox, again, is that sometimes an act which presumably ought to be punished (and which, therefore, is simultaneously punishable and forgivable), somehow ought to be forgiven as well. The term 'unforgivable' is thus ambiguous: it refers (in its strictest sense) to the impossibility of forgiving, and also (in a looser but much more widespread sense) to the inappropriateness of forgiving. (Zaibert, 2009:369-370)

Another issue that tends to emerge in the whole set up is the confusion between descriptive and normative enterprise, which is why Murphy, (1988:23) argues that "*The Question 'What is Forgiveness?' cannot after all be sharply distinguished from the question 'How is forgiveness justified?' ... We cannot define forgiveness and then ask what moral reasons make it appropriate*" (Murphy, 1988:23)

For Murphy, forgiveness is not something you do unconsciously; it is what we do for a moral reason irrespective of whether this moral reason is good or bad. For instance, in SA, the call to forgive perpetrators of gross human violations is morally based, whether the action was good or bad to forgive such villains is a different thing entirely.

However, the popular argument that forgiveness requires repentance is challenging to articulate. This is because we are not sure if it implies that it is impossible to forgive

an unrepentant person as Kolnai probably would argue or as a normative matter, forgiving the unrepentant is objectionable. Alternatively, even both depending on the context. Kolnai further argues that if forgiveness is granted to the unrepentant, then it would no longer be forgiveness but what he calls “condonation” but then how do we define condonation?

Kolnai’s central thesis is that condonation and forgiveness are dramatically different, condonation is still closer to forgiveness than all these other related phenomena—indeed condonation is, in an unexplained sense, a ‘simulacrum of forgiveness’. Yet, Kolnai and followers seem to forget this very point: that condonation is in fact rather similar to forgiveness ... In Kolnai’s opinion, condonation differs ‘sharply’ from forgiveness, however, in that ‘it does not presuppose and nullify the original retributive position’...Sadly, however, Kolnai says precious little as to what this retributive position is, or about how it is that forgiveness alone nullifies it. Surely it is part of the logical structure of forgiveness that it is a response to (perceived) culpable wrongdoing—and with this Kolnai agrees, although he has not shown that this need be different regarding condonation. In fact, Kolnai hardly discusses the reasons why the condoner condones. Abruptly, and somewhat gratuitously, Kolnai tells us that: ‘condonation is ... virtually “conniving” and immoralistic; in its gravest forms, it is not only undignified and self-soiling but unfair’. Not only is this dismal opinion of condonation odd in light of the fact that by his very own admission, condonation is more like forgiveness than are the host of other related phenomena which he discusses, but also in light of the fact that Kolnai asserts that: to condemn all condonation might, however, amount to over-severity; for it seems plausible that without condoning some faults we could not possibly live together, nor, for that matter, with our self.” Kolnai(1973:96-98) ; Zaibert (2009:376)

There is an exciting alignment here with what happened in Apartheid South Africa. Even though Kolnai sees condonation as second best and imperfect, he gave a window of when it becomes necessary to go with that imperfection. He boldly declared that “*it seems plausible that without condoning some faults we could not possibly live together*” which seem to be the underlying philosophy of the TRC. Perfection was deconstructed. Absoluteness was discarded for relativistic ideas. Nation building, societal unification and stability of South Africa was the overarching agenda that was paramount, and to that extent, condonation became imperative. This argument was succinctly and explicitly discussed extensively by Zaibert (2009:376) where he maintained that it is true that we cannot possibly live together or even in peace with our very selves if we did not do some undignified, self-soiling, or unfair things. Hence, he maintains that if condonation in some cases allows us to live with others and with ourselves, then, of

course, we should be careful before we flatly condemn condonation. Whereas, condemning condonation flatly is precisely what Kolnai does.

Nonetheless, he distinguishes condonation from forgiveness in that the latter is 'supposed to contribute to the eradication of wrongdoing' while the former in a way contribute 'to the fostering of it'. However, the justification and the definition of forgiveness (and of condonation) is problematic. Although, it is not clear that forgiveness is capable of contributing to the eradication of wrongdoing, or that condonation does not. (Zaibert,2009:376-377) Zaibert, therefore, argues that

The standard opinion is that punishment (and not the refusal to punish— of which both forgiveness and condonation are instances) contributes to the eradication of wrongdoing. Whether or not punishment indeed contributes to the eradication of wrongdoing, however, says little about the logical structure of the phenomenon of punishment itself; similarly, whether or not condonation and forgiveness would differ as to their effects vis-à-vis the eradication of wrongdoing is not to pick out a difference in the structure of the two phenomena. Kolnai, however, summarily and facilely decrees that condonation and forgiveness are 'sharply' different, and he confidently moves along, focusing on the 'unobjectionable and genuine' forgiveness which occurs only when we forgive the sincerely repentant. (Zaibert,2009:376-377)

We did mention earlier that pure forgiveness that is unconditional is ousted by the fact that it makes it pure and to that extent does not exist concretely in the Derridean sense. Again the principle of deconstruction of absoluteness does not allow SA to pursue the absolute idea of forgiveness, even though it borrowed significantly from it, the principle of unrepentant forgiveness which Kolnai calls condonation. For him, forgiveness is better because it requires repentance. However, the bottom line is that the phenomenon of forgiveness is complex with diverse interpretations and forms. This complexity makes it difficult for the South African TRC to adopt a straight-jacketed conception of forgiveness as each has its positive and negative sides especially as it complements or at variance with the overall agenda of the TRC. The safest thing was an eclectic adoption, based on the principle of relativism, deconstruction of absoluteness and to that extent, where there is a conflict of interest, the rebellious phenomenon following the Agamben's philosophy is deconstructed and pushed outside the realm of zoe. Hence it is depoliticised and stripped of dissenting elements that are capable of derailing the peace process. In South Africa, Ubuntu was brought

in to complement the Christian doctrine of forgiveness in order to obliterate the weakness of the Christian doctrine that requires repentance.

However, operating within the paradox that facilitated the resolution of the South African conflict, forgiveness is the dependent variable that needed to be deconstructed if it is going to be a threat to “amnesty”, and the enabling act did this very well by ensuring that state pardon was not dependent on the individual pardon. The unquestionable power of the sovereign over the individual subjects in both the Hobbesian and Rousseau social contract was carefully brought to the fore. However, what does this concept essentially entail, and what kind of narrative did it fulfil within the rhetoric of the TRC of SA? Hughes (2016) in The online Stanford Encyclopaedia of Philosophy argues that.

Forgiveness has over the past forty or so years engendered the interest of scholars and practitioners in such disparate fields as psychology, law, politics, international affairs, sociology, and philosophy...Generally regarded as a positive response to human wrongdoing, forgiveness is a conceptually, psychologically, and morally complex phenomenon. There is disagreement over the meaning of forgiveness, its relation to apparent cognates, the psychological, behavioral, conceptual, and normative dimensions of forgiveness, and when and under what conditions forgiveness is morally permissible, required, or wrong. Moreover, the many legal and political analogues to forgiveness raise questions about what human behaviors may be properly described as forgiveness. (Hughes, 2016:1)

That is not all; these scholars further argued extensively and more elaborately that, from time immemorial, ‘forgiveness has typically been regarded as a personal response to having been injured or wronged. On the other hand, it is a condition one seeks or hopes is bestowed upon one for having wronged someone else. While citing *The Oxford English Dictionary* which defines ‘forgivable, or more precisely ‘forgives,’ as that which “may be forgiven, pardonable, excusable,” and by which he is referring to the quality of deserving to be forgiven’.

This scholarly discussion about forgiveness is extensive. It all began with Jesus' appeal to God to forgive on account of ignorance. (Luke 23:34) This seems to suggest that ignorance is sometimes a condition that negates or tempers culpability, rendering wrongdoers forgivable. Nevertheless, the association with excusing conditions, forgiving is not, strictly speaking, the same thing as excusing. The reason is that whenever any wrongdoing is excused entirely, then there is nothing left to forgive

since wrongs that are completely excused are no longer blameworthy or culpable. Although excuses that mitigate, instead of negating, culpability, may serve as a rationale for forgiveness, even though they are not the same as forgiveness. Nonetheless, the application of the concept of forgiveness to non-moral behaviour, even though, forgiveness is not always or necessarily a moral term.

Furthermore, 'the term 'forgive' is said to have been derived from the word, 'give' or to 'grant', which means 'to give up,' or 'cease to harbour wrath or resentment,.' Again, while 'forgive' refers to the act of giving up a feeling of resentment, or a claim to requital or compensation. Moreover, the term 'forgiveness' is further associated with the action of forgiving or pardoning of a fault. It also includes the remission of a debt, or some forms of responses to injury, obligation or wrongdoing. Hence, the term, forgiveness is considered a dyadic phenomenon involving a wronged person, and a wrongdoer. What defines the relationship is the fact of acknowledging in order to move past such transgressions. Though the relationship is dyadic, it transcends individuals interaction and includes those of groups, Hughes (2016)

From this extensive exposition, it is ostensibly clear that there is a fusion of meaning between amnesty and forgiveness. It also entails "official pardon", but that has not obliterated their fundamental dichotomy. However, to understand the difference between amnesty and forgiveness, we may need to unpack the concept of pardon much more since it appears to be the link in both cases. While amnesty is synonymous with state or official pardon, forgiveness is synonymous with a personal, unofficial individual pardon. Hence both are still pardons.

In his analysis, Hughes (2016) argues more elaborately quoting reliable authorities to support his assertion, maintains that; ' In the United States, for example, the President has the power to grant pardons for federal offences, and state governors may pardon crimes against the state.' Such actions are what is called amnesty. Nonetheless, reasons for exercising the power of pardon often resemble those given for forgiving wrongdoers, just as when Ford, a former US President pardoned Richard Nixon in 1974 on the account that there is need to move the country beyond an ugly criminal transgression that is disruptive. One fundamental difference between pardon and forgiving is that third-parties necessarily exercise pardon while victims of wrong exercises forgiveness. Nevertheless, standard philosophical views contend that there

are good reasons for thinking that, with one important exception, third-party forgiveness is impossible, since forgiveness is the prerogative or right of the victim of wrong'. This point is crucial, in the sense that, in the case of SA, the state certainly may grant amnesty as the third party but incapable of granting forgiveness on behalf of the victims and their families. The implication is that the state may grant official pardon to perpetrators whose victims refused to grant forgiveness because they felt that it was not deserved (Bingham, 2009).

Nevertheless, judging from other perspectives, forgiveness is also an offer, especially where reconciliation between a victim and an offender is attempted. (Tombs, 2006) However, the primary sense of forgiveness does not seem to involve the notion of an offer at all, let alone an that which must be accepted by the offender. This is in order to facilitate forgiveness and accomplish at least some of its ends, such as to discharging one's duty, in order to forgive others as God commanded or to move beyond a potentially paralysing negative emotion. Hence, legal or political pardons by their very nature reduce or even eliminate punishment, whereas forgiveness need not affect punishment in any way. Hence, forgiveness also admits of an entirely self-referential variety (i.e. self-forgiveness). Nevertheless, official acts of self-pardoning are, in a way, controversial, and possibly without legal or political justification. These considerations are suggestive of the fact that despite some similarities, pardon and forgiveness are significantly different notions. (Hughes, 2016)

Furthermore, scholars have argued that there is no consensus over this component of forgiveness, which is why some scholars often disagree. Butler's opinion was that forgiveness involves overcoming vengeful anger or resentment (of some sort) that are directed at a wrongdoer. Although, that does not include revising one's critical judgments of such wrongdoers. Other writers argue that forgiveness requires a complete overcoming of negative judgments and emotions that are aimed at a wrongdoer. Others scholars claim that retaining negative moral judgments and feelings about a wrongdoer is compatible with forgiveness. Hence, retaining such convictions but in a manner that does not constitute "holding it against" the offender, is enough for forgiveness, or if forgiving or punishing a wrongdoer are compatible actions, especially if punishing a wrongdoer is a way of holding the wrong against him, and many more are contentious among scholars. (Radzik, 2008; Zaibert,2009A.; Hughes, 2016)

There is a fascinating dimension here in the expression “*Whether retaining such convictions but in a way that does not constitute “holding it against” the wrongdoer is enough for forgiveness*” (Hughes, 2016:9) is synonymous with the Agamben’s exclusive inclusion that forms the bedrock of our theoretical framework. Which is like excluding forgetting but in a manner that it is only its active elements that could work against healing, that are excluded while retaining its passive elements that could be channelled towards the objective of healing. The same geometry of analysis applies to the couplet on Amnesty and forgiveness.

However, while this is persuasive when considering SA victim’s forgiveness viz a viz state amnesty, other conflicting arguments are worth considering. It is argued that, that there can be no third-party forgiveness. That is understood to mean that one person cannot forgive a wrongdoer for an offence committed against another individual. This impossibility seems to stem from the personal nature of the reactive attitudes, such as resentment, often engendered by being wronged. It is only the direct victims of wrong can overcome such emotions. Hence, it is only the victims can forgive. Others may forgive a wrongdoer for an offence that also victimises them. An example is that of parents of a murdered child. They may rightly forgive the wrongdoer, as victims themselves not as representatives of the primary victim because they have no authority or moral standing to do so. Put differently; forgiveness is the victim's prerogative’ (Govier and Verwoerd, 2002 Swinburne, 1989;). Although, it does not mean that third-parties cannot convey messages of forgiveness on behalf of someone offended, but that will be acting in the role of a messenger of forgiveness, not in the role of a forgiver per se”. (Hughes, 2016)

To this extent, amnesty without recourse to the victim for forgiveness seem untenable that third-party intrusion that does not have the same effect as those of the victims. This had variously contended. The argument below seems to justify amnesty that does not recourse to individual’s forgiveness for expedient reasons.

Despite the widespread assumption that only the primary victim of wrong has the standing or authority to forgive wrongdoers, a number of philosophers have challenged it. Murphy (2009) acknowledges his departure from this assumption, and Pettigrove, in his “The Standing to Forgive” (2009), argues that four common arguments that purport to show that only the immediate or direct victim of harm has the standing to forgive are unpersuasive, and that second or even third parties, who are not properly regarded as “victims” of the wrong, can nevertheless forgive a wrongdoer. And Radzik (2010) claims that the

idea that only the immediate victim of wrongdoing can forgive is false, since it is a commonplace that people who are neither direct nor indirect victims of a wrong may nevertheless experience moral anger over a wrong (e.g. an injustice) done to others. Forgiveness in such cases may be part of an effort to repair a relationship between a wrongdoer and those non-victims whose relations to the wrongdoer have been compromised by the wrong that was done. (Hughes, 2016:10)

However, while a third party here play this role, it may be contributory to the general societal peace and stability, but it does not in precise terms have the same effect as the interpersonal forgiveness exercised by victims or secondary co-victims. Some of the distinct difference between a state pardon for instance and forgiveness, some have argued is to hold one excused from an offence, Unlike the granting of a pardon, which may be merely allowing the offender to go unpunished. Hence, the act of forgiveness involves refusing to blame. To make it explicit, what these scholars seem to be saying is that. “amnesty” is a discharge while forgiveness is an acquittal. However, the complexity in these phenomena is not in doubt, and the arguments can go on indefinitely. For instance, there are arguments in Jewish tradition that advocates for compensation for victims but also, the aggressor must be remorseful, and when this happens, the onus is on the victim to forgive which is where justice fuses with mercy.

The concept of forgiveness and not retaliation underlies the TRC. What is forgiveness, and what will be the justification for forgiveness? The entire theory of the TRC rest largely on this principle of forgiveness. Forgiveness so far seems to be affirming guilt, yet removing the guilt in order to set free to go. That is is simply allowing to go scot-free and not making one pay for a wrong done, while amnesty which is the same as state pardon, is not concerned with affirming guilt but merely allowing to go scot free. What are the criteria for a perpetrator to get forgiveness either from the victims or the state?

Desmond Tutu indicated above that to qualify for the state pardon known as amnesty; three criteria must be fulfilled namely. These are that the act took place between March 1960 and May 1994; and that it was associated with a political objective, and that the applicant was considered by the committee to have fully divulged all relevant truths on the violation” The core requirement here is “truth-telling”. That again creates some problems. Is the concept of forgiveness superimposed on the TRC, or is there any logical relationship between truth-telling and

forgiveness? Scholars have been unable to establish this relationship conclusively, and that explains why they have argued that merely telling the truth without remorse does not command forgiveness. Unfortunately, these are not part of the requirement for amnesty. Even if a victim chooses not to forgive a perpetrator after reeling out the whole truth about his atrocities, he could still walk away with freedom in the name of truth-telling. No doubt hearing the truth could have some therapeutic effects on the mind of a victim, but it does not automatically guarantee forgiveness which would come only when a victim is satisfied that the offender has sufficiently and commensurately suffered for the wrong done. Although, this would then be punitive, which is outside the objective of the TRC. However, it appears that it is only within the Christian faith that the concept of forgiveness can be understood just from mere truth-telling though not without its limitations.

Archbishop Tutu had always insisted as if it is automatic that ‘forgiveness will follow confession, while healing will follow and that would lead to national unity and reconciliation’ and further argues that the amnesty arrangement was a positive process towards what he called ‘restorative justice’ as against ‘retributive justice’ which epitomizes the African virtue of Ubuntu. Tutu enthusiastically and overzealously claims that “most amnesty applicants have expressed remorse and asked for forgiveness from their victims”, and that most victims are often moved to respond to the apology by forgiving the culprit, but critiques have argued that this picture painted by Tutu is more of his desires than what obtained at the trials. David (2008) argues that ‘most perpetrators who went to the Amnesty Committee did not make apologise or express contrition. He further maintained that only a few victims or their families expressed a willingness to forgive; many firmly said that they refused to forgive, and why they would not forgive’ rather Tutu’s ideas were overwhelmingly beclouded by the Christian doctrine of forgiveness even though it does not translate logically nor does it apply in the case of the TRC. Arguing further, according to Tutu, “God wants to show that there is life after conflict and repression – that because of forgiveness, there is a future.” This is why critiques argue that ‘If one supports the TRC’s pursuit of both Truth and Reconciliation but is neither Christian nor religious, it is difficult to identify with Tutu’s approach; it is hard not to feel that he restricted himself to a narrow

view of what reconciliation was, and of what the TRC was supposed to achieve. (Philip, 2008)

Furthermore, Wilson (2000) observed that forgiveness was not an external artificial pronouncement that could be superimposed to fulfil all righteousness as Desmond Tutu was seen doing in the early days of the TRC hearings when he practically induces victims of gross violations to do even when there is no sufficient reason to forgive. He argues that ‘ in the first six months of HRV hearings, the Commissioners specifically pressed those testifying to say whether or not they forgave the offender, and praised those who indicated that they harboured no feelings of revenge against the perpetrator’.

However, forgiveness is like the pivot on which the wheel of the entire TRC rotates. This is why Philip (2008) maintains that despite the laudable objective of the TRC, it could not achieve both reconciliation and justice particularly because the prerequisite of genuine peace and reconciliation was erroneously thought to be superimposed artificial lip service forgiveness that is devoid of remorse, reparation and prosecution. Rather, it was hinged on truth-telling, which is just its first step. (Philip, 2008)

Furthermore, Desmond Tutu was reported to have cited two cases. These were cases where victims were willing to let go past injustices they have suffered. It was as if it was the trend in most cases, whereas the issue of forgiveness was more controversial. According to Philip (2008), who was critical of Tutu, argues that Tutu’s suggestion in these cases were common – but in fact, they were far from it. Many victims felt pressured by the TRC to forgive their perpetrators but felt no necessary inclination to do so. For example, there was Mrs Charity Kondile, the mother of Sizwe Kondile who was murdered and his body burned by Dirk Coetzee. Coetzee publicly asked her forgiveness. Her lawyer replied on her behalf, “You said that you would like to meet Mrs Kondile and look her in the eye. She asked me to tell you that she feels it is an honour ... you do not deserve. If you are really sorry, you would stand trial for the deeds you did.” Mrs Kondile added to this: “It is easy for Mandela and Tutu to forgive ... they live vindicated lives. In my life nothing, not a single thing has changed since my son was burnt by barbarians ... nothing. Therefore I cannot forgive.” (TRCR,1998)

The complexity of the idea of forgiveness is thus here revealed. There is no necessary connection between truth-telling and forgiveness. Besides the current state of the victim after surviving the atrocities perpetrated against them, also determines the ability to forgive. For instance, Mandela came out of jail alive and then became the president of democratic South Africa. Unfortunately, not everyone's sad story had such a happy conclusion. That in itself is a problem for forgiveness. Of course, there is a fallacy committed by the victim who tries to equate remorse with the trial. No, being sorry does not mean willingness to be prosecuted. One could be genuinely sorry and still wish to escape punishment.

Again, the idea of forgiveness was seen rather as inconsistent with the outplay at the amnesty trials. Instead, it was seen as a Christian theological imposition that made no sense outside Christianity. It explains why Philips (2008) citing one critic, Richard Wilson, (2000) who called the TRC's "religious-redemptive narrative" he further maintained that 'amnesty is presented as a positive good of Christian forgiveness, and the wish to prosecute perpetrators through the criminal justice system is portrayed as a nasty wish for vengeance. Of course, Tutu was an Anglican Archbishop, and it was his job to urge Christian forgiveness on people. But not everyone involved with the TRC was either Christian or religious, and there was no reason why everyone else should have to share Tutu's view of reconciliation and forgiveness; the TRC Act talks about reconciliation, but says nothing about any requirement of forgiveness.'

Some scholars have similarly argued that natural justice requires that victims and their families had a right to expect both prosecution and reparation. International Human Rights Law equally expects that, as the case was with Pinochet in Chile, in a similar fashion, the leaders of the apartheid regime such as P.W. Botha and De Clark should be prosecuted, to deter others from future abuses; unfortunately, they escaped while others under them were brought to book. This goes to show that no matter the good intention of the TRC, it just could not deliver justice in any shape or form as may have been desired. Although Philip (2008) tries to justify this by arguing that 'political prudence suggested that all the different groups in South Africa should try to live together in the future, through national reconciliation. This was why he argues further that, perhaps it was the most sensible course to take – to trade amnesty for perpetrators in return for their putting their misdeeds on the public record. This could be rationalised as an essential reconciliation to which was added a gloss of religion and

morality, by invoking the virtues of Christian forgiveness and indigenous Ubuntu. He remarked that a good number of South Africans are not pleased with the thought that many of the guilty perpetrators who were whites have escaped prosecution. Although, in its favour, the TRC has also left a permanent historical record of detailed disclosures by some of the perpetrators of atrocities which the apartheid forces of 'law and order' committed while defending apartheid South Africa, and by so doing confirming what many people claimed in the face of repeated official denials during the apartheid years'. Philip (2008)

Furthermore, Wilson (2000) observed that forgiveness was not an external artificial pronouncement that could be superimposed. Hence, he argues that a set of people who worked for a victim support group, known as Khulumani which literally means "speak out" in Zulu language affirmed this view when one of them Tlhoki Mofokeng argue that Tutu's Christian approach is a "problem", which led to pressure being put on victims to forgive. In his criticism, he maintained that Tutu presses for "reconciliation at all cost", he said, "I think Tutu could have used much more done, less hug and kiss." Whereas his counterpart, Thandi Shezi, who was less critical, maintains that Tutu could be excused because forgiveness was part of the Christian faith that the Archbishop represents even if it does not make sense. One can understand that religion is largely based on dogmatic faith and not on logical or rational thinking. Wilson (2000)

Others have made the unequivocal condemnation of the TRC's fantasy that forgiveness was a mechanical thing that happens just by proclamation. One of such is, Marius Schoon whose wife and six-year-old daughter were both killed by a parcel bomb delivered to them by the team of security policeman Craig Williamson, who was subsequently granted amnesty, In clear terms, Marius Schoon proclaims that "There can be no indemnity, no forgiveness, without remorse. 'We see no signs of Craig being sorry. I mean, are we going to have a situation where people can qualify for indemnity just by saying as if they were reeling off a grocery list, 'I killed this one and poisoned that one and beat the shit out of the third one'. It seems untenable to me, morally and philosophically.' It is apparent here that merely telling the truth does not elicit forgiveness rather entrenches bitterness and confirms that beyond truth exists another criterion that is a catalyst to forgiveness which is the "manner in which the truth is being said. but this was not one of the criteria for granting forgiveness or amnesty.

Besides, the dissatisfaction and un-forgiveness of a victim do not preclude a perpetrator from receiving amnesty. Similarly, Gillian Slovo, the daughter of Ruth First who was also killed through one of Craig Williamson's letter bomb described how disgusting she was hearing how Williamson freely narrates how he unrepentantly send out letter bombs, and how much she disgusts him and reluctant to ever forgive him or even shake his hand. (TRCR;1998)

6.3.1 Christian Forgiveness

The Christian value of forgiveness also features in several other kinds of literature, such as Hope (1987) and Hay (1999). However, the South African Truth and Reconciliation was at its inception, criticised for being too Christian in outlook. Nonetheless, Desmond Tutu associated the Christian basis of reconciliation with the African value of "Ubuntu". Similarly, scholars have argued that it is unacceptable for perpetrators of heinous crimes to comes before the victims with insensitivity and recklessness in reeling out dozens of atrocities and killings, as if they were reeling out a shopping list, without the slightest show of regret and remorse. It is pathetic mainly when this is done to meet the criteria for amnesty, not minding the fact that it has left indelible scars on the minds and hearts of people. Some of such people have been incapacitated permanently.

This leads to the question of whether forgiveness can exist on its own for its own sake and not fall within the economics of trade. Alternatively, should forgiveness necessarily be dependent on some other set of values, which qualifies one for it? If that were so, would it be sufficiently potent within the context of TRC? Perhaps we can carefully examine the Christian concept of forgiveness to see how it fits into the scheme of the TRC.

Forgiveness within the Christian faith is a derivative of two forms of sins. The first type is the one against God, namely, the original sin, which we may call the "fixed sin". On the other hand, is the day to day sin which we may call the "recurrent sin". The Christian faith believes that by the very nature of being human and being a descendant of Adam who committed the original sin of falling in the garden of Eden, all men have sinned for inheriting the original sin for which he needs forgiveness. (**Romans 3:23**) The book of Romans, chapter 3 verse 3 seem to affirm this by saying that "For all have sinned and fall short of the glory of God" But again that falls into

the circular concept of offence and payment. To be free from this sin, Jesus Christ came to die. As the bible says in (**Romans 6:23**) “For the wages of sin is death, but the free gift of God is eternal life in Christ Jesus our Lord” So Jesus got the death penalty as payment for the sin of man. This death on the cross of Calvary is linked to salvation in that he paid the ultimate price, on behalf of all humankind who have sinned for the singular fact that their ancestor, Adam sinned. To be covered by this sacrifice, there must be an alignment of some sort to Christ, which will be to accept Jesus Christ as “lord and personal saviour”. (**Acts 10:43**) “To him, all the prophets bear witness that everyone who believes in him receives forgiveness of sins through his name.”, (**John 3:16**) “For God so loved the world, that he gave his only Son, that whoever believes in him should not perish but have eternal life”.

The recurrent sin is not the inherited one, but that which the individual humans commit as vulnerable mortals. (**Ecclesiastes 7:20**) “Surely there is not a righteous man on earth who does good and never sins” To get forgiveness for this second category of sin also requires some sort of give and take. It requires first confessing which is synonymous with truth-telling in TRCs and asking for forgiveness in the name of Jesus who similarly paid for the original sin, which is like the Amnesty in TRC.(**1 John 1:9**) says “If we confess our sins, he is faithful and just to forgive us our sins and to cleanse us from all unrighteousness”. This explains why Catholicism engages in the ritual of “confession” to the Rev. Fr. who as God’s representative among mortals confirms that you have been forgiven whereas other protestant denominations merely remove the priest from the chain and expect the confession to be done in the individual’s private prayer sessions. **1 John 1:9-10** says “If we confess our sins, he is faithful and just to forgive us our sins and to cleanse us from all unrighteousness. If we say we have not sinned, we make him a liar, and his word is not in us”. **Proverbs 28:13** says “Whoever conceals his transgressions will not prosper, but he who confesses and forsakes them will obtain mercy”. This seems to be the underlying criterion for truth-telling for amnesty. However, reading between the lines here shows that even within Christianity, mere confession alone was not sufficient to achieve forgiveness and so it added “and forsake them” This carries the notion of repentance, of remorse and of deep sorry and regrets without which the criteria for forgiveness would not have been met. Unfortunately, this bit was left out of the TRC’s requirement for amnesty and equally overlooked and downplayed by Desmond Tutu. Hence, undermining genuine

forgiveness and reconciliation. However, it must also be mentioned here that this may not have been an oversight on the part of Tutu. Instead, it is part of the original game plan that any narrative that will be inimical towards the attainment of the primary objective of societal peace and unification must be pushed to the realm of silence and irrelevance.

Apart from these two categories of sins against God directly, there are also the sins committed against fellow human beings for which forgiveness is required from those individuals that have been wronged. Just as the atrocities of apartheid. Moreover, the victims are duty bound to forgive those who ask for forgiveness for two reasons, one in emulation of how Christ has forgiven them, **Ephesians 4:32** “Be kind to one another, tenderhearted, forgiving one another, as God in Christ forgave you. **Colossians 3:13** “Bearing with one another and, if one has a complaint against another, forgiving each other; as the Lord has forgiven you, so you also must forgive”. Hence, the second reason to forgive is the anticipation of forgiveness from God. **Mark 11:25** “And whenever you stand praying, forgive, if you have anything against anyone, so that your Father also who is in heaven may forgive you your trespasses.” **Matthew 6:15** says “But if you do not forgive others their trespasses, neither will your Father forgive your trespasses”.

Again forgiveness in Christian don is inelastic and does not depend on gravity. **Matthew 18:21-22** “Then Peter came up and said to him, “Lord, how often will my brother sin against me, and I forgive him? As many as seven times?” Jesus said to him, “I do not say to you seven times, but seventy times seven” which is 490 a day. The Christian principle of forgiveness abhors retaliation; **Luke 6:27** “But I say to you who hear, Love your enemies, do good to those who hate you. **Romans 12:18-19** If possible, so far as it depends on you, be at peace with all men. Never take your own revenge, beloved, but leave room for the wrath of God, for it is written, "Vengeance is mine, I will repay," says the Lord. The Christian doctrine recognises that offence and crimes must necessarily attract punishment which again brings us to the unfortunate give and take or double-edged economics of trade in moral issues, which is the same problem with the traditional concept of justice. Unfortunately, the difference here is that the individual victim is not allowed to administer it. Just as the state equally administers the punishment meted out by the court on behalf of victims rather than allowing the individual to put laws into their hand by embarking on self-retaliation.

Within Christianity, it does appear that vengeance is somehow allowed but an exclusive reserve of God. It is for God to take vengeance on behalf of the victims. **Proverbs 20:22** Do not say, "I'll pay you back for this wrong!" Wait for the LORD, and he will avenge you. **Proverbs 24:29** Do not say, "I'll do to them as they have done to me; I'll pay them back for what they did." **Jeremiah 51:36** Therefore this is what the LORD says: "See, I will defend your cause and avenge you; I will dry up her sea and make her springs dry. **Romans 12:17** Do not repay anyone evil for evil. Be careful to do what is right in the eyes of everyone. In law, ignorance is not excusable but within the Christian faith, it is permissible. Jesus himself confirmed this while on the cross, when he like Socrates, proclaimed that the perpetrators of evil against him should be forgiven because they "know not what they are doing" (**Luke 23:34**). Truly some of the Apartheid security forces believed erroneously that they were fighting a just war which is directed at Communist subversion and under such emergency conditions, extraordinary high handed measures to protect national security are required. This seems to justify the Socratic notion that no one does evil deliberately, and that when they do, they must have erroneously believed that what they were doing have some benefits of some sort. However, then this principle of avoidance of double negation no doubt introduces order and avoids chaotic situations similar to those of the Hobbesian state of nature where it involves a war of all against all.

From the analysis above, it seems evident that the TRC of South Africa borrowed significantly from this Christian doctrine of forgiveness, vengeance and truth-telling but falls short of forgiving for its self. It is still operating within the economy of trading fundamental human virtues of forgiveness for something and to that extent, incapable of guaranteeing a genuine reconciliation. It only makes sense to Christians or religious people

6.4 Amnesty without Forgiveness

Amnesty and forgiveness are technically synonyms but operating at different levels. For Agamben, amnesty would be said to be operating at the level of bios while forgiveness at the level of zoe. In other words, amnesty is at the collective state or societal level, while forgiveness is at the individual level. Expectedly, the crime for which pardon is being sought was committed against the individual and not the state directly. To that extent, a state pardon should invariably flow from the individual pardon. Hence, if a perpetrator is unable to secure the forgiveness of his victim directly,

such violator expectedly should not get state pardon, which is amnesty. However, if this is subjected to the individual will, it may derail the broader objective of peace and societal unification, which is why it had to be excluded, just as Agamben would push any contending element into the realm of irrelevance or bare-life, so that it will not disturb the primary objective as in the situation of the Homo Sacer. Hence, amnesty with forgiveness had to be stripped of its bios, and we are left with amnesty without forgiveness.

The enabling act of the TRC requires *“The full disclosure of truth and an understanding of why violations took place to encourage forgiveness”*. (TRCR,1998: 435) Unfortunately, the attitude of the perpetrators who in the first place were practically coerced into appearing before the commission was to fulfil all righteousness, that is a formality, knowing that sufficient immunity and insulation has been built into the constitution, the door to impunity was wide open. Such arrogance and lack of regret could hardly elicit forgiveness. Reeling out the truth or half-truth as the case may be, ensured amnesty but without forgiveness which in a way provided immediate societal unification but founded on a time bomb for a future explosion. These narratives were documented in the work of the commission, and some have come out boldly despite efforts, on the contrary, to declare that they did not forgive. Moreover, this earned the commission, much criticism which Desmond Tutu tried hard to explain when he argues that amnesty is not designed for excellent people and so the outcry may not be necessary. According to him, it seems as though we have suddenly,

forgotten the *raison d’être* for amnesty. Amnesty is not meant for nice people. It is intended for perpetrators. There are strict criteria to be met and we believe that the Committee has used those criteria to determine whether or not amnesty should be granted. Amnesty is a heavy price to pay. It is, however, the price the negotiators believed our country would have to pay to avoid an *“alternative too ghastly to contemplate”*. Sadly, in almost all cases, there was an outcry only when the victim was white and the perpetrator black. I wonder whether people have considered how the Trust Feed Farm community must have felt when Brian Mitchell got amnesty since it was his misinterpreted orders that led to the death of eleven persons in that community? As a matter of fact, the Amnesty Committee has granted only about 150 amnesties out of 7 000 applications, with a further 2 000 still to be dealt with. This can hardly be described as an avalanche of reckless decisions”.(TRCR, 1998: vol.1: 12)

From the above, it is clear that granting of amnesty is technically recognised here as a painful exchange for truth and democracy because in a way it excludes justice at least

in the retributive sense. Furthermore, the narrative in support of amnesty without forgiveness was strongly reinforced here, when it argues that, “amnesty as an official act of pardon can all too easily be misinterpreted as ignoring responsibility and accountability. As such, amnesty can be seen to be encouraging a culture of impunity. Some victims felt that amnesty results in insufficient social repudiation and that, by refusing to punish those responsibly and allowing perpetrators to walk free, it constitutes a failure to respect their suffering”. (TRCR,1998:118) This is why they cannot forgive, yet in the overall interest of national unity and nation building, the phenomenon of forgiveness must be deconstructed to justify amnesty even if it had to be without forgiveness.

It is interesting to note that granting of amnesty was an incentive provided by those who negotiated the transition to ensure that it was safely delivered without violence. But in doing so, it was not dependent on whether the victims actually forgave or not, because to do that would emasculate amnesty, and subsequently derail the whole process of a smooth transition. This is what Agamben’s theory would not allow happening. Agamben would, as it pushed the contending phenomenon into the realm of bare life or impotence. However, as part of the safety guide, to cushion the effect of the pain of taking away the right of prosecuting a confessing “murderer” compensation for losses were built into the system although not at the same level of importance. For instance, while the commission could outrightly grant amnesty, it could not do so with compensation, it is allowed to make recommendations to the government for execution. Hence, in the South African context, the Truth and Reconciliation Commission, made provision for the granting of reparation as an essential element, to counterbalance amnesty. Since the granting of amnesty denies victims the right to institute civil claims against perpetrators. The government should thus accept responsibility for reparation. (TRCR, 1998:170)

Just as we have always advocated that CDA help us to identify some concepts that underlie the success of the South African mediation process. Moreover, in the course of our analysis, it is observed that the concepts fused themselves together in couplets of seven paradoxes, the basis on which the peace process was based. Interestingly, the paradoxes first emerged as those of compliments and after that transformed into those of opposites before it was capable of diffusing the Apartheid conflict in South Africa. In the case of the couplet under review; Amnesty and Forgiveness, It will be seen from

the wishful thinking of Desmond Tutu as quoted below that the original intention of the founding fathers of the TRC was to deliver Amnesty on an understanding of forgiveness. It was to grant people amnesty that is willfully given, not imposed, based on genuine repentance and forgiveness, especially from victims. Unfortunately, this remained wishful thinking because it would not happen and because forgiveness could not happen, then amnesty would have been out of reach which is why it had to be deconstructed to Amnesty despite un-forgiveness which must necessarily be imposed in the interest of the overall objective that must not capitulate. Such original desire justifies the complementary narrative of “amnesty with forgiveness” before the deconstruction was evident in Tutu’s exposition below; when he said,

if the key concepts of confession, forgiveness and reconciliation are central to the message of this report, it would be wonderful if one day some representative of the British/English community said to the Afrikaners, “We wronged you grievously. Forgive us.” And it would be wonderful too if someone representing the Afrikaner community responded, “Yes, we forgive you - if you will perhaps let us just tell our story, the story of our forebears and the pain that has sat for so long in the pit of our stomachs unacknowledged by you.” As we have discovered, the telling has been an important part of the process of healing. (TRCR. 1998: vol1: 16)

From the above excerpt, we can see the wishful thinking in the expressions of Tutu. It was the desire for a smooth, perfect transition where amnesty if it were still necessary, would have been with forgiveness, but the reality on the ground did not produce such narrative which is why what was produced was that which favours “amnesty without forgiveness”.

Such action of delivering amnesty without forgiveness did not pass unnoticed. There were wide criticisms of the amnesty provision by the common people who had no access to the serious theoretical framework in action, and that necessitated Tutu to explain out some of the facts which include reminding South Africans, that those granted amnesties are no heroes by any standard, neither have they escaped payment for their sins. The requirement to get amnesty itself is a form of punishment which may though appear soft, but potent. In his analysis, Tutu maintains that “*Amnesty is a heavy price to pay. It is, however, the price the negotiators believed our country would have to pay to avoid an “alternative too ghastly to contemplate”*” (TRCR. 1998:vol.1: 12)

Furthermore, it may be expedient to reiterate here that the purpose of this chapter is to demonstrate that from the empirical data, the evidence abounds which confirms that the narrative for peaceful resolution of the South African conflict among others is amnesty, though without forgiveness. The excerpt below, clearly confirms the state of mind of most of the victims who were unequivocal in confirming that no matter what the desire of Tutu and his commission is, they just can't find themselves forgiving. Some for lack of knowledge of whom to forgive and others, the justification for such forgiveness. We must quickly remark here that despite this narrative of unforgiveness, it did not deter amnesty from taking place and consequently, the emergence of the new democratic state of South Africa. The report says, "*Father Michael Lapsley, who lost both arms and an eye in a near-fatal security police parcel bomb attack in Harare in 1990, told the Commission: "I need to know who to forgive in order to endeavour to do so". (TRCR. 1998:.vol.1:107)*

This statement confirms that not only were crimes of the past shrouded in obscurity, even confessing perpetrator's attitudes were largely unrepentant. Some of the perpetrators who came before the commission came to present what is considered half-truths. Some of these were deliberately shrouded in obscurity and inconsistencies. Also revealed was the fact that there was no clear channel of authority to be held responsible for any violation, especially of those who gave what orders, who interpreted it, to whom it was given and who executed it. This is why "*Many victims justifiably insisted that they were not prepared to forgive if this meant that they must 'close the book on the past', 'let bygones be bygones' or 'forget about the past and focus on the future'.* (TRCR.1998:vol.1:116)

Further exposition confirms that Amnesty was everything while forgiveness was nothing.

A major source of conflict in public debate concerned the question of amnesty. As already mentioned, the decision to grant amnesty was a feature of the negotiated political settlement and became a central responsibility of the Commission. Many participants, however, saw a contradiction between the work of the Human Rights Violations Committee, which devoted its time and resources to acknowledging the painful experiences of victims of gross violations of human rights, and the work of the Amnesty Committee, which freed many of the perpetrators of these violations from prosecution (and from prison) on the basis of full disclosure... This tension was deepened by the fact that the Amnesty Committee was given powers of implementation, while the Reparation and Rehabilitation Committee could, by and

large, only make recommendations. Perpetrators were granted immediate freedom. Victims were required to wait until Parliament had accepted or rejected the recommendations of the Commission. (TRCR.1998:vol.1: 105)

Such waiting time for victims only aggravated their frustration and anger and as such further ruled out forgiveness even though amnesty was without such bottle-necks. Although again this is consistent with the fact that the working narrative is amnesty without forgiveness.

Furthermore, the report argues that “amnesty as an official act of pardon can all too easily be misinterpreted as ignoring responsibility and accountability. As such, amnesty can be seen to be encouraging a culture of impunity. Some victims felt that amnesty results in insufficient social repudiation and that, by refusing to punish those responsible and allowing perpetrators to walk free, it constitutes a failure to respect their suffering. It is important, therefore, clearly to understand the various justifications for the concept of amnesty implemented by the Commission, with its unique focus on individual accountability. Similarly, the relationship between the Commission and the formal justice system merits attention”: (TRCR. 1998:vol.1:.118)

From the above excerpt, we can infer that the original intention or desire of the commission would have been to deliver amnesty on the basis of forgiveness especially when the white community show understanding that they were being treated more fairly than they deserve, given the kind of treatment they meted out when they were in power. Their full cooperation and repentance would have encouraged amnesty with forgiveness, and perfect peace would have returned to SA, not a modulated one. Unfortunately, this was not the case, which was why deconstruction had to take place. These facts are hidden in between the lines of the excerpt below; in paragraph 71, of page 18 of Vol.1 of the TRC report, Tutu, could no longer suppress the reality of the degree of victimisation weighing heavily to one side than the other despite the equality discourse that was to remove or downplay accusation of bias. It shows the irrepressibility of truth. Even though we know that, such inconsistencies were part of the peace narrative. In the words of Tutu;

On the whole we have been exhilarated by the magnanimity of those who should by rights be consumed by bitterness and a lust for revenge; who instead have time after time shown an astonishing magnanimity and willingness to forgive. It is not easy to forgive, but we have seen it happen. And some of those who have done so are white victims. Nevertheless, the bulk of victims have been black and I have been saddened by what has appeared to be a mean-spiritedness in some of the leadership in the white community. They should be saying: “How

fortunate we are that these people do not want to treat us as we treated them. How fortunate that things have remained much the same for us except for the loss of some political power. (TRCR.1998: vol.1:18)

Furthermore, Archbishop Tutu had always insisted as if it is automatic that forgiveness will necessarily follow confession and healing will automatically happen, and by so doing, contribute to national unity and reconciliation. He also, argues that the amnesty arrangement was a positive process towards what he called 'restorative justice' as against 'retributive justice', which epitomises the African virtue of ubuntu. Tutu enthusiastically and overzealously claims that "most amnesty applicants have expressed remorse and asked for forgiveness from their victims", and that most victims are often moved to respond to the apology by forgiving the culprit, but critiques have argued that this picture painted by Tutu is more of his desires than what obtained at the trials. David Philip wrote, "*Most perpetrators who went to the Amnesty Committee did not apologise or express contrition, and relatively few victims or their families expressed a willingness to forgive; many said plainly that they refused to forgive, and why they would not forgive*" (Philip, 2008:1)

However, Tutu's ideas were overwhelmingly beclouded by the Christian doctrine of forgiveness, even though it does not translate accurately in the case of the TRC. According to Tutu, "God wants to show that there is life after conflict and repression – that because of forgiveness, there is a future." This is why critiques argue that "If one supports the TRC's pursuit of both Truth and Reconciliation but is neither Christian nor religious, it is difficult to identify with Tutu's approach; it is hard not to feel that he restricted himself to a narrow view of what reconciliation was, and of what the TRC was supposed to achieve." (Philip,2008:1)

6.5 Summary of Amnesty without forgiveness

In this chapter, it was a struggle between what should take precedence over the other. Is it state pardon or pardon from the victims? The clear facts are that the victims are the direct sufferer of the violations while the state is the indirect victim. Hence, common sense would require that the individual pardon should be superior to that of the state and as such, the state pardon should be subject to and subsumed under the individual pardon. The implication of this would have meant that once a perpetrator is unable to convince his victims and obtain their pardon, then he would not get that of the state and that means he is liable to answer for his deeds under apartheid by way of

facing prosecution. However, what obtained in South Africa was the reverse. The state pardon (amnesty) was made superior to individual pardon. The fact that a victim expressly affirms that he would not forgive is inconsequential in obtaining state pardon. This bit was not negotiable, and it was not within the power of the commission to tamper with such things. They were sacrosanct. This is why the amnesty provision was criticized as encouraging impunity. It must then be recalled that the overall goals of the TRC were societal peace and stability. The narratives that emerged reveals that amnesty was a fundamental requirement for the continuous existence of South Africa as one indivisible, peaceful society. One element that threatens this is the individual victim's forgiveness. This was mostly not forthcoming. All forms of narrative, including the Christian concept of forgiveness, were employed and where the Christian one was logically and naturally defective, the African concept of Ubuntu was introduced to compliment it. It became clear that amnesty was inevitable. Hence, forgiveness must, therefore, be deconstructed to a point when it was not going to be detrimental to amnesty in line with Agamben's philosophy. Thus, in the interest of societal peace and stability, amnesty was given even though it was without forgiveness.

6.6 Tolerance without friendship

6.7.1 Introduction to Tolerance without friendship

This section of the chapter deals with the identification and analysis of the phenomenon of Tolerance without friendship within the South African peace process. It examines the themes underlying the peace narratives in South Africa (SA) as well as the analysis of how the paradox of Tolerance without friendship was derived and how it operationalises itself within the Agamben's exclusive, inclusive philosophy of the Homo Sacer. This paradox like the others has two elements, namely, Tolerance and friendship. What do these concepts entail and how were they activated as part of the underlying paradoxes with which peace and societal stability were returned to apartheid South Africa? In this couplet, tolerance is the constant independent variable that does not change. It is that variable that needs to be fulfilled at all cost in order to achieve societal peace while friendship is the dependent variable that needs to be deconstructed and fragmented through a process of reductionism and exclusion in order to fulfil the objective of the dominant variable, which in this case is tolerance. Hence, tolerance is the element that carries a higher premium in the transitional process.

6.8 Tolerance resulting from friendship translated into Tolerance without friendship

Again, Tolerance without friendship does not seem to be the original desire of the architects of the TRC who would have gladly been willing to build tolerance of the society, on a foundation of interpersonal friendliness at least on the individual level. The desired goal at this level was more of a new beginning where the animosity and bitterness of the past, would be outrightly obliterated, while a harmonious and gleefully united and happy society bound together in one accord is instituted. Unfortunately, this was a great dream for the commission, because of the long year's animosity and the complexities that had been created over the years. Hence, the original narrative of achieving tolerance resulting from friendship became deconstructed in line with the Agamben's exclusive inclusion and translated into tolerance without friendship.

Again as it is with other paradoxes, It sounds outrageous, maybe not as bad as others such as "truth without justice", but equally startling especially when we begin to imagine that the original intention of this thesis, which sets out to find the narrative that essentially delivered success in the South African conflict. Also, here we are talking of tolerance without friendship when it is clear that intolerance essentially thrives with enemies. Yet we cannot lose sight of the issues at stake even though we may not be friends, we may not necessarily be enemies, and tolerance itself becomes more functional when we are dealing with enemies because, if tolerance has any resemblance to managing or struggling to bear, then it may not even apply within the context of friendship. In other words, one would not need to tolerate friends; one accepts them automatically, whereas, it is those who are not friends in the real sense of it even if they feign to be that one struggles to accept which brings in the question of tolerance. However, within the phenomenon of friendship, exist the very idea of acceptance, which is somewhat a superior version of tolerance.

Interestingly, this particular paradox is not on its own explicitly visible, but implicitly so, its importance is seen in traces that underlies other paradoxes within the same geometry of arguments. To that extent, our references might crisscross and overlap stretching into other paradoxes that tends to confirm this paradigm. However, most importantly, to understand what was going on here, we need to dissect and unpack the

two phenomena under review critically. It is within this sufficiency that we can come to a clearer understanding of how this dynamics actualises itself within the South African peace process.

Understanding the deconstruction that took place to make the narrative workable in the attainment of societal peace, in South Africa, is necessary in order to understand the dynamics that are at play in the transitional process. It is therefore compelling to have a quick look at page 71 of Karl Popper's **The Open Society and Its Enemies**, where it was revealed that,

a changing thing must give up some properties and acquire the opposite property. It is not so much a thing as a process of transition from one state to an opposite state, and thereby a unification of opposite states: cold things become warm and warm things become cold: what is moist becomes dry and what is dry becomes moist ...Disease enables us to appreciate health...life and death , being awake and being asleep, youth and old age, all this is identical; for the one turns into the other and the other turns into the one ...what struggles with itself becomes committed to itself: there is a link or harmony due to recoil and tension, as in the bow or the lyre...The opposites belong to each other, the best harmony results from discord, and everything develops by strife...The path that leads up and the path that leads down are identical...The straight path and the crooked path are one and the same... for gods, all things are beautiful and good and just; men, however, have adopted some things as just...the good and the bad are identical(Popper,2002:71)

Hence, this Popper's philosophy of relativity seems to be a reaffirmation if not a re-echoing of the Agamben's philosophy of exclusive inclusion where that which is excluded is still partly included in some forms or shapes. Hence, friendship in the absolute sense is deconstructed, yet included in some relative senses. This is why tolerance without friendship is not the same as tolerance with enmity or with no friendship at all. In other words, some degree of friendliness is given, for tolerance to take place.

The dominant narrative is that we do not necessarily have to be friends in the real sense of being cosy, but we are duty bound to be civil enough to tolerate each other for harmonious living. Desmond Tutu spelt this out when he said that,

The trouble is that there are erroneous notions of what reconciliation is all about. Reconciliation is not about being cosy; it is not about pretending that things were other than they were. Reconciliation based

on falsehood, on not facing up to reality, is not true reconciliation and will not last. (TRCR, 1998: vol.1: 17)

The word reconciliation as used here presupposes compromise or at best, tolerance, and this does not necessarily have to be based on interpersonal friendliness as such. This has to be deconstructed and stripped of its bias. On the question of tolerance and peaceful coexistence, Desmond Tutu argues further that,

Let us move into the glorious future of a new kind of society where people count, not because of biological irrelevancies or other extraneous attributes, but because they are persons of infinite worth created in the image of God. (**not because they are our friends as the case may be**) Let that society be a new society - more compassionate, more caring, more gentle, more given to sharing - because we have left "the past of a deeply divided society characterised by strife, conflict, untold suffering and injustice" and are moving to a future "founded on the recognition of human rights, democracy and peaceful co-existence and development opportunities for all South Africans, irrespective of colour, race, class, belief or sex." (**or any friendly affiliation**) (TRCR, 1998:vol.1:22) The emphasis in the brackets is mine to drive home the point without consuming space.

Tolerance

6.9 What is tolerance?

Scholars trace the word tolerance down to the early 15c. when the word was equated to "fortitude and endurance in the face of pain and hardship. It is further traced to an Old French origin dating back to the (14c.) when tolerance is seen as a derivation of the Latin word, *tolerantia* which connotes "a bearing, supporting, endurance,". This in turn took its source from the word, *tolerans*, which is the present participle of *tolerare* " meaning, to bear, endure, tolerate" It also refers in a sense to the "tendency to be free from bigotry or severity in judging other," which is a usage that is traceable to 1765. Similarly, it refers to "allowable amount of variation" which dates from 1868. (Harper, 2001.)

Furthermore, the word tolerance has been defined as a noun that connotes, " a fair, objective, and permissive attitude toward those whose views, beliefs, practices, racial or ethnic origins, differ from one's own such as freedom from bigotry. It also refers to a fair, objective, and permissive attitude toward opinions, beliefs, and practices that differ from one's own. Similarly, it connotes interest in and concern for ideas, opinions,

practices, that are foreign to one's own such as a liberal, undogmatic viewpoint. It also means the act or capacity of enduring; endurance. (Online English Dictionary, 2007)

From the above, it is apparent that the very idea of tolerance is a departure from the ideal. We tolerate when the existing status quo is at variance with the norm. It is thus a creation of some artificiality that is intended to achieve some moderate civility, given societal plurality and diversity. Hence the very nature of tolerance is unnatural and short of absolute. This is why the dictionary says it is “permissive attitude toward opinions” Hence, working within Agamben’s philosophy, we find expressions that entail ousting or deconstructing certain things that could be detrimental to the overall objective of societal peace by pushing them out into the realm of bare life where they are less volatile. It is the realm of control where they are not allowed any political expression that is inimical to success. It is the realm of distinction where only certain things are permitted to be said and in a particular manner. This was evident during the life hearing of the TRC when participants are practically often teleguided by Archbishop Desmond Tutu to show morally regulated actions of remorse, and magnanimity of forgiveness and apology, which were all not part of the formal requirement of the mandate of the TRC especially in the granting of amnesty to perpetrators.

Again, tolerance or its other counterpart, toleration, which is restricted to a tolerance within religious confines, seems to be an elastic phenomenon that could run out. Even though it is the Independent variable here, yet it carries the connotation of temporality. In other words, tolerance seems synonymous with forcefully curtailing, or swimming against a tide, suppressing, holding down, in the interest of societal ideal. It is apparent that it has an explosive point when such ability of containment runs its course and what happens is that which has hitherto, been held down by the force of political correctness, explodes. The implication is that tolerance, by its very nature, has a limit. This seems to be the view of Karl Popper in *Open Society and Its Enemies* where he maintains that,

Unlimited tolerance must lead to the disappearance of tolerance. If we extend unlimited tolerance even to those who are intolerant, if we are not prepared to defend a tolerant society against the onslaught of the intolerant, then the tolerant will be destroyed, and tolerance with them. (Popper, 2002:962)

Popper is in effect saying that absolute tolerance is self-destruction. Tolerance itself must be elastic. There is a point when tolerance becomes suicidal, especially against the intolerant who would end up destroying both the tolerant and his idea of tolerance when absolute, unlimited tolerance is given. Again, the absolutist idea is here excluded for a relativist one.

What then is the relationship of tolerance with friendship? It does appear that it is only those who are not our friends that need tolerance or need to be tolerated. As friendship already by its very nature connotes acceptance in its holistic form. Also, it is when one falls outside this bracket of friendship that he needs tolerance in order to be still able to maintain a moderate level of relationship good enough to sustain peaceful coexistence.

Friendship:

6.10 What is Friendship?

Scholars conceive friendship as “the state of being a friend or being in a friendly relation or intimacy. It also implies a friendly feeling or disposition. Whereas, a friend is “a person attached to another by feelings of affection or personal regard. It also includes a person who assists; patron; supporter, or at best, a person who is on good terms with others such that a person who is not hostile. Also, in some senses, it refers to a member of the same nation or party. (*English Dictionary*, 2016)

To this extent, friendship and tolerance are poles apart. Friendship implies intimacy, affection devoid of hostility. The implication here is that if such disposition exists in society, then the idea of tolerance as the basis for societal peace and harmony falls into the realm of irrelevance because this is the ultimate mechanism for societal unification, peace and stability.

However, in South Africa, the bond of friendship had been severely damaged by years of human right violations under apartheid, and a return to this state of perfection became outrightly impossible. Societal peace and unification are imperative. To achieve this, the deconstruction that must necessarily follow should achieve the narrative that would take cognisance of the fact that the perpetrators of apartheid and the anti-apartheid forces could no longer be friends in the absolute sense as above, yet

they must live together in one united South Africa under peaceful coexistence. Therefore, the narrative that could achieve peace under this disposition is that of tolerance even though we are no friends. The critical factor here, is to live together civilly, peacefully and harmoniously, we do not have to be friends. In the light of Agamben's philosophy, friendship had to be deconstructed because friendship in this equation, falls within the purview of the absolute while tolerance, on the other hand, falls within the realm of the relative. It is clear that the absolute in this sense was going to be detrimental to achieving tolerance, which is why it had to be deconstructed.

Again, the phenomenon of friendship is even made more complicated in Derrida's work, *Politics of Friendship*, where he derides the idea of friendship that is mutually a two-way phenomenon of giving and receiving or at least the expectation of getting something in return. This kind of friendship is impure and insincere. He, therefore, advocates a kind of friendship that is unconditionally selfless, in which one gives and expects nothing in return. It is, in fact, that kind of pure friendship that is equated with justice. This may sound utopian and unrealistic. However, if all and sundry apply such selfless friendship, then it would follow that all would give, and all would receive in diverse forms and shapes. That in itself would have created a selfless society where friendship would override and exterminate the idea of tolerance, given that tolerance is only a second fiddle venture that applies when the first and preferred perfect state is impossible. This is when we opt for the second imperfect state, which is tolerance. For Derrida, if all that exists is this two way kind of friendship, then there are no friends in the real sense of it. "oh my friend, there are no friends" which is an old quotation credited to Aristotle and Montaigne. Hence, on page 633 of the article "the politics of friendship, Derrida argues that;

I am already virtually installed in the dominant code, in the very constitution of one of the great canonical discourses of philosophy on friendship, the very one which Montaigne was quoting, Aristotle's. The distinction between *dynamis* and *energeia* is never far away, in the *Nicomachean Ethics*, when the issue is the distinction between the "good men who are friends in the rigorous sense of the term" and "the others who are so only accidentally and by analogy with the first" [viii, ch. 4], or again when, after having defined the three "forms of government," Aristotle declares that "friendship appears [there] in the same proportion as justice," or, if man is a "political being" [Ix, ch. 10], "political friendship" is only a kind of friendship, that which he calls "Concord" [*homonomia*]. (Derrida, 1998:688)

Arguing further on what friendship actually entails, Derrida gave a detailed analysis, which one is compelled to quote verbatim despite how extensive the analysis is in order to elucidate much clearly the fundamentals of the arguments here. According to him, what we call friendship is an imperfect form or an aberration of what it should be, and to that extent, friendship does not exist. If friendship in its perfect form exists, then it would most likely produce a perfect and just society. Against this backdrop, it is clear that within the context of Derridean analysis, the phenomenon of friendship that would most certainly create peace within SA was unattainable because according to Derrida, there is no friend. Hence, it does not exist. It became imperative that friendship must necessarily be excluded because it would pose a threat to tolerance and within Agamben's philosophy, such phenomenon must be pushed into the realm of zoe or bare-life where its potentialities of negation are minimal and controllable. Arguing more extensively, Derrida maintains that,

friendship, as Aristotle also said, consists rather in loving than in being loved [viii 9, 25-30], a proposition on which we have not yet finished meditating, listen to me, be sensitive to my cry, understand and be compassionate; I am asking for sympathy and consensus, become the friends to whom I aspire. Accede to what is at the same time a desire, a request, a promise, and, one could also add, a prayer. And let us not forget what Aristotle said about prayer (eukhe): it is a discourse (logos), but it is a discourse that, somewhat in the manner of a performative, is neither true nor false [all'ouzte alethe's ouite pseudes]. There are no friends, that we know, but I beg you, make it so that there will be friends from now on. What is more, how could I be your friend, and declare my friendship for you (and the latter consists more in loving than in being loved) if friendship did not remain something yet to happen, to be desired, to be promised? How could I give you my friendship where friendship would not be lacking, that is, if it already existed-more precisely, if the friend were not lacking? For the apostrophe does not say: "there is no friendship," but rather "there is no friend." Perhaps this is because we have an idea of friendship and what it should be, in the ideality of its essence or telos, and thus in the name of friendship we must conclude, alas, that, if there is friendship, "there is no friend." (And this is just what Montaigne means to say in the context determined by the most thematic of his intentions, which dominates this passage up to a certain point: it is while thinking about "common friendships," "ordinary and customary" ones, that we are obliged to sigh with regret. . (Derrida, 1998:636-637)

With this extensive expositional analysis of the categories and implication of what friendship entails, Derrida further affirms that the idea of perfection only leads to void and none existence which is why every element that tends to justify perfection, is relegated in this work and the imperfect is taken as the norm. Hence Derrida concludes that,

These common friendships are not "the most perfect of their kind": that is why "there is no friend.") But, if there is no friend at present, then precisely let us make it so that there will be friendships from now on, friendships that are "the most perfect of their kind." Here is what I am calling you to, answer me, it is our responsibility. Friendship is never a given in the present; it belongs to the experience of waiting, of promise, or of commitment. Its discourse is that of prayer and at issue there is that which responsibility opens to the future. But the apostrophe 'O my friends' turns also toward the past. It recalls, it makes a sign toward that which must be supposed so as to let oneself be understood, if only in the non-apophatic form of prayer. You have already shown me this minimal friendship, this preliminary consent without which you would not understand me, would not listen to my appeal, or be sensitive to what is hopeful in my cry. Without this absolute past, I could not, for my part, have addressed myself to you in this way. (Derrida, 1998:636-637)

The above analysis affirms that what Derrida seems to be saying is that though the very idea of friendship in its absolute sense of what it ought to be is known, which makes friendship to exist in its idealistic form, but in practical senses, no friend could actualise the existing idealistic friendship. What is required regarding qualities of what a friend indeed should be, seem out of reach.

Derrida, therefore, concluded that there is still a futuristic hope for friendship in the real sense of the word when he argues that,

We would not be together in a sort of minimal community-but one which is also incommensurable with any other-speaking the same language or praying for translation within the horizon of the same language, even were it so as to manifest a disagreement, if a sort of friendship had not already been sealed before any other contract: a friendship prior to friendships, an ineffaceable, fundamental, and bottomless friendship, the one that draws its breath in the sharing of a language (past or to come) and in the being-together that any allocution supposes, including a declaration of war. Will one say, in a rather Aristotelian move, that this friendship has merely an accidental and analogical relation with friendship in the strict or proper sense, or with

the friendship that is "perfect of its kind" (Montaigne)? The question thus becomes: "What is friendship in the proper sense?" "Is it ever present?" "What is the essence of friendship?" If we are not close to answering this question, it is not only because of the very great number of philosophical difficulties still in front of us and which we are going to try to approach...Behind the logical game of contradiction or paradox, perhaps the 'O my friends, there is no friend' signifies first and last this surpassing of the present by the undeniable future anterior which would be the very movement and time of friendship. Undeniable future anterior, the absolute of an unrepresentable past as well as future, which is to say of traces that one can only ever deny by summoning them (Derrida, 1998:636-637)

6.11 Tolerance with Friendship Translated to Tolerance without Friendship?

Just as in the previous paradoxes, the architects of the TRC would have been interested in delivering to SA, a form of perfect cordiality between the citizens under a new Post-apartheid South Africa. This will be a kind of cosy or cordial relationship among its citizens. She would have advocated a kind of tolerance that is synonymous with a friendship, where friendship itself is a perfection that is unattainable. The type that is devoid of any form of animosity. This is a reference to a friendly relationship that will not only overtake tolerance but will ultimately terminate tolerance. This is so because the type of friendship would engender a relationship that will no longer require tolerating the other but accepting in a natural, uninhibited way. Unfortunately, this perfect serene state was unattainable given the historical antecedents that brought South Africa that far. Hence friendship had to be deconstructed to allow for an imperfect situation, which is tolerance, despite not being friends.

6.12 What is Tolerance without Friendship?

The need for tolerance was variously advocated within the TRC report if the society must move forward; the emphasis was far from the ideal, which is to foster friendly relations between those that had been torn apart by apartheid. This was the argument of Desmond Tutu in the TRC report when he said, "We hope that many South Africans and friends of South Africa will become engaged in the process of helping our nation to come to terms with its past and, in so doing, reach out to a new future"(TRCR,1998:vol.1:2.)

Coming to terms with and reaching out to a new future is an inevitable reference to tolerance in the interest of societal unification and nation-building. Furthermore,

Desmond Tutu argued that “the disqualification or removal from public office of people who have been implicated in violations of human rights. The Commission considered this question carefully and finally decided not to recommend that this step be pursued.” (TRCR,1998: vol.1:3.)

The critical fact underlying this action is not that such people are friends of the society that do not deserve punishment, but in the spirit of tolerance and societal peace, harmony and nation-building, it decided not to make such recommendation. Hence, they may be discharged, but understandably not acquitted.

Furthermore, it will be seen that rather than for the commission to call for friendship among the people, they chose to push that to the background and emphasise the fact that,

the Commission has not been prepared to allow the present generation of South Africans to grow gently into the harsh realities of the past and, indeed, many of us have wept as we were confronted with its ugly truths. However painful the experience has been, ... My appeal to South Africans as they read this report is not to use it to attack others, but to add to it, correct it and ultimately to share in the process that will lead to national unity through truth and reconciliation. (TRCR,1998: vol.1:4.)

It should be noted that what is being advocated here is not a return, to say the least, mutual friendship coming from such deep animosity, but a relationship of tolerance despite the traumatising experiences of the past, into a future of harmonious living. It is this same narrative that is being further advocated here when Tutu says, “Thus, we have trodden the path urged on our people by the preamble to our founding Act, which called on “the need for understanding but not for vengeance, a need for reparation but not retaliation, a need for “Ubuntu” but not for victimisation.” (TRCR,1998: vol.1:8) He was inevitably preaching tolerance with the use of words such as “understanding”, “not vengeance”, “Ubuntu” “not victimisation” while at the same time, he carefully avoided preaching friendship.

Furthermore, Desmond Tutu highlighted the personal emotions of the members of the commission and drew lessons that have broader dimensions of raw pain but emphasised the need to go beyond it. In the words of Tutu,

The chief of the section that typed the transcripts of the hearings told me: As you type, you don't know you are crying until you feel and see the tears falling on your hands. We have been given a great privilege.

It has been a costly privilege but one that we would not want to exchange for anything in the world. Some of us have already experienced something of a post-traumatic stress and have become more and more aware of just how deeply wounded we have all been; how wounded and broken we all are. Apartheid has affected us at a very deep level, more than we ever suspected. We in the Commission have been a microcosm of our society, reflecting its alienation, suspicions and lack of trust in one another. Our earlier Commission meetings were very difficult and filled with tension. God has been good in helping us to grow closer together. Perhaps we are a sign of hope that, if people from often-hostile backgrounds could grow closer together as we have done, then there is hope for South Africa, that we can become united. We have been called to be wounded healers. (TRCR,1998: vol.:22)

It must be remarked that the dominant narrative buried between the lines of the above excerpt is tolerance without friendship. Tutu clearly shows the painful trauma that that rest on the heart and mind of the people actually makes friendship impossible and the particulars of this impossibility according to Tutu includes “*alienation, suspicions and lack of trust*” yet it this still is incapable of preventing our unification, based on tolerance even though it is without harmony. The use of the phrase, “*grow closer together*” is a reference to the forging of a tolerant society. The same geometry of analysis that applies elsewhere equally applies here to tolerance without friendship, as well as that of unification without harmony. There is no doubt that the paradoxes are overlapping and interconnected, and to that extent, one leads to the other and some facts that were used just to justify one paradox could effectively apply in another.

Desmond Tutu’s submission tends to give a panoramic view of almost all the seven paradoxes on which the South African peace process was based. In his words,

Ours is a remarkable country. Let us celebrate our diversity, (**it is a reference to tolerance amidst differences**) our differences. God wants us as we are. South Africa wants and needs the Afrikaner, the English, the coloured, the Indian, the black.(**this is unification even if there is no harmony**) We are sisters and brothers in one family - God’s family, the human family. Having looked the beast of the past in the eye, having asked and received forgiveness and having made amends, let us shut the door on the past (**shutting the door to the past refers to healing**) - not in order to forget it but in order not to allow it to imprison us.(**but without forgetting**) Let us move into the glorious future of a new kind of society where people count, (**This is a reference to unification based on tolerance**) not because of biological irrelevancies or other extraneous attributes, (**even if they**

are not our friends or relatives) but because they are persons of infinite worth created in the image of God. Let that society be a new society - more compassionate, more caring, more gentle, more given to sharing - because we have left “the past of a deeply divided society characterised by strife, conflict, untold suffering and injustice” and are moving to a future “founded on the recognition of human rights, democracy and peaceful co-existence and development opportunities for all South Africans, irrespective of colour, race, class, belief or sex.”(**moving to a future foundedis a reference to unification without harmony**) (TRCR,1998:vol.1:22) All the emphasis in bracket is mine.

Chapter 7: Truth without justice

7.0 Introduction to Truth without justice

This Chapter deals with the identification and analysis of the phenomenon of Truth without justice within the South African peace process. It is one of the most central paradoxes of this research. It examines the themes underlying Truth without justice in South Africa (SA) as well as the analysis of how the paradox of Truth without justice was derived and how it operationalises itself within the Agamben's exclusive, inclusive philosophy of the Homo Sacer. This paradox like the others, has two elements, Truth and justice what do these concepts entail and how were they activated as part of the underlying paradoxes with which peace and societal stability were returned to apartheid South Africa? In this couplet, the truth is the constant independent variable that does not change. It is that which needs to be fulfilled at all cost in order to achieve societal peace while justice is the dependent variable that needs to be deconstructed, excluded, and fragmented, through a process of reductionism and modified in order to fulfil the objective of the dominant variable, which in this case is Truth.

7.1 Truth that leads to justice transformed into Truth without justice

As was the case with other couplets, this particular one comprises two phenomena that are equally problematic not just as interpreted in the TRC's report but as classical philosophical concepts. Interestingly, the truth was the independent variable, while justice was the dependent variable. This is unlike in the criminal justice system when the truth is only a means to justice. Here the truth seems to be an end in itself. Just as with the previous concepts, the architects of the TRC would have desired truth with justice, but the trend and narratives that emerged were unwittingly tailored towards truth without justice from the outset. On a broader view, therefore, the phenomenon of justice was already excluded by the enabling act because it was going to create an insurmountable problem for the overall agenda of nation-building and societal peace at large given the antecedent and historical narrative through which South Africa had journeyed so far. This is why the entire society, especially those who had suffered gross human violation thought the TRC would be historically an opportunity for the actualisation of justice at least in the traditional way by which we conceive "retributive justice". Unfortunately, such justice would have created greater animosity than

societal unification and tranquillity. No wonder, the emphasis of the commission, was inverted and deconstructed it in such a manner that the myth was stripped from justice and built around the truth. This does not appear to be an inadvertent omission that the name of the Commission was not “Truth, Justice and Reconciliation Commission. This probably is because it is not based on knowing the truth, the whole truth and nothing but the truth as required under the criminal justice system where justice would normally be dispensed only when the indubitable truth has been seen to have been attained. Again, that narrative would have been dangerously subversive of societal peace and stability. It would have created a situation where it is only when justice is seen to have been done, that reconciliation can take place. Nevertheless, because of the long years of animosity, tensions and pains of human right violations coupled with the complexity of the phenomenon of justice itself, if it is not so deconstructed. It would have inevitably posed as a threat to the overall objective of societal peace, unification, harmony and stability.

For Agamben, such a phenomenon must be pushed out to the realm of bare life where it will be less lethal. Therefore, the truth became the primary objective and justice, the subordinate one in the operation of the TRC. Hence, the search is for truth, over and above justice, became primary. Again, as already mentioned above that the truth being searched for, is not the truth that would lead to prosecution as in retribution, but that, which is founded on a moral phenomenon that forbids revenge and discourages the immoral principles of an eye for an eye in order to institute restorative justice. The problems created by this narrative is complicated, but then, to what extent is it appropriate to impose a form of justice on the people? Would it not be undemocratic in the journey towards democracy? This and many more defined the logic where truth had to take precedence over justice.

According to Arch Bishop Desmond Tutu, “we have trodden the path urged on our people by the preamble to our founding Act, which called on “the need for understanding but not for vengeance, a need for reparation but not retaliation, a need for ubuntu but not for victimisation”. (TRCR,1998vol.:8)

This is why justice as traditionally understood had to be deconstructed in line with the narrative that,

If justice is seen merely as retribution, it becomes difficult to make the appropriate connections between amnesty and justice. While

both the interim Constitution and the Commission expressed strong opposition to acts of revenge, it is necessary, nevertheless, to acknowledge that the desire for revenge is an understandable human response. Suppressed anger undermines reconciliation. (TRCR, 1998: vol.1:117)

Furthermore, this same geometry of analysis accounted for the narrative, which maintains that;

The tendency to equate justice with retribution must be challenged and the concept of restorative justice considered as an alternative. This means that amnesty in return for public and full disclosure (as understood within the broader context of the Commission) suggests a restorative understanding of justice, focusing on the healing of victims and perpetrators and on communal restoration. (TRCR, 1998: vol.1: 118)

The trend of this narrative implies that disclosure of the truth of gross human violations with impunity, could not typically lead to the prosecution of perpetrators. Instead, it leads to amnesty, irrespective of whether the victims forgive or not and as such, it is the truth but without at least, the retributive conception of justice except restorative which nonetheless seems imposing. This is even though the so-called confession of the truth or in most cases, half-truths were done arrogantly without repentance or remorse of any kind and yet expected to restore the dignity of the victims. This is the general narrative that is prevalent mainly because the primary goal of unity and nation building was given pre-eminence over every other consideration. There were massive revelations of the complicity of the leadership of Apartheid in all forms and shapes; yet, it ended up as ordinary revelations that have lost their fervour or potency in the ensuing deconstruction of truth but without justice. This is the narrative in the excerpt below;

Can we imagine the anger that has been caused by the disclosures that the previous government had a Chemical and Biological Warfare Programme with projects that allegedly targeted only black people, and allegedly sought to poison President Nelson Mandela and reduce the fertility of black women? Should our land not be overwhelmed by black fury leading to orgies of revenge, turning us into a Bosnia, a Northern Ireland or a Sri Lanka? Dear fellow South Africans, please try to bring yourselves to respond with a like generosity and magnanimity. When one confesses, one confesses only one's own sins, not those of another (TRCR, 1998: vol.1:18)

The narrative above made some interesting allusions to some other volatile intractable conflicts on the globe, where there seem to be no solutions in sight. The need to differ

from these other ones, seem to be the focus here. Hence the principles which seem to fuel these other situations necessarily needs to be avoided desperately.

7.2 What is the Truth?

The complication involved with this phenomenon and the difficulty in being able to define this concept of “truth” is as old as human civilisation. We would recall that as philosophical and as intellectually sound as Jesus Christ was, when he was confronted with the same question while facing trial before Pontius Pilate, and after perceiving the regal and calm posture of Christ, Pilate did ask if Jesus was a king? This was no rattling question for him at all to answer. Hence, Jesus answered swiftly in John 18:37 that “You say that I am a king. For this purpose, I was born, and for this purpose, I have come into the world—to bear witness to the truth. Everyone who is of the truth listens to my voice.” (John 18:37)

Moreover, in the fashion of the Socratic dialectics, Pilate proceeded with his cross-examination by asking Jesus the next though, relevant but complex philosophical question; which is "What is truth?" this was a question that Christ himself could not provide an answer to and this had remained a problematic question till date both in practical and theoretical discourse. Hence, what we shall be doing here is just a surface scratch that can help us in the understanding of how it is being conceived in the light of the TRC’s work

Some scholars have traced the origin of truth to an old English West Saxon word “triewð” and the Mercian version, “treowð “ which translates into "faithfulness or quality of being true. It also carries the connotation of "accuracy or correctness" as from the 1560s, whereas, it was in the mid-14c. That Noun sense of "something that is true" was first recorded. It is also said to include the fact that the phenomenon of truth is a noun that implies, the quality of being true, genuine, actual, or factual in the sense that “ the truth of his statement was attested “. Other senses of truth connote something that is true as opposed to being false for example, “you did not tell me the truth”, and the last sense is a proven or verified principle or statement or fact as in the “ the truths of astronomy “. Harper(2010)

Furthermore, the concept of truth has been associated with the actual state of affairs. Other senses of usage include conformity with fact or reality. Others are a verified or

indisputable fact, proposition, principle, or the like, the character or state or of being true or real, actual or factual in existence. It could also connote an obvious or accepted fact; truism; platitude, honesty; integrity; truthfulness is all synonyms of the phenomenon of truth.

Furthermore, Glanzberg (2016) examined some traditional philosophical theories of truth by maintaining that,

The most significant for the contemporary literature being the correspondence, coherence, and pragmatist theories of truth. These theories all attempt to directly answer the nature question: what is the nature of truth? They take this question at face value: there are truths, and the question to be answered concerns their nature. In answering this question, each theory makes the notion of truth part of a more thoroughgoing metaphysics or epistemology. Explaining the nature of truth becomes an application of some metaphysical system, and truth inherits significant metaphysical presuppositions along the way. (Glanzberg, 2013:1)

In his analysis, Glanzberg further maintains that ‘The basic idea of the correspondence theory is that what we believe or say something is true if it corresponds to the way things really are, or to the facts on the ground. This idea according to him, was later rejected by G E Moore and Russell as the source of idealism and in its place, accepted the identity theory, which posits that a true proposition is *identical* to a fact. Next is also the Coherent theory of truth which advocates that “A belief is true if and only if it is part of a coherent system of beliefs.” Whereas a different perspective on truth was offered by the American pragmatists, who argue that it is dependent on what practical value truth has. The pragmatic theory of truth goes with some typical slogans. Such as the one held by Peirce to the effect that: “Truth is the end of inquiry”. While both Peirce and James are associated with the slogan that: “Truth is satisfactory to believe”. (Glanzberg, 2013:1)

However, one important fact is that these classical notions of truth have continuously been challenged and moderated from both the epistemological and ontological perspectives of scholars across generations. The important thing to note therefore is that the very idea of “truth” is not unidimensional. Its understanding at various times is dependent on the discourse and purpose at any given time.

However, within the context of the TRC, in SA, the kind of truth that is required is functionally defined. It clearly states that

The preceding discussion rejects the popular assumption that there are only two options to be considered when talking about truth - namely factual, objective information or subjective opinions. There is also 'healing' truth, the kind of truth that places facts and what they mean within the context of human relationships - both amongst citizens and between the state and its citizens. This kind of truth was central to the Commission. The Act required that the Commission look back to the past and forward to the future. In this sense, it was required to help establish a truth that would contribute to the reparation of the damage inflicted in the past and to the prevention of the recurrence of serious abuses in the future. It was not enough simply to determine what had happened. Truth as factual, objective information cannot be divorced from the way in which this information is acquired; nor can such information be separated from the purposes it is required to serve. It is in this context that the role of 'acknowledgement' must be emphasised. Acknowledgement refers to placing information that is (or becomes) known on public, national record. It is not merely the actual knowledge about past human rights violations that counts; often the basic facts about what happened are already known, at least by those who were affected. What is critical is that these facts be fully and publicly acknowledged. Acknowledgement is an affirmation that a person's pain is real and worthy of attention. It is thus central to the restoration of the dignity of victims. (TRCR,1998:vol.1:114)

The theme of truth defined above is not that simple either. Complexity has always dominated discourses on Truth. It is a phenomenon that is not by any standard easy to conceptually apprehend and comprehend. This is because it is more often biased in the interest of the definer. Traditionally, in philosophical discourse, just as mentioned above, there are three main theories of truth namely, Correspondence theory of truth, coherence theory of truth and pragmatic theory of truth and these have been further fragmented linguistically, logically, epistemologically, hermeneutically and phenomenologically.

Discussing it contextually does not make it easier either. Traditionally, we have often defined truth as the act of "saying what is that it is, and what is not, that is not". Without necessarily going into the complexity of this definition, we shall rely on the argument of Kevin Avruch and Beatriz Vejarano (2002). These scholars argue that world experience in practical life situations has shown that even amid overwhelming evidence, there are still denials, especially of the Holocaust, genocide and gross violations of human dignity. That in itself, according to them, did not help matters not just in theoretical discourse but practical life situations. This compels them to argue

that “many truth and reconciliation commissions find themselves operating in epistemologically relativistic and rhetorical contexts which would make the most steadfast of academic postmodernists blush. The issue of the multiplicity of truth and complexity is a central one that connects the complex demands of justice and the hopes for reconciliation. It also falls within the arena in which the parties’ competing versions of history and the politics of memory play themselves out. Especially in a “dirty war” This no doubt aptly captures the situation. (Avruch and Vejarano, 2002).

Furthermore, these scholars further cited some Truth scholars which includes Lerche (2000) whose emphasis was on knowing what really happened as well as Villa-Vicencio and Verwoerd (2000) whose own focus was on the complexity of seeking the truth. In the ensuing analysis, a different conception of truth that seems all-embracing were variously presented. This includes, “historical truth, moral truth, factual or forensic truth, personal or narrative truth, social or dialogue truth, as well as healing and restorative truth”. The aim of some of these sorts of truth is to make an ineffaceable inscription on history. “Forensic truth,” for example, according to them, is from a field that is almost single-handedly established by Clyde Snow together with many physical anthropologists. They argued that he has trained and supported some experts over the years some of which includes those of the Argentine Forensic Anthropology Team as well as those of the Foundation for Forensic Anthropology of Guatemala. This group is said to aspire to uncover overwhelming material evidence that would help to establish an indisputable “facticity” – and present it in such a compelling and unquestionable scientifically irreproachable way, to such an extent that “no one can dispute the fact that these killings never took place. Some of such truths equally emerged at the South African Truth, and Reconciliation Commission’s hearings, where it created authoritative and indelible memory conveyed through “narratives” or “personal” truths, emerging from both victims’ and perpetrators alike’. (Avruch and Vejarano, 2002)

Furthermore, these public testimonies were directed at ensuring that individual acts of oppression and victimisation by individuals cannot be forgotten in a hurry. Besides, it helps to ensure through truth-telling, no one in South Africa will be able to deny knowing what really happened. However, while emphasising further, the complexity of this phenomenon of truth especially as applicable to South Africa, they argue that

“The Apartheid security forces and the Latin American generals and colonels apparently believed that they were fighting Communist subversion under emergency conditions and that justifies the use of ruthless measures, to protect national security unconditionally. This is without prejudice to the fact that some among them who appeared before various commissions and admitted their acts and expressed regret for their victims and offered apologies to the survivors.” (Avruch and Vejarano, 2002:2) This, according to these scholars, shows that shared facts do not necessarily conduce to shared truths.

Also, they argue that even if they did, it was in some objectivist and positivist ways. This position seems to be reflecting Jesus’s proclamation on the cross that ignorance was morally excusable even if not legally so when he said: “Father forgive them for they know not what they are doing”. Again, it seems reminiscent of the Socratic proclamation that no one deliberately does evil and that evil is a function of ignorance. This is a statement, which appears untenable at face value, but with further insight reveals that the one who does evil, whether rightly or wrongly believes in some sort of positivity that it is intended to generate. Even though such benefit may be parochial and selfishly serving the interest of the perpetrator, at other times, the perpetrator may believe that it is meant to teach a lesson and that in itself, may end up being erroneous.

Nonetheless, it is not like embarking on evil deliberately without believing that it has positive results. This explains why this individual internal self-conviction of acting rightly and justifiably against communism creates a situation where the belief of fighting a just war in the South African situation was not a one-sided affair after all. It could even explain why some perpetrators just came to reel out catalogues of callous abuses with impunity mainly to meet the requirement for amnesty without showing remorse. There is no doubt that there were those who understood it differently and very well knew their actions were merely repressive, but again perhaps for some flimsy and untenable parochial reason of benefits. Nevertheless, for the former, that was the “truth”.

Furthermore, Some of these scholars further agreed in their analysis, that the problem of truth always circles back to the exigencies of justice, and punishment. This same view was equally maintained by Popkin (2000) particularly when combined with immunity from the trial, with pardons, or with amnesty, then, of course, the wages of

truth-telling may become contested. Christodoulidis (2000), Avruch and Vejarano (2002)

These scholars went further to substantiate their claim by quoting Bishop Tutu (1999), who argued that “freedom was exchanged for truth.” Moreover, Heribert Adam (1998) who wrote about “trading justice for truth.” All these, according to them, created a problem of identifying which is bigger or primary? Truth or Justice? How fair then is accepting truth-telling in batter exchange for justice? What benefit does truth on its own have if it cannot guarantee justice? What is the rationale behind the legal justice system that goes in the pursuit of proving the truth beyond a reasonable doubt if it is an end on its own and incapable of delivering justice? These and many more may have influenced scholars such as Avruch and Vejarano (2002) and Henderson (2000) who have examined the relationship between truth and justice and maintains that it raised the ethically impacted problem of fungibility. This brings up the interrogation of the phenomenon of truth and what its cost could be as well as what could replace it? TRCR,(1998), Avruch and Vejarano (2002)

All these engaged the thought of these scholars in their analysis of the relationship between truth and justice.

Furthermore, the concept of truth-telling as it applies to the South African TRC is as obscure as any of the phenomenon in question, because by its very nature it is both definitive and constant on the one hand, at the same time, relative and subjective on the other hand. The concept of truth is dependent on the interest of the teller, the purpose, the subject matter, the motive and the intended perception for the recipient of the truth, which will typically vary depending on some or, all of these factors. All these variations are subsumed in different theories and conception of truth. Expectedly, the victor’s truth will be different from that of the vanquished as the probability of being on any side of the divide is equal.

Desmond Tutu (1998) in his opening address in the TRC report equally dealt with the phenomenon of truth as it applies to the work of the commission. According to him, However painful the experience has been, we remain convinced that there can be no healing without truth. However, is truth alone sufficient for healing? Arguments of scholars seem to suggest that truth would be capable of ensuring healing only if it is

accompanied by punitive justice, which seems to contradict the very essence of the TRC. This very realisation seems to underlie the thought of Desmond Tutu himself who having realised that truth was similarly capable of unearthing harsh and dangerous bitterness that can become a reason and source for vendetta. He, therefore, proclaimed that 'his appeal to South Africans as they read the report is not to use it to attack others' which is very likely especially with the hindsight of how horrifying some of the atrocities committed by apartheid which could not be made to fizzle away. This caution would have been unnecessary if truth-telling could automatically translate to reconciliation.

The significance of truth is as applicable to the criminal justice system is as much as it is for the TRCs. Unfortunately, while the criminal justice system relies on proofs beyond a reasonable doubt, in which all kinds of evidence, investigation as well as cross-examination techniques are employed in order to arrive at the much-needed truth. This is in order to avoid injustice because it does not have any form of incentive to induce truth-telling. This had to squeeze out, and that is not only expensive but also time-consuming. Sometimes it is unable to deliver the truth where that evidence is absent. This is unlike the TRC that trades truth-telling for freedom and as such, quite ahead of the criminal justice system.

The therapeutic role of truth-telling was further demonstrated in Ariel Dorfmann (1991)'s play, titled; *Death and the Maiden*. In this play, a woman apprehended a man who had once raped her. She was in a position to kill him and was really instigated towards doing so especially when he unrepentantly, continues to deny ever raping her or torturing her painfully. Only when he admitted violating her that she set him free. His acknowledgement is reported to restore her identity and dignity therapeutically. While her sense of self-became affirmed' This only confirms that mere admittance has the healing capacity, but the question is, does this alone apply in all situations no matter the gravity of the crime? No, it sometimes requires more than just truth-telling. Desmond Tutu in the preamble to the Report says,

In our case, dealing with the past means knowing what happened. Who ordered that this person should be killed? Why did this gross violation of human rights take place? We also need to know about the past so that we can renew our resolve and commitment that never again will such violations take place. We need to know about the past in order to establish a culture of respect for human rights. It is only by accounting for the past that we can become accountable for the future. For all these

reasons, our nation, through those who negotiated the transition from apartheid to democracy, chose the option of individual and not blanket amnesty” This is largely the role of truth in the transition to democracy. (TRCR. 1998: vol.1:7)

In his analysis of the importance and role of truth in the TRC of South Africa, Desmond Tutu maintained “*One of the criteria to be satisfied before amnesty could be granted was full disclosure of the truth. Freedom was granted in exchange for truth*”. Is the question that is this not too much to trade in for truth? Yes, the truth may have been exposed considerably, but it does not translate automatically to justice or reconciliation? As has been argued earlier, beyond truth-telling are other requirements that must accompany truth-telling for it to make sense. This includes remorse, regrets, apologies and soberness. Tutu listed the impressive and the over-celebrated long list of atrocities that truth has been able to uncover.

According to Arch bishop Tutu “We know now what happened to Steve Biko, to the PEBCO Three, to the Cradock Four. We now know who ordered the Church Street bomb attack and who was responsible for the St James’ Church massacre. We have been able to exhume the remains of about fifty activists who were abducted, killed and buried secretly. I recall so vividly how at one of our hearings a mother cried out plaintively, “Please can’t you bring back even just a bone of my child so that I can bury him.” This is something we have been able to do for some families and thereby enabled them to experience closure. The lies and deception that were at the heart of apartheid - which were indeed its very essence - were frequently laid bare. We know now who bombed Khotso House. We can recall how Mr Adriaan Vlok, a former Minister of Law and Order, lied publicly and brazenly about this; how he unashamedly caused Shirley Gunn to be detained with her infant son as the one responsible for this act. It must be said to his credit that Mr Vlok apologised handsomely to Ms Gunn during his amnesty application. Thus, we have trodden the path urged on our people by the preamble to our founding Act, which called on “the need for understanding but not for vengeance, a need for reparation but not retaliation, a need for Ubuntu but not for victimisation. (TRCR,1998: vol.1: 7-8)

7.4 What is Justice?

The philosophical conception of this concept is as complex as the practical implication of the concept itself. Perhaps a simple dictionary meaning would suffice at this stage. The English dictionary traced the origin of the word justice to a noun meaning, the quality of being just; with a list of synonyms which includes, righteousness, equitableness, or moral rightness... The moral principle determining just conduct, or conformity to this principle. As manifested in conduct such as “just conduct”. The

expression brings to justice, connotes coming before a court for trial or to receive punishment for one's misdeeds: as in The murderer was brought to justice, or to do justice, to something, implies acting or being treated justly or fairly. (English Dictionary,2010)

Similarly, Harper (2010) equally traced the origin of justice to the “mid-12c., when the word is conceived as being synonymous with “the exercise of authority in vindication of right by assigning reward or punishment;”. It also connotes the "quality of being fair and just," The word is said to have essentially originated from the Old French word, “ justice” which similarly implies not just "justice, but also legal rights and jurisdiction". Whereas, it is argued that at about the 11c., it was traced to the Latin word, “ iustitia” which connotes "righteousness or equity," and from iustus ", words such as upright, just" were traced. Similarly, the Old French word had widespread senses, including "uprightness, equity, a vindication of right, the court of justice and judge." The word essentially became functionally used in the English language, from about the c.1200 as a title for a judicial officer. Whereas, its use to Mean "right order, or equity" appeared at about late 14c. Justice of the peace first attested in the early 14c. (Harper, 2010)

In a similar argument, Edmunds (2010) argued extensively that the word "justice" featured in many of the United States' most important documents, such as the Declaration of Independence, the Constitution and the Pledge of Allegiance. However wonders why such an important concept is problematic as to its precise definition especially among philosophers, theologians and legislators. She was unequivocal in declaring that Justice is often used interchangeably with the word "fairness." Where ever it appears in all spheres of life. She argues that everyone wants to be treated fairly. Her opinion is that one should not be judged more harshly because of the colours of our skin and we should not be paid any less on account of our gender, as well as not having to wait longer for a drink because of our dressing. She went further to argue that we feel we deserve equal and impartial treatment in all spheres of life. All these falls under the bracket of what justice entails which is why she maintains that it is as a result of the fact that “we have this desire for equality and fairness, that the assurance of justice is usually a prerequisite for a good society. For a leader to have legitimacy

among his or her constituents, he or she must find ways to ensure that the laws of the land are just and administered justly". (Edmunds, 2010:1)

Nevertheless, the concept of justice may be obscure in definition, but instances of justice and injustices are not which is why Molly Edmund became less concerned about definitions and took a cursory look at specific cases of injustice in history particularly in the US. According to her,

history is littered with examples of governments that were unjust to some citizens. One such example would be the era of slavery in the United States. Black people weren't afforded the same rights as white people, and it took many years for the government to recognize black people as whites' equals. Such an example raises the question of what's to be done when an injustice is committed. Over the years, many black people have asked the government to make restitution for the years of unequal treatment that their ancestors received. When any crime or abuse is committed, we want justice, both for the offender and for the victim. For the offender, justice means that crimes don't go unpunished, but also that the punishment fits the crime. We treat a 13-year-old who stole a pack of gum differently than we treat a grown man who commits homicide, so justice has some flexibility in its administration. For a victim, justice may be seeing a criminal put behind bars, or it may be monetary -- the goal is to make the victim feel equal again. (Edmunds, 2010:1)

The above picture painted by Molly is though, of the US but could equally pass for an apt description of the situation in SA under the apartheid regime, where not only were individuals discriminated against, there were systemic structures that tried to legitimise illegality by the promulgation of inhuman laws that further tore the country apart. Talking about justice after the demise of apartheid would not be out of place. Molly nevertheless affirmed that the phenomenon of justice is complex by every standard. Hence she argues that,

Justice remains a hard topic to pin down because people often disagree over what they deserve and whether they're receiving it. In such disagreements, we want reasonable and impartial decisions made, which is why the images of justice personified often include a blindfold. We want blind justice to the extent that such a thing is possible. And when people feel that they aren't getting their due, then society may become unstable. As proof, witness events like the French Revolution, civil rights marches and the fights over universal health care. (Edmunds, 2010:1)

Similarly, Molly was not alone, another thunderous voice on the question of justice is that of Pomerleau, (2005) who describes Justice as one of the most important moral and political concepts in western thoughts. He argues that justice comes from the Latin

word, *jus*, meaning right or law. This was corroborated by *The Oxford English Dictionary* which went further to define a “just” person as one who characteristically “does what is morally right” and is disposed to “giving everyone his or her due.” This bit sounds Socratic and Platonic, but added to it, the word “fair” as a synonym for justice. According to Pomerleau, getting beyond, etymology and dictionary definitions, was a priority for, “philosophers who want to consider, for instance, the nature of justice, first as a desirable quality of political society, and as a moral virtue of character as well as how it applies to ethical and social decision-making.” (Pomerleau, 2005:1)

nevertheless, the above conception of justice is crucial to the extent that, it is only within moral philosophy that it is possible to justify why retributive justice should give way to restorative justice because the former encourages retaliation or an eye for an eye which is considered immoral. It was a principle that made Socrates submit to death than to engage in the same act of immorality by escaping judgment when he was condemned unjustly by the Athenian state.

What then is justice to these western philosophers? It is sufficient at this stage to adopt the summary of Pomerleau, (2005) who undertook a cursory journey into the history of western philosophy as far as the concept of justice was concerned. It gives a panoramic view of the idea of the synchronic and diachronic analysis of this concept and its implication for contemporary application and understanding. In the words of Pomerleau, (2005),

“For Plato, justice is a virtue establishing rational order, with each part performing its appropriate role and not interfering with the proper functioning of other parts. Aristotle says justice consists in what is lawful and fair, with fairness involving equitable distributions and the correction of what is inequitable. For Augustine, the cardinal virtue of justice requires that we try to give all people their due; for Aquinas, justice is that rational mean between opposite sorts of injustice, involving proportional distributions and reciprocal transactions. Hobbes believed justice is an artificial virtue, necessary for civil society, a function of the voluntary agreements of the social contract; for Hume, justice essentially serves public utility by protecting property (broadly understood). For Kant, it is a virtue whereby we respect others’ freedom, autonomy, and dignity by not interfering with their voluntary actions, so long as those do not violate others’ rights; Mill said justice is a collective name for the most important social utilities, which are conducive to fostering and protecting human liberty. Rawls analyzed justice in terms of maximum equal liberty regarding basic rights and duties for all members of society, with socio-

economic inequalities requiring moral justification in terms of equal opportunity and beneficial results for all; and various post-Rawlsian philosophers develop alternative conceptions. Western philosophers generally regard justice as the most fundamental of all virtues for ordering interpersonal relations and establishing and maintaining a stable political society. By tracking the historical interplay of these theories, what will be advocated is a developing understanding of justice in terms of respecting persons as free, rational agents. One may disagree about the nature, basis, and legitimate application of justice, but this is its core. (Pomerleau, 2005:1)

The complexity of justice is made more explicit here as everything mentioned above as justice is mostly often traditionally associated with fairness or impartiality. It is, in fact, a two-way relationship comprising of offence on the one hand and a commensurate punishment on the other hand. It is when this process is completed that it is believed that justice has been achieved. This is symbolised by the image of the lady of justice where the blindfold represents impartiality and equality of persons irrespective of status. The weighing scale determines the gravity of the offence in order to apportion commensurate punishment to the crime whose weight on the scale is the determinant factor and the sword, which represents the punishment. However, the question of justice is not only complex but complicated. This legalistic form of justice is founded on the principle of revenge or more like it, the Mosaic Law, which advocates an “eye for an eye” and a tooth for a tooth.

This underlying principle of justice is becoming unfashionable, particularly by states in transition and societies that are perpetrating gross human right abuses and war crimes. Hence the argument of scholars that such principles of “an eye for an eye” ends up creating a world full of blind and toothless people. This thinking is evident in Louis Fischer (1950) in “The Life of Mahatma Gandhi” wherein he argues that it is impossible to inject new ideas into a man’s head by chopping the head off; neither will you infuse a new spirit into his heart by piercing it with a dagger. Fischer (1950).

In a similar argument, King (2010) who having been influenced by Gandhian ideals, argues that violence as a way of achieving racial justice does not only lack practicality, it is also immoral for being systematically and devastatingly destructive. That is why the old principle of retaliation further considered immoral because it seeks to humiliate the opponent rather than win his understanding; also, it seeks to annihilate rather than to convert. King, (2010). These are clearly in opposition to what the TRC stands for as pronounced by Desmond Tutu. Unfortunately, our contemporary legal system is

based on this form of justice, which is by nature, punitive or retributive. Over time, this form of justice has been criticised not only for being expensive and regimental but also unethical, laborious, and complicated in its functionality with the result that sometimes it is incapable of delivering justice, mainly because it is precipitated on the principle of revenge. It is not, therefore surprising that SA covertly rejected justice and overtly embraced compromise by adopting restorative justice in place of retributive justice.

There is evidence to suggest that the satisfaction people get under retributive justice after the judgement is not mainly dependent on the restoration of any loss, but the human desire to see people suffer through the act of vengeance even when it has no bearing on resituating their loss. This view seems to be corroborated by Phelps (2004), who argues that “the thinking behind TRC is essentially that which is intended to halt “disorder and destructiveness of private revenge”. The onus was therefore on the state to go all out to convince the people that, “private revenge was not only imprudent but also evil”. Hence, Phelps (2004) argues further that duality was created which puts revenge and justice into a false opposition in which revenge was not only completely condemned, even the feeling of desiring revenge in any shape or form, was considered “immoral and excessive”. They maintained that arrogating such responsibility to the state, attracted all manners of moral and religious arguments aimed at contradicting it. This did not erase the powerful desire for revenge, even if undercover. She argues, that “Revenge is deeply rooted in human need and cannot be moralised away. Even then, the retributive form of justice is not in support of private revenge either, but state revenge. The question then, is why revenge in any form considered inappropriate? What is the alternative to it? Under what theoretical principle can this be justified? Therefore, with the situation becoming clearer that the legalistic form of justice might ultimately be incapable of delivering fairness, yet there is no guarantee that it is the restorative system that could sufficiently deliver it. Unfortunately, the contemporary voice against retributive justice seem louder, and that is why most contemporary tribunals turn to Truth and Reconciliation Commissions (TRCs). Over and above Crime Tribunals. (Phelps, 2004)

However, the theme of justice is the most central to all these commissions. It is, in fact, the catalyst for so many other questions concerning whether fairness has been achieved or not. Also, by what standard or criteria or by whom among others pervades this issue

of fairness and justice. Thus, scholars have argued that no other concern has superseded that of justice when the issue of Truth Commissions are considered. (Cf. Roht-Arriaza 1995; Landman 1996; Kaye 1997; Nino 1996; Minow 1998; Neier 1998; Ball 1999; Popkin 2000; Rotberg and Thompson 2000).

Hence to some scholars, the appropriate response to the perpetrators of human rights abuses, ethnic cleansing, violence and genocide, cannot be anything short of criminal proceedings. This has to be by some sort of tribunal, or an international court of law that is permitted to do so in order to establish justiciable findings on any such matters, give, and at the same time render punishments as appropriate. (Avruch and Vejarano, 2002).

These Scholars have variously argued that truth commissions in all its forms are incapable of delivering legalistic justice. Hence the focus of these scholars shifted to what they call quasi-justice forms, some of which includes “transitional justice,” “restorative justice,” or “retroactive justice.”. The ultimate aim of these justices is to move away from strictly the criminal justice system that is based on – retributive justice – and then move toward “truth-seeking” as well as reconciliation, Kritz 1995; Assefa 1993; 1997; Nino :Hurley 1994; McAdams 1996; Little 1999; Hayner 2001; Rotberg and Thompson 2000; Tutu 2000).

Hence it is argued that these alternative forms of justices only indicates that the work of truth commissions lies midway between “vengeance and forgiveness.” Martha Minow’s (1998).

This is why so many controversies and passion, surrounds the functioning of these commissions by different parties, especially as it concerns the tension existing between the two opposing poles of this continuum: they maintained that there is the natural human tendency to impose vengeance or to offer forgiveness, for gross human violation. The struggle has to do as well with arguments about whether the concept of “justice” and “truth” are related” or not, and this debate has dominated scholarship in this area for a while. Avruch and Vejarano (2002)

In the case of South Africa, Desmond Tutu vehemently argued in defence of the kind of justice sought by the TRC of South Africa in the face of growing criticism about its amnesty provision. According to him, “ *we have trodden the path urged on our people by the preamble to our founding Act, which called on “the need for understanding but*

not for vengeance, a need for reparation but not retaliation, a need for Ubuntu but not for victimisation.” Tutu expatiated his argument by maintaining that ‘*Those who have cared about the future of our South Africa have been worried that the amnesty provision might, amongst other things, encourage impunity because it seemed to sacrifice justice.*’ However, he says this belief, is incorrect because not only does the amnesty applicant need to admit responsibility for the act for which he is seeking amnesty, the application is dealt with in a public hearing. Apart from the most exceptional circumstances, but the applicant must make his admissions in the full glare of publicity. (TRCR, 1998: vol.1:8)

Desmond Tutu further argues; “Let us imagine what this means. Often this is the first time that an applicant’s family and community learn that an apparently decent man was, for instance, a callous torturer or a member of a ruthless death squad that assassinated many opponents of the previous regime. There is, therefore, a price to be paid. Public disclosure results in public shaming, and sometimes a marriage may be a sad casualty as well. We have been concerned; too, that many consider only one aspect of justice. Certainly, amnesty cannot be viewed as justice if we think of justice only as retributive and punitive in nature. We believe, however, that there is another kind of justice - a restorative justice which is concerned not so much with punishment as with correcting imbalances, restoring broken relationships – with healing, harmony and reconciliation. Such justice focuses on the experience of victims; hence the importance of reparation. (TRCR, 1998vol.1:9)

From Tutu’s submission, above, it is clear that the South African TRC ‘s mechanism of operation at returning peace and stability to SA, is in fact, what it considers as a higher form of justice and not impunity which in this case is restorative as against retributive justice. Moreover, the need for understanding is imperative in achieving this form of justice. It is a form of understanding that transcends vengeance. This brings us to the issue of Truth-telling and compensation rather than victimisation. The concept of payment still underlies the Tutu’s agenda in that he argues that the very act of public confession that tends to bring some form of psychological embarrassment or humiliation is its self a form of payment for the wrong done. The question then, is that, could this be considered sufficient and commensurate with the atrocities committed? If not, is it still justice? What about the perception of the victims themselves? Is it essential in granting of amnesty? This inevitably leads us to the concept of forgiveness within the confines of absoluteness in the journey towards democratisation.

7.5 The Culture of Ubuntu and its Relevance to Truth and Justice

Scholars have similarly argued comprehensively that the theme of culture is not as central as those of justice, truth, reconciliation, and democratisation. The Christian value of forgiveness that features in many other religions dominated the argument of Hope (1987). However, the South African Truth and Reconciliation Commission was from the outset criticised for being too Christian in outlook argues Mark Hay (1999). Nonetheless, Desmond Tutu associated the Christian basis of reconciliation with the African value of “Ubuntu”, This perhaps, is because there is only so far that the Christian doctrine can go in achieving the overall objective of the TRC if it is not supported by another phenomenon that can justifiably move the society forward where the Christian one capitulates. There are other scholars such as Wilson (2000), who in the local Lekgotla or township courts, provided an alternative notion of justice for the human rights abuses that took place under Apartheid. This is a new notion of justice that is opposed to the restorative kind of justice upon which the TRC is based. It is a kind of justice that calls for both punishment and retribution. Whatever the diversities, Wilson’s model may not be feasible in South Africa, given the historical antecedents surrounding how South Africa got that far. This is mostly so because it is not a process resulting from defeat but negotiation.

The reference to culture is intended to draw attention to the fact that notions such “as justice, truth, forgiveness, reconciliation, and accountability – to mention just a few are often socially constructed and culturally constituted. Different modalities for “Western” and Islamic cultures around such principal ideas as justice, peace, reconciliation, contrition and forgiveness have already been established by research in conflict resolution. Hence, there is no reason to think that cultural differences stop there. Arguing further, these scholars maintained that despite the preceding, further research suggests that no matter the value of these commissions, “they will undoubtedly face new sets of challenges whenever they seek to work to ascertain truth(s). Again when they seek to effect a reconciliation, in cultural settings that are outside their purview. Especially when they seek to do their work across significant cultural borders and even beyond. (Avruch and Vejarano: 2002)

Having considered, all forms of religious and academic cultures of societal peace and stability, as well as those of reconciliation that have existed both in ancient and contemporary times, we found out that a significant problem that seems to negate true

and genuine societal peace and harmony, truth and reconciliation is the absence of a unidirectional principle of justice. This also includes the principle of peace, of stability, of harmony, of forgiveness, of unity and so on that transcends the two-way economics of trade; the type that does not involve giving and receiving. This was a search for pure giving that is detached from the expectation of anything in return. Such a type proved quite elusive. It appears that the very nature of the universe and its operational laws are in duplicates and mostly in opposites of twos as in good and bad, male and female, day and night, positive and negative, ups and downs, giving and receiving to mention just a few. Unfortunately, this thinking creates a limitation that makes it difficult for anyone to see the reasonable link between truth-telling and genuine forgiveness and subsequently, reconciliation in particular until we stumbled on the South African concept of Ubuntu.

Ubuntu was tied to the Christian conception to produce results. Unlike the Christian doctrine, Ubuntu is pure giving without receiving. Although it sounds Derridean which seem to exist only ideologically but non-existent practically because for him, pure forgiveness is only possible where it is impossible to forgive. Again the Derridean pure giving without receiving is absolute. Unfortunately, the rhetorics that brought peace to SA was a deconstruction of the absolute. However, in the case of Ubuntu, it involves pure forgiveness of the self that contains within itself, the all-encompassing and inclusive moral philosophy of humanness. Ubuntu is a self-subsisting entity that fuses individualism and collectivism as one whole. It is a unifying order of ones. It is a holistic philosophy of integration, peace and justice of a higher order that is devoid of the economics of trade. It appears to be a philosophy that harnesses both absolute and relative phenomenon.

What is “Ubuntu”? just like most philosophical concepts, it is a phenomenon difficult to define. It appears safer to describe its features and principles. However, due to the elastic nature of the concept, the strict definition can be tasking because definitions by their nature, could be defective in the sense that they could either be too narrow or too broad. Hence, JY Mokgoro, in his work titled, *Ubuntu and the law in South Africa*, chose to avoid such unnecessary academic pitfall by taking to description than a definition. According to Mokgoro (1998), the concept of ubuntu “has also been described as a philosophy of life. It is a philosophy which in its most fundamental sense represents personhood, humanity, humaneness and morality. It is a philosophy

that encompasses ‘a metaphor that describes group solidarity where such group solidarity is central to the survival of communities with a scarcity of resources, and the fundamental belief is that “*motho ke motho ba batho ba bangwe/umuntu ngumuntu ngabantu*” which, literally translated, means a person can only be a person through others. In other words, the individual’s whole existence is relative to that of the group: this is manifested in anti-individualistic conduct towards the survival of the group if the individual is to survive. It is a basically humanistic orientation towards fellow beings’. Mokgoro (1998:2) It is a philosophy that collapses both the *zoe* and *bios* of Agamben into one whole single entity. It fuses the individual interest with that of the state in a manner that it supports a unidimensional agenda that is devoid of dissenting voices.

From the above we can deduce that such humanistic orientation has unconditional forgiveness within its fabrics and averse to retaliation since the individual is an integral part and extension of the whole, they are therefore not two different entities. Hence, vengeance is inconsistent with Ubuntu, since it would naturally involve two different entities, whereas Ubuntu recognises just one entity that all are participants in. Retaliation and harm to one is harm to all and one’s self. The individual does not exist outside the group, nor does the group exist outside the individual.

In furthering his analysis, Mokgoro (1998) maintains that “*ubuntuism is a social ideology*” that guarantees the quality of the essence of being human, which progressively manifests in degrees and separates men and women from beasts. Hence, it is seen as a philosophy of becoming. Which they prefer to call potential of being human. This potential, according to him, “can fluctuate from the lowest to the highest level during one’s lifetime, where there is constant harmony between the physicality and spirituality of life. That harmony is achieved through close and sympathetic social relations within the group – thus the notion “*umuntu ngumuntu ngabantu/motho ke motho ka batho ba bangwe,*” which also implies that during one’s life-time, one is constantly challenged by others, practically, to achieve self-fulfillment through a set of collective social ideals. Because the African worldview cannot be neatly categorised and defined, in straight-jacketed terms. Hence, any definition would either be too simplistic or too extensive. (Mokgoro ,1998:2-3)

Further analysis reveals that to have the quality of harmonisation between the physical and the spiritual means that ubuntuism is a philosophy of reconciliation that transcends the peripheral official forgiveness that is detached from the individual one. It is, in fact, a profoundly convergent philosophy of progression from individualism to collectivism that manifests itself in the process of forgiveness and reconciliation which is inherently entrenched within and without than it is of mere tolerance which is cosmetic and elastic in nature. In which case, Tutu's definition of reconciliation, which implies mere civility, would not apply to Ubuntu. Forgiveness within the philosophy of Ubuntu would, of course, be more grounded, and more sophisticated such that it is much more real and devoid of any form of artificiality or cosmetic resolution whose sustainability beyond the immediate is in doubt.

Furthermore, in his exposition of the contemporary relevance of Ubuntu to modern state apparatus, Mokgoro (1998) maintains that Ubuntu is the founding or underlying value of the democracy. It is established by this new Constitution, through the institution of human dignity, equality, human rights and freedoms within multi-party democracy to ensure accountability, responsiveness and openness as well as the rule of law. It coincides with some of the main values of *ubuntu(ism)*. Such values include those of human dignity, self-respect, inclusivity, compassionate concern for others. It also includes honesty and conventionality. Furthermore, the values of *ubuntu* as an agent of collective unity and group solidarity can transform into the spirit of national unification and accord, which is anticipated concerning the post-apartheid South African society. The group solidarity, collective unity, and conformity tendencies of *Ubuntu* can largely be coupled to promote a new loyalty and personal stewardship. (mokgoro :1998)

It is therefore clear that Ubuntu epitomises the fundamental basis of the principles of unqualified forgiveness, of a higher level of justice that is devoid of both legalism, retaliation and genuine reconciliation. The type that could not find a logical and coherent basis in both Christian theology and circular proclamations. It is manifestly rooted in the infinite, limitless and inclusive manifestation of the moral philosophy of "Ubuntu". The idea of "becoming" in Ubuntuism is synonymous not only with the phenomenon of dialectics that is in motion with a purposeful goal of perfection but it is also similar to the Aristotelian conception of "being" where he demands that the human being must be analysed through its natural propensities, capabilities and

possibilities. It is within this triadic relation, between actuality, potentiality and activity, that Ubuntuism finds relevance. Hence Ubuntu is not just a philosophy of the immediate; it is equally that of the on-going and of course, the future. To that extent, potently capable of addressing the South African atrocities of the past, contemporary reconciliation and smooth transition to democracy as well as the futuristic harmony and stability of the South African State.

Just as it has been discussed elaborately above, Ubuntu is an African moral principle of unity and togetherness based on the idea that you are only human because the other person is human and that it is through other people's humanity that you find your own existence of humanity. It is a tautological principle of all belonging to all and operating within the same structure. It is an advanced principle of oneness that does not accommodate retaliation,

Nevertheless, Ubuntu is not a stagnant, obsolete philosophy but that which accommodates ancient, modernisation and contemporary ideals and goals of human perfection with its underlying principle of humanness, collectivism and becoming. Its idea of non-retaliation finds a parallel in the Socratic philosophy of the avoidance of double negation. A principle that forbids retaliation since it was better to suffer injustice than to perpetrate one, especially as it is better to submit to an unjust death sentence than to perpetuate an unjust escape. It upholds that Illegality cannot be used to redress illegality; otherwise, it would lead society to endless calamities of reprisals. This is a philosophy, which Israel and Palestine can learn from. All these have been carefully synthesised in the Desmond Tutu's proclamation that, South Africans should embrace restorative rather than a retributive form of justice.

7.6 Truth without justice

Truth without justice is one of the seven cardinal paradoxes that were at the base of the South African peace process. Just as in the others, this too sounds absurd, unfortunately, the circumstance in SA could only succumb to this absurdity for peace to return to SA. Again as in other cases, Truth without justice does not presuppose Truth with no justice at all. It is only suggestive of the fact that the justice in question is a qualified one. It does not have all the paraphernalia of full-fledged justice. It has been deconstructed, and what was left was not allowed any political expression that

could be inimical to the overall objective of societal peace and stability in post-apartheid SA.

The enabling act of the TRC posits that to move the Society forward, the truth about all human right violations must be publicly told and that way, it helps some so achieve closures and the perpetrator, in turn, gets amnesty in exchange for the truth. These were no easy pathways, it was difficult to navigate, but with a clear focus, the desired result of societal peace and stability was achievable. This was evident in the submission of Desmond Tutu in the TRC report. Where he said that “

We should accept that truth has emerged even though it has initially alienated people from one another. The truth can be, and often is, divisive. However, it is only on the basis of truth that true reconciliation can take place. True reconciliation is not easy; it is not cheap. We have been amazed at some almost breath-taking examples of reconciliation that have happened through the Commission. Examples abound in the chapter on reconciliation. I want to make a heartfelt plea to my white fellow South Africans. On the whole we have been exhilarated by the magnanimity of those who should by rights be consumed by bitterness and a lust for revenge; who instead have time after time shown an astonishing magnanimity and willingness to forgive. It is not easy to forgive, but we have seen it happen. And some of those who have done so are white victims. Nevertheless, the bulk of victims have been black and I have been saddened by what has appeared to be a mean-spiritedness in some of the leadership in the white community. They should be saying: “How fortunate we are that these people do not want to treat us as we treated them. How fortunate that things have remained much the same for us except for the loss of some political power.(TRCR,1998:vol.1 :17)

The narrative here is that of “truth without justice” the very idea of Truth that lacks justice took its source from the amnesty provision of the TRC where amnesty is granted to perpetrators of human right violation in exchange for telling the truth of heinous crimes committed under the immunity of apartheid. The greatest bashing that the commission got was in granting amnesty for the so-called truth which was not truths in the proper sense of it. However, In Archbishop Desmond Tutu,s did his best to defend this by arguing that,

had the miracle of the negotiated settlement not occurred, we would have been overwhelmed by the bloodbath that virtually everyone predicted as the inevitable ending of South Africa”...“There is no doubt that members of the security establishment would have scuppered the negotiated settlement had they thought they were going to run the gauntlet of trials for their involvement in past violations. (TRCR,1998:vol.1:5)

The impression here is that of overpriced transition and underlying it is concepts such as compromise, non-trial, impunity, and amnesty. These are secondary themes underlying the broader agenda of the commission, which is nation-building and societal unification. That again can be linked directly to such main themes such as Truth, Justice and forgiveness. These four sub-elements are clearly associated with forgiveness and forgiveness is no justice.

Nevertheless, the architects of the TRC found the magic of societal stability buried within the confines of this politicised phenomenon of forgiveness whereas the large percentage of South Africans saw the commission as one of redress for justice. While admitting the narrative encapsulated by these elements of forgiveness, Tutu maintained that within the concept of moral philosophy as against legal philosophy, the TRC built a profound theory of societal peace not on injustice, but a higher form of justice known as restorative justice. Its focus is on the restoration of one's dignity and humanity as against the legal justice based on the principle of retribution. The tool to achieve this is "truth". How convincing this narrative is, remains debatable. However, through both CDA and Agamben, we were able to infer that the idea of justice here was probably a smokescreen, The critical element was amnesty and the choice of "truth" being what the perpetrators were to give to earn amnesty, was to avoid a situation where they will appear not to give anything before they got amnesty. Even members of the commission were not allowed to tamper with this idea of amnesty. Ultimately, Truths were given, the very act of amnesty denied justice, though, in the interest of societal peace and stability. The TRCR says "One of the criteria to be satisfied before amnesty could be granted full disclosure of the truth. Freedom was granted in exchange for truth." (TRCR,1998: vol.1:5) The word exchange here gives the impression of barter or equality, and it underscores the idea of justice if mere truth-telling was sufficient condition for amnesty. There is some form of moral economies at play here? How justified is such a trade-off? What is the moral implication of confessing the truth to get freedom? Whereas in the legal justice system, confessing to gross misconduct and murder of such magnitude only reduces the time wasted on proving beyond a reasonable doubt but does not absorb the offender from punishment. Tutu argues " *We have, through these means, been able to uncover much of what happened in the past*" The dominant discourse as represented by Tutu here, seem to be "Truth-telling" in the interest of reconciliation and societal stability founded on the

principle of forgiveness rather than that of justice. Other themes covered here include that of trauma, agony, gruesome murder, then of course apology, understanding, vengeance, reparation, retaliation and victimisation.

There seems to be an attempt to over celebrate and blow up the idea of truth-telling to a magnificent proportion, deliberately to swell it up and make it look larger than life in order to make it sound worthy enough to attract amnesty.

The lies and deception that were at the heart of apartheid - which were indeed its very essence - were frequently laid bare. We know now who bombed Khotso House. We can recall how Mr Adriaan Vlok, a former Minister of Law and Order, lied publicly and brazenly about this; how he unashamedly caused Shirley Gunn to be detained with her infant son as the one responsible for this act. It must be said to his credit that Mr Vlok apologised handsomely to Ms Gunn during his amnesty application. Thus, we have trodden the path urged on our people by the preamble to our founding Act, which called on “the need for understanding but not for vengeance, a need for reparation but not retaliation, a need for ubuntu but not for victimisation. (TRCR,1998: vol.1:31-32)

However, Desmond Tutu in the above quotation tried to over celebrate the idea of truth-telling. It can not be an error of commission. It is part of the padding strategy to show the larger than life part of the narrative that makes confession massive so that the benefit that is too large for it would not be seen in that light. We notice that there is a rhetorical repetition of “**we know now**” ...which seem to be part of the package to make truth-telling a sufficient end in itself and render the idea of justice subservient to it. On the part of Tutu to overemphasise the role of truth and revelation over and above justice in the journey towards unification and societal stability was a necessity. This is undoubtedly an epistemological framework being applied here instead of an ethical one which would have emphasised justice over compromise. The same argument of artificial balance and unbiased approach nullifies the argument of just war, for freedom fighters and puts everyone on the same pedestal; be it, the aggressor or aggressed. It was the same line of thought being expressed at the opening of Tutu’s forward when he talks of “our children of all races” Tutu employs epistemological tools here because it makes him stand aloof to achieve his goal.

Moreover, Epistemology being a purely descriptive activity perfectly does the job for Tutu who as a priest should ordinarily follow the moral route, but the objective of the TRC would not permit that. What one discovers is that Tutu became selective in what

he professes. Religious morality when it suits his agenda and epistemological one, when morality will derail his objective. Maybe a Machiavellian approach we would say. Nevertheless, it seems quite Agamben who would deconstruct and push anything that will stand against the primary objective out to the realm of zoe by depoliticising it and rendering it impotent or less lethal.

Furthermore, we shall observe that there were astonishing truths that are difficult to reconcile without getting people involved to pay for it through prosecution. Also, such created so much anger that impact on the integrity of the commission, which seems to give them the image of paper tigers or just a backbiting dog. They were seen as nothing short of mere window dressings because it appears that they lack any real independent powers of effecting change. This was expressed in different forms that are suggestive of encouraging impunity, except when one is thoroughly schooled in the understanding of the philosophical undertones that animates the TRC. Hence, the song of impunity and injustices was sung all over the place.

Can we imagine the anger that has been caused by the disclosures that the previous government had a Chemical and Biological Warfare Programme with projects that allegedly targeted only black people, and allegedly sought to poison President Nelson Mandela and reduce the fertility of black women? Should our land not be overwhelmed by black fury leading to orgies of revenge, turning us into a Bosnia, a Northern Ireland or a Sri Lanka? Dear fellow South Africans, please try to bring yourselves to respond with a like generosity and magnanimity. When one confesses, one confesses only one's own sins, not those of another. When a husband wants to make up with his wife, he does not say, "I'm sorry, please forgive me, but darling of course you too have done so and so!" That is not the way to reach reconciliation. That is why I still hope that there will be a white leader who will say, "We had an evil system with awful consequences. Please forgive us." Without qualification. If that were to happen, we would all be amazed at the response. (TRCR,1998: vol. 1:18)

It must be clearly stated here that the narrative in which confession of the truth is equated to a form of punishment seems deliberately created to checkmate the hardcore South Africans who are not persuaded by anything short of retributive justice. Again, there is also the element of what we in the philosophy of logic calls "argumentum ad baculum" built into the narrative which inevitably shows that the TRC were hand twisted or had no choice but to accept the restorative, non-punitive approach, against the popular clamour for retributive justice. This is because the concentration and balance of power of state machinery, and the monopoly of the use of force as at the

time of negotiation remain potentially under the control of the perpetrators. They could derail the process for reason of self-preservation if it is suspected that the policy of vengeance or retributive justice was possibly going to be explored. This is what Tutu expressed in the excerpt below, where salient threats, mechanical caution and prudence dictated the conformist trend that featured at the negotiations.

In his judgement in the case brought by AZAPO and others against the Truth and Reconciliation Commission, Judge Mahomed, then Deputy President of the Constitutional Court and now our Chief Justice, quoted Judge Marvin Frankel. In his book, *Out of the Shadows of the Night: The Struggle for International Human Rights*, Judge Frankel wrote: The call to punish human rights criminals can present complex and agonising problems that have no single or simple solution. While the debate over the Nuremberg trials still goes on, that episode - trials of war criminals of a defeated nation - was simplicity itself as compared to the subtle and dangerous issues that can divide a country when it undertakes to punish its own violators. A nation divided during a repressive regime does not emerge suddenly united when the time of repression has passed. The human rights criminals are fellow citizens, living alongside everyone else, and they may be very powerful and dangerous. If the army and police have been the agencies of terror, the soldiers and the cops aren't going to turn overnight into paragons of respect for human rights. Their numbers and their expert management of deadly weapons remain significant facts of life.... The soldiers and police may be biding their time, waiting and conspiring to return to power. They may be seeking to keep or win sympathisers in the population at large. If they are treated too harshly - or if the net of punishment is cast too widely - there may be a backlash that plays into their hands. But their victims cannot simply forgive and forget. (TRCR,1998:vol.1:6)

It must equally be emphasised here that the narrative under review; "Truth without Justice" is one of the strongest pillars on which the South African societal peace and stability was built. The truth was made the independent variable while justice was the dependent variable. In Agamben's philosophy, any variable that was going to disturb achieving the primary objective must be deconstructed and fragmented into bits where its potency to derail the process is reduced if not completely terminated. In this case, the search for justice was going to prevent anyone from coming to confess the truth for fear of prosecution. However, hearing the truth was beneficial to make closures. Hence justice had to be deconstructed in a way that it does not affect the truth from being told. How was this done? Justice was redefined. Restorative justice took the place of retributive justice. Amnesty was to be granted to all that come out to say the

truth no matter how ugly it is or its manner of rendition. This was part of the narrative that returned stability to South Africa. It was “truth without justice.”

In SA, there was a frantic search for Truth. Unfortunately, it was not the kind of Truth that would be used to bring about retributive justice. It was a self-sufficient truth. The kind that was an end in itself. Its role is therapeutic and mostly helps in achieving “closure” In the light of Agamben’s philosophy, even if this truth was incapable of bringing about justice, it was not invariably bringing about injustice either. The narrative; without justice does not mean the absence of justice altogether; it only refers to a softer and more ethical form of justice that is selectively modulated and moderated in such a way that it does not disturb truth. It is a kind of justice that is stripped of its bias by not being given any political voice. It is bare-justice, and bare justice here is what Tutu refers to as restorative justice. It is chosen in the interest of overall societal peace and stability. It is a kind of justice that rises above the conventional principle of retaliation. It is not the type based on the mosaic principle of “an eye for an eye” Hence, Retributive justice is deconstructed to give way to restorative justice.

As mentioned, earlier, for those recalcitrant South Africans who insist on retributive justice, the narrative had to equate confession of truth to the punishment of some sort simply to obliterate the question of impunity. In the words of the commission, as it tries to develop the narrative where a perpetrator is meant to publicly admit that he had hitherto been beastly, contrary to previous notions of him. This amounts to psychological torture for the confessor, and this cannot be anything short of punishment for crimes committed under apartheid. Whether this is commensurate with the offence committed is a different thing, the fact remains that he has committed an offence and he has been made to pay for it publicly. It is part of the agenda to dismember justice or in a way, to deface it until it no longer poses a threat to truth.

Bishop Tutu includes, in his narrative, the options available to the TRC; outside the criminal justice system, and the incentive for Truth-telling. It is interesting also to note the gradual departure from convention and a redefinition of concepts and ideas which may truly have been why the TRC succeeded in turning such an intractable conflict as that of SA to a tractable one. For instance, there seems to be an over celebration of the concept of truth as distinct from that of justice; This is an interesting thought provoking dichotomy that is worth remarking, especially when we realise that truth

and justice have been hitherto commonly regarded as a dyad. In the words of Arch Bishop Desmond Tutu,

legal proceedings rely on proof beyond reasonable doubt, the criminal justice system is not the best way to arrive at the truth. There is no incentive for perpetrators to tell the truth and often the court must decide between the word of one victim against the evidence of many perpetrators. Such legal proceedings are also harrowing experiences for victims, who are invariably put through extensive cross-examination. (TRCR,1998:vol.1:6)

There is an interesting twist to the question of the search for truth. It is argued that confession alone humbles people and demystifies them. Again, the systematic operationalisation of apartheid with its divide and rule policy was brought to its height through destructive policies implemented by infiltrating the black community and exploiting the differences between the Xhosa people and the Zulu, the ANC and IFP, widening the gap between them and promoting greater animosity, not only among its people but also among its leaders. This commission in its pursuit of Truth but without justice, ensured that such leadership-followership complicity was exposed, although with no clear-cut consequences for leaders who gave instruction for gross violations and stood aloof at such time of reckoning, to abandon their foot soldiers. It was not a weakness that such leaders got off the hook “casting the net too wide” in the words of Tutu, could derail the entire peace process. Hence implementing the narrative of truth without justice, helps to reveal the complicity, but that was all. Bringing such great men to judgement was cautiously approached. Such was the narrative espoused below in the following excerpt.

From another side of the conflict comes the position of the president of the IFP, Chief Mangosuthu Buthelezi. On no occasion has the IFP's leadership ever made any decision anywhere at any time to use violence for political purposes. I have always abhorred violence now and will die abhorring violence. I personally have never made any decision to employ violence anywhere for any purpose whatsoever... By contrast, here are extracts from statements by Inkatha members applying for amnesty on grounds of numerous murders: Mr Wills: Now what was the purpose of this training? Mr Hlongwane: It was to protect IFP or areas controlled by Chiefs, as well as to kill the ANC...IFP member, Mr Dlamini, said: I will say that it is painful to me that after all these activities that we committed that people should deny our existence and call us criminals. When I went for training at Caprivi, nobody called me a criminal. When I killed people here, I was not called a criminal. Today they do call us criminals and deny knowledge of our activities and ourselves. No IFP leader is prepared to stand before this Commission and admit to these activities. We

decided among ourselves to expose these activities. We in fact were not mad persons who just took weapons and started shooting people at random. Therefore it hurts me very much for the IFP to desert us and say that they do not know anything about us – when they know that they were in fact responsible for all these things. (TRCR,1998: vol.5: 264- 265)

In furtherance to how the Truth without justice was implemented, There were carefully selected words, innuendos and euphemisms that were employed to tone down the impact of gross violations which were confessed to, but in manners that make them excusable even if not pardonable to some extent. The same vehemence with which truth was pursued was toned down when it came to the point of reprimand or punishment for these confessed truths. It was no error. It is part of the grand design to pursue truth without pursuing justice at the same level. An interesting trend to diffuse confessed truth is the regular use of such refrains “ we admit” “things went wrong” “ we made mistakes” and so on., The question is after admitting, what next? The narrative was such that it does not go beyond such admission. A cursory look at the excerpt below seems to confirm this. Sufficient alibis were provided for almost every revealed truth. It has, therefore, become imperative to quote extensively to show some instances where this essentially took place. The revelations that come with the chronology of narration that reveals the toughness of truth without justice is hard to break merely to avoid the long excerpt.

Different parties to the conflict admitted that there were errors, mistakes and unintended consequences. Several parties contended that violence occurred precisely because of the grey areas that developed. At one of the hearings on children and youth, Mr George Ndlozi, reporting on the activities of SDUs, said things “went wrong” because they – had to depend on criminals and people took advantage of the situation. They ended up operating out of personal gain. Mr Niel Barnard, former head of National Intelligence, said at the hearings on the State Security Council: “It is true that instructions and mandates were sometimes vague and were communicated poorly [and] ... in large bureaucratic institutions such as the public sector there is a danger that decisions and instructions are not formulated, conveyed and interpreted in a correct way. Mr Johan van der Merwe, former commissioner of police, said at the State Security Council hearings that “we had to move outside the boundaries of our law”, leading to all sorts of blurred distinctions between acceptable and unacceptable methods. This point was also conceded by Mr FW de Klerk in the NP submission. General Andrew Masondo, former political commissar of the ANC, admitted that they “could have made mistakes” as a result of disinformation or when they had to rely on young, inexperienced people in authority in the Quatro camp. (TRCR,1998: vol.5:267-268)

It was however discovered later that despite de Klerk's use of innuendos and euphemisms to admit complicity, it was not unnoticed, but it was ignored and parallels were being sought from among the ANC who were reacting and resisting apartheid. It could not be understood ordinarily why such progenitors of apartheid were easily left off the hook. However, the theoretical analysis reveals that it was no error of omission, nor commission, but part of the design not to cripple the process. It was one of the things Tutu was subtly referring to when he warned against "casting the net too wide". The danger of impunity was imminent, but greater is the crumbling of the entire process of peace and nation-building as well as the transfer of power from the white minority to the black majority in SA. According to,

Mr FW de Klerk, answering questions on widespread torture during the 1980s in the second NP submission, said: I'm not saying we were perfect ... I'm not saying we didn't make mistakes. Detailed operationalisation (of security policy) takes place at a much lower level ... that is where, either through over-zealousness or a male fide approach, where things get out of hand. History has subsequently shown that, as far as the policy of apartheid was concerned, they were deeply mistaken. None of these unconventional projects was intended to lead to any gross violations of human rights ... but ... they did create an atmosphere conducive to abuses. (TRCR. 1998: vol.5:267-268)

The purpose of bringing in the ANC narrative here is to support the narrative that attempts to advance the no victim no vanquished agenda that is built into the process to tone down the effect of injustice in the interest of the dominant agenda. In the opinion of Tutu, the opportunity to complain of injustice and impunity was only afforded because the system successfully teleguided and allowed the main objective to thrive at all cost otherwise the consequence of unending civil war would have emerged. The presentation here below, affirms that the,

Former MK leader Mr Ronnie Kasrils, speaking during the Commission's public debate on the notion of 'just war', said: "I'm not saying that there weren't certain departures, certain aberrations". Similarly, the ANC submission to the Commission reported concern in late 1987 regarding an increase in "attacks which did not accord with ANC policy", conceding that "some incidents not entirely consistent with ANC policy did take place". In its second submission, the ANC repeated that "mistakes were made". In similar vein the UDF stated that the – ... activities of the UDF and its allies, while making invaluable contributions to the democratisation of South African society, had many regrettable consequences. Even in the details of operations of bomb attacks, things could go wrong, mistakes were made. Regarding the explosion at the Krugersdorp magistrate's court

adjacent to a “notorious security police branch”, Mr Mohammed Shaik told the amnesty hearing: I prepared two charges; one being a decoy which I placed in the toilet used by police officers in the court complex, the other being a car bomb. The decoy was to have exploded first, drawing out police officers, who in a few minutes would have cordoned, cleared and secured the area. Their presence would have been very near to the car bomb which was to explode minutes later. Unfortunately, the decoy failed to explode due to some malfunction. The car bomb detonated as planned. The intended aim of a large number of enemy personnel being killed, injured was not achieved. A civilian and two security branch members were killed. (TRCR,1998: vol.5: 267-268)

Similarly, serious developments emerged where the implication of the kind of truth that people told and their consequences for the overall agenda of the TRC was further elucidated in the following excerpt,

In the Freedom Front submission, General Constand Viljoen also reported on mistakes of the former government. Referring to the NP government, in which he was chief of the defence force, he testified: Forty years of governmental control made them power-drunk. Expediency, manipulation, propaganda ... and in the end the ruthless tactics of an unconventional sort to retain power – all these things are not necessarily part and parcel of the original concept of differentiation that prevailed within Afrikaner political thinking. The original motivation of the Afrikaner was not to rule others. He argued further that errors were made due to the arbitrary powers given to ministers and “even officials in the security forces” during the states of emergency... because of the absence of normal checks and balances that would avoid misuse of these powers ... most cases of gross violations of human rights resulted from these practices and they had the serious additional effect of keeping the public in the dark on these activities and creating a sense of fear and bondage in general that was not conducive to free and responsible citizenship. (TRCR,1998: vol.5: 268)

It is interesting how the foot soldiers and implementers of apartheid were rounded up to give an account of their stewardship while their masters who made the policies and handed down implementation instructions were untouchable while their implementing boys were put on the spot. Again, the underlying narrative was not absoluteness, but a relatively perspectival one. It was not justice; it was the truth. It was not all inclusive bios but some exclusive zoe. The same geometry of analysis as expressed by NFP members above viz a viz their leader’s role is being reiterated here. Again, a mockery of the phenomenon of truth was exhibited here. Truth is revealed, where is justice? It has been pushed into irrelevance and not allowed political expressions because it will become inimical to the overall goal of societal peace and stability as here, expressed;

The primacy of the political context as an explanation for violence was persuasively put by General Constand Viljoen in the submission of the Freedom Front to the Commission. Regarding accountability, General Viljoen said: I still maintain it is unfair that the operators be exposed as the chief perpetrators of atrocities and violence in general when the politicians and strategy managers hide behind their status and positions. The iniquity of our past was of a political nature first, and mainly in that way a moral problem on an individual level. Mr FW de Klerk also confirmed the primacy of the political in creating the overall climate for subsequent violence. In the NP's submission statement to the Commission in May 1997, he said: Let me state clearly that the National Party and I accept full responsibility for all our policies, decisions and actions. We stand by our security forces who implemented such policies. We accept that our security legislation and the state of emergency created circumstances which were conducive to many of the abuses and transgressions against human rights ... We acknowledge that our implementation of unconventional projects and strategies likewise created such an atmosphere.(TRCR,1998:.vol.5:277-278)

Breaking down the phenomenon of truth without justice, in his analysis is Anglican Bishop David Beetge. He acknowledges that there were astonishing revelations, especially of official and professional misconducts of doctors and allied professionals that were startling, incomprehensible and unethical. Despite that, navigating between such revelations of bitter truths without justice, but not with the intention of injustice was affirmed after some of these violations were revealed. For instance, it was remarked that,

In South Africa, the roots of violence were partly political, but were also exacerbated by demographic and socio-economic circumstances. Socio-political factors, such as the structural, economic, cultural and racial inequalities imposed by the former state, led to and exacerbated violence...The objective conditions of inequality make it clear that South Africa is a highly stratified society, characterised by intense structural and institutional injustice and violence. (TRCR. 1998: vol.5:142-143)

There was a long narration of these startling revelations of dangerous violations from unexpected quarters that alarmed the society in a manner that questions the narrative of peace. Demonstrating this in the report of the TRC includes facts that,

Doctors were alleged to have given advice to police on lethal chemical formulas that were undetectable or difficult to trace, and on ways to disguise torture methods. In the case of Mr Sipiwe Mthimkulu, the victim became very ill after his release from detention. Upon further investigation, it was found that he had been poisoned with thallium, an odourless, tasteless poison whose effects are delayed after ingestion. Sipiwe Mthimkulu disappeared in the year after he was released from

prison. Many people believe that only a medical professional or chemical expert would have had the knowledge to advise the police to use such a poison. Mr Amos Dyantyi told the Commission that he was severely tortured on the day of his detention in 1985. He almost suffocated when his torturers put a tube over his head. He was electrocuted by having electrodes inserted into his anus and suffered excruciating pain when a mechanical piece of equipment (like a jackhammer) was forcefully pushed into his stomach. The police were so concerned about his condition that a part-time district surgeon was called in to see him. Before he was taken to the hospital, the doctor allegedly told the Security Branch police to force porridge into his nose so that it would look as if he had suffocated on the porridge.. It is also believed that doctors advised interrogators how to administer electric shock. Initially, it was administered through clips or wires. However, the clips left marks that were detectable under a microscope. Professor Simpson, who worked extensively with detainees, reported that, once it became widely known that detection of electric shock was possible, there was a change in the way in which detainees described the administration of electric shock. Torturers poured water over the victim and administered the current over a larger area of the body. Because the area through which the current penetrated was larger, this method left no marks. Again, it is believed that it was health professionals who advised torturers on this less detectable method of electric shock. Professor Simpson noted that, once it was discovered that electric shock could still be detected by a blood test, electric shock was used less frequently. Doctors were also used by the SADF to develop weapons such as letter bombs and silencers for guns. In a recent amnesty application, a perpetrator admitted to working for an SADF front company which, posing as a commercial chemical company, developed weapons such as letter bombs and special weapons that could deliver small amounts of lethal chemicals. This application named several medical doctors who were involved in this operation.(TRCR,1998.vol.4:127- 128)

Furthermore, there is an exciting dimension in the following statement concerning **truth without justice**. Particularly when we consider the tremendous systemic human right violations revealed above, which seems to confirm that, *“while successful amnesty applicants could not be punished, the impact of public acknowledgement should not be underestimated.”* There is evidence to support the argument that while it was a narration of “truth without justice” yet it is not the case of “truth with injustice” or truth with no justice especially as *“Perpetrators were not able to take refuge in anonymity or hide behind national amnesia”*.

In the words of Anglican Bishop David Beetge at a post-hearing follow-up workshop, in Reiger Park, on the 19th of April 1997: he argues that;

The truth always goes hand in hand with justice. We do not tell our stories only to release the dammed up tears that have waited years to be shed. It is in order that truth should be uncovered and justice seen to be done. Even though it is not the work of the [Truth and Reconciliation Commission] to pass judgement or sentence on the oppressors, it has led many perpetrators of crimes to seek amnesty. That is good for them. The [Amnesty Committee] may speak sternly and, in some cases, refuse amnesty. That rightly demonstrates that truth can be tough. The refusal to grant amnesty is a sign that the [Truth and Reconciliation Commission] is not a body setting out simply to show leniency, but, more especially, that it requires justice before there can be reconciliation. Reconciliation is not taking the least line of resistance; reconciliation is profoundly costly. (TRCR,1998: vol.1: 120)

Summarily, the pursuit of the deconstruction that fulfils societal stability, which in this case is “truth without justice” requires that the narrative must be tailored sufficiently to achieve that since Truth with justice would contribute more to the disunity of SA. It became imperative to pursue “truth without justice” but clearly, there were systematic structures put in place to actualise this objective, and these were carefully built into the operation of the TRC. First, the rhetoric must first redefine the phenomenon of justice and delineate its boundaries with sufficient justification for the choice of the ensuing narrative. This is evident in the report of the TRC that states as follows;

First, if justice is seen merely as retribution, it becomes difficult to make the appropriate connections between amnesty and justice. While both the interim Constitution and the Commission expressed strong opposition to acts of revenge, it is necessary, nevertheless, to acknowledge that the desire for revenge is an understandable human response. Suppressed anger undermines reconciliation.(TRCR1998:Vol.1:117)...Nonetheless, the tendency to equate justice with retribution must be challenged and the concept of restorative justice considered as an alternative. This means that amnesty in return for public and full disclosure (as understood within the broader context of the Commission) suggests a restorative understanding of justice, focusing on the healing of victims and perpetrators and on communal restoration. ((TRCR,1998:vol.1:118) ...Most people do not, of course, wish crimes merely to be condemned. For many people, justice means that perpetrators must be punished in proportion to the gravity of their crimes. If one accepts, however, that punishment is not a necessary prerequisite for the acknowledgement of accountability, it is possible to see that qualified amnesty does contain certain of the essential elements required by justice. Thus, individual perpetrators were identified and, where possible, the circumstances that gave rise to the gross violations of human rights they had committed were explained. (TRCR,1998:vol.1: 119)...Thus, although the Commission did not offer retributive justice, placing the amnesty process within a broader framework is likely to contribute to formal justice in the long term. Instead of trading justice for truth, amnesty might, in the end, prove to

have been a more profitable option than the stark choice between truth and trials. In societies in transition at least, truth must be viewed as an important element in restoring the rule of law.(TRCR,1998:vol.1:122)

Interestingly, Desmond Tutu made a very important remark below. The implication of this remark, further affirms this narrative of “truth without justice” more solidly.

According to him,

the disqualification or removal from public office of people who have been implicated in violations of human rights. The Commission considered this question carefully and finally decided not to recommend that this step be pursued. It is suggested, however, that when making appointments and recommendations, political parties and the state should take into consideration the disclosures made in the course of the Commission’s work (TRCR,1998: vol.1:3)

Here Desmond Tutu seems to be throwing up a significant discourse, which is the question of impunity and justice. If implicated people not granted amnesty cannot be removed from public office by the committee, it then calls to question, the fundamental issue of the true autonomy, independence and sovereign authority of the commission. What this simply implies is that the commission may not have been designed to deliver justice in the first place. It appears that all it was meant to do was just camouflage that and in fact, deliver compromise and reconciliation, founded on the de-politicisation of the concept of the dominant themes such as those of forgiveness, in the interest of nation-building and societal peace and stability much more than the pursuit of justice. It is apparent that what Tutu is saying is that the truth that has been exposed, but not for the purpose of justice at least in the retributive sense, instead it is there to operate at a moral level, which boils down to the derived narrative of truth without justice. This is like sweeping justice under the carpet to give the impression of a tidy environment. This may yield temporary peace but it is there under the carpet and as time goes on it is not unlikely that such unfinished business could rear its head in some shapes or forms depending on the prevailing dialectics that unfolds and how it is consciously managed.

7.7 Summary of The Chapter on Truth without Justice

In this chapter, the concept of truth is pitched against justice, when, in fact, they complement each other. The contemporary criminal justice system uses all means to arrive at the truth, the whole truth and nothing but the truth because it is the essential ingredient required for justice to be dispensed. Inability to arrive at the real truth, often lead to the miscarriage of justice. Interestingly in this chapter, the purpose of truth was

not to achieve justice. Under the criminal justice system, the truth was a means to justice, but in South Africa, the truth was an end in itself. The narrative that emerged showed over the celebration of truth at the expense of justice. In the couplet, Truth was the independent variable that could not be tampered with. It is the variable that needed to be part of the elements that was designed to return peace and stability to South Africa. Of course, one element that stands in contrast to it is justice, and this needed to be deconstructed in a manner that it would be less fatal to the truth. Hence Agamben's philosophy. The narrative showed that the Society was primarily eager to know all the hitherto covered truths, confession did that. The consequence of volunteering the truth was amnesty but having known the truth, the dominant rhetoric was the call for justice, and justice in the retributive sense would derail the entire peace process. So all kinds of narratives were brought to bear in order to deconstruct justice until it was no longer a potent instrument for the disruption of the peace process. Justice was presented variously as immoral because it was founded on the principle of vengeance. (an eye for an eye). To some hard-core, justice-seeking South Africans, The call for justice was allowed. But not the retributive justice type but the restorative justice which was presented as a superior form of justice because it was not founded on the principle of vengeance but the moral principles involving the restoration of the dignity of the people. Hence justice had to be deconstructed to a point where it could not threaten societal peace and stability.

Chapter 8: Findings, Conclusions and Prescriptions

8.0 Introduction to Chapter on Findings and Conclusions

This chapter presents the findings of this research systematically by trying to align the findings with the initial objectives set out at the outset of this work. The objectives were three in number. The purpose of setting the findings against the initial objectives was to gauge the extent to which those objectives had been achieved in the course of the research. Hence there will be a set of findings for each objective after which a set of relevant conclusions benefit would be drawn from the findings. Finally, recommendations would be made in forms of prescriptions to the relevant bodies, institutions, individual stakeholders such as scholars, bureaucrats, technocrats, mediators, conflict experts, leaders of states and governments, Democrats and to those to whom this work would be of great significance.

Summary of Initial Objectives

1. The first objective relates to identifying the elements, themes, principles and rhetorics that underlie the narratives, negotiations and the workings of the TRC which accounted for the ultimate success of the peace and stability process in apartheid, South Africa.
2. The second objective relates to demonstrating how Critical Discourse Analysis (CDA) can help unpack the understanding of the explicit and implicit ideas that were at the base of the South African transition from apartheid to majority rule.
3. The third objective relates to articulating how Agamben's theory of exclusive inclusion of the *Homo Sacer* can be coherently applied to the understanding, and interpretation of the complementary and contradictory narratives that ultimately determined the success of the South African transition from being a warring to a peaceful society?

8.1 General Findings

8.1.1 Findings 1:

Our findings in this research as it relates to the first objective is that we found that one of the significant elements that underlie the success of the peace process in SA is what scholars called;

Appropriateness and ripeness of time. Bercovitch (2005) It is argued that no matter how long conflict may have existed if the dynamics and contradictions that were at the base of the conflict have not exhaustively outplayed themselves, all intervention is likely to be unsuccessful. Again, if interventions come too late when inconceivable and irretrievable damages have been done, then resolutions may equally be difficult. This means that there is a point of equilibrium when intervention could yield results. However, scholars were, clear in maintaining that this point is unpredictable and could be dictated only by the peculiarities and idiosyncrasies of the conflict in question. This explains, possibly, why the negotiations of 1994/95 in apartheid South Africa were successful. This means that the time was just ripe for the capitulation of the forty-eight years' apartheid conflict that seemed to have run its course. Bercovitch and DeRouen: (2004: 154-155)

Furthermore, findings from the review of literature also reveal that significance is **the appropriateness of the method of resolution**. If the wrong or faulty approach to any given conflict is applied, the chances of success are slim. Hence, researchers in the analysis of this problem have employed some mixed methods, quantitative and qualitative approaches, and yet the solutions to intractable conflicts seem still far away. Bercovitch and Derouen (2004:166) are of the view that this could be due to using the wrong approaches which explains why they argue, "*Internationalized ethnic conflicts are generally acknowledged as the most difficult and complex conflicts to manage. Yet these conflicts too can be de-escalated, or be made less violent, especially if the right form of conflict management is chosen.*" In other words, for 48 years, it was reasonable to infer that defective approaches may have been continuously applied to the South African conflict that was why it remained unsuccessful. The problematic bit here is in identifying what the right approach would be for any given conflict. Hence, it is suspected that the success of the South African conflict this time around may have

been connected with the fact that the right appropriate approach was eventually adopted.

As evident, this could mean internally generated mediation without external involvement. It could also mean the choice of Truth Commissions over War Crime Tribunals; even though Lansing and King (1998:761) already argued that the option of a Truth Commission in South Africa as against Crime tribunals was not a choice that South Africans had in view of the balance of power still tilting in favour of the white minority because according to them, “even though,” *Apartheid may have been defeated, but its minions still dominated the police, army, and civil service.*” Thus, *“success in the constitutional negotiations depended, to a large degree, on making a deal with the previous regime, and Nuremberg-type trials were not an option if the country was to reach democratic elections without a coup or chaos.”* Lansing and King (1998:761). There is also the choice of ethics and morality as guiding principles over strict legalism, the choice of all-inclusive democratic transparency in the selection of the participants and key players in the implementation and negotiation processes, as well as the over-celebrated principle of forgiveness and amnesty over that of retaliation and punishment. That is not all, buttressing this argument Llewellyn and Howse (1999:356) suggest that *“the possibility that this may be a first best solution, an ineffective bromide where criminal prosecutions are inadequate, politically risky, or undesirable. This alternative view directly challenges the conception of justice that underlies criminal trials. It implies a radical reassessment of the means by which justice is done and the respective merits and drawbacks of the various techniques of dealing with the past.”*

Another essential element that is said to possibly have contributed to the return of peace to SA after such a long time is in its entirety, **the institution of the Truth and Reconciliation Commission**, which is considered a significant stride for success in SA. This assertion was corroborated by Gibson who argued that the return of peace and stability to South Africa is largely ascribable to the TRC because *“South Africa's democratic transition is widely hailed as one of the most successful transformations in the world today. At a simplistic level, the difficult transition from apartheid to democracy was made with minimal bloodshed and political instability, something many regards as nothing short of miraculous. What accounts for this miracle? Most*

observers are willing to attribute at least some responsibility to the country's truth and reconciliation process, as institutionalised in the Truth and Reconciliation Commission (TRC), and its leader, Archbishop Desmond Tutu.” Gibson (2005:341)

Furthermore, our findings under this first objective, also reveal that another factor that could have been responsible for the South African success story is what we may call **the collective and convergent world condemnation of the statuesque**. The world at that time seems tired of politicising the South African apartheid conflict by reaching the general point of consensus that apartheid was a philosophy that had gone out of fashion in the same way that slavery, imperialism and colonialism went. Hence, there was a general world condemnation of apartheid and its policies. Corroborating this fact is Taylor (2002:69) who argues that it was not surprising that “in 1968, the United Nations had declared the apartheid system, “a crime against humanity” Later; the World Council of Churches was moved to describe apartheid as a sin against God and humanity. Also, in 1985, the Kairos’s Document labelled the apartheid state “satanic” There is no doubt that such international condemnations, were in the long run contributory to the eventual capitulation of apartheid. (Taylor, 2002:69)

Furthermore, it is reasonable to posit that the return of peace to South Africa after 48 years could not have been unconnected, with **subsuming it in a rigorous, sophisticated theoretical narrative that thrives within the principles of unity of opposites**. This was actualised in the emergence and harmonisation of the seven paradoxical couplets in which complex and opposing narratives were reconstructed based on the principle of deconstruction of the absolute. At the same time, morality took precedence over legality, pacifism over retaliation, genuine peace over artificial reconciliation, Truth and restorative justice over retributive justice, unification over harmony, healing over forgetting, tolerance over friendship, amnesty over forgiveness and confession over remorse.

Further findings reveal that the South African success story was **a complex and complicated one achieved on the strength of an expensive trade-off involving justice**, The result was an arrangement, whose future stability and transferability are suspect. This fact was confirmed by Lansing and King :(1998:782-783) who affirm that,

Peace returned to South Africa but at a high cost of justice, which creates doubt if the structure was replicable elsewhere because in South Africa, traditional notions of justice, such as retribution and punishment, have been circumvented in order to promote national healing. While this may be a good precedent for dealing with the political violence committed during a civil war in South Africa, whether other countries may base future settlements on this model will depend on several factors. The situation in South Africa is unique, and the Truth Commission model may or may not transfer to another country's situation. On an individual level, it is likely very difficult to accept a loss of personal justice for the good of the nation. While national healing is important, the loss of justice is a high price to pay for the individual victims". Lansing and King :(1998:782-783)

Another major factor that accounted for peace in Apartheid South Africa was **the determination of the parties themselves to embrace peace through compromise and trust**. This was juxtaposed against the Angolan situation, where they maintain that unlike in SA, in the Angola, conflict,

The conflicting parties came to the negotiating table for the wrong reasons hoping to continue to play the zerosum games they played out on the battlefield so destructively. In this way, compromise was anathema and trust was non-existent. It was a negotiation to be dictated by Washington, Moscow and Lisbon but had no relevance to the situation on the ground in Angola... In the South African case, while political parties came to the negotiating table with fixed position; they maintained a flexible posture to ensure that negotiations did not stalemate, although all parties played brinkmanship to the extreme. Besides the willingness to compromise, the other distinctive character about the South African case is that the willingness to talk peace came from local actors themselves and was not engineered by international brokers." (Gounden and Solomon, 2001:12)

Further findings reveal that another major factor that facilitated the peace process in South Africa was precipitated upon what scholars called "**leadership quality and sacrificial compromise based on national interest**". Hence, it is argued that South Africa is endowed with leaders who are propelled by national interest over and above every other consideration. This was made abundantly clear in the address of Nelson Mandela in 1990 to a mammoth crowd in Durban, shortly after his release from 27 years of incarceration, where he appealed to ANC supporters to embrace reconciliation in the national interest." By ending political violence. (Gounden and Solomon, 2001:14)

A significant factor that restored peace to SA was one element built into the system and process; it is **the phenomenon of compromise and politically inclusive settlement**. This fundamental ingredient that helped to return peace to SA and lack of it was said to have accounted for the failure of the Angola peace accord. Hence “The levels of trust are so low in the Angolan case, and the history is so checkered by indications of complete control on the levers of power that the politics of fear is as dominant a theme as is the politics of power. One of the main failures of the Bicesse Accords was its inability to recognise this fact and prepare the ground for a politically inclusive settlement as opposed to a “winner takes all” outcome” (Gounden and Solomon, 2001:15)

Another significant finding that brought about the success of the South African peace process includes **the availability of the necessary resources, personnel, skills and goodwill in South Africa to facilitate the resolution of the conflict and to sustain such a peace effort even after the agreement was reached hence. Buttressing this argument**, Gounden and Solomon, (2001:19-20) argues that South Africa was blessed with a pool of skilled, well trained and highly competent negotiators such as Archbishop Desmond Tutu himself, the IFP’s Frank Mdlalose and the ANC’s, Jacob Zuma were said to have played important roles in brokering local peace in South Africa. Justifying this argument further, these scholars named other facilitators such as the current President, “Cyril Ramaphosa, a trade union leader who honed his negotiation skills over years of negotiations in the labour management arena. The National Party negotiation team was led by Roelf Meyer, a seasoned negotiator who had received formal negotiation training and who honed his skills in government over several years. This meant that there were the necessary resources, skills and goodwill in South Africa to facilitate the resolution of the conflict and to sustain such a peace effort even after the agreement was reached.” (Gounden and Solomon, 2001:19-20)

Our findings reveal that one major factor that may have undoubtedly contributed to the success of the South African Peace process is **the choice of truth commissions**, which made it best suitable for the South African situation. Justifying this argument, Minow maintains that truth commissions help the goal of healing and facilitates reconciliation and confession much more than prosecutions largely because of its extensive therapeutic role. Hence Monow concluded that “When the societal goals

include restoring dignity to victims, offering a basis for individual healing, and also promoting reconciliation across a divided nation, a truth commission again may be as or more powerful than prosecutions. The commission can help set a tone and create public rituals to build a bridge from a terror-filled past to a collective, constructive future. Individuals do and must have their responses to atrocity, but the institutional framework created by society can either encourage desires for retribution or instead strengthen capacities for generosity and peace.” Minow, (1998:348)

An equally important finding that may have contributed to the peace process in SA may not be unconnected with **the rigorous theoretical underpinning upon which the process was hatched**. There was evidence that the South African TRC goes beyond what it appears to be on the face value, It is a non-flexible phenomenon, theoretically manipulative and backed up at different stages by rigorous theoretical underpinnings that need unpacking. Hence, The whole machinery in motion according to Moon, is thoroughly sank into some sort of political theoretical narratives involving “construction of the objects, subjects and concepts of the discourse” where subject refers to victims and perpetrators, object- human right violations, while type of enunciation refers to confessions and types of testimonial while concepts refer to types of violations, truth and reconciliation. Minow further argued that the theoretical objective here, was to propel the emergence of a model of reconciliation that has within it the dominant elements at play within the reconciliation process but curtailed in some forms where the “TRC did not make it possible, nor provide a language within which people could say ‘I am not reconciled’, or ‘I do not forgive you’, or ‘I want you to be punished’, or ‘I do not confess or apologize for what I did’, or ‘I do not recognize this process’. It did not recognize non-reconciled outcomes as possibilities” (Moon, 2006:264)

Finally, we discovered that one major element that facilitated peace in South Africa was an eclectic combination of a myriad of elements and factors that have one common denominator that is based on one recurrent element called “compromise”. Scholars describe it as a system in which the phenomenon of compromise and reconciliation were underlying every sector of the process as reflected in the TRC report and buttressed by Moon when she argues that. “The TRC’s history conveys the message that ‘violence has been the single most determining factor in South African political

history’, but that, and crucially, only a reconciliatory politics could provide the necessary moral and lasting closure of violence, the inauguration of which symbolized a new order of existence coinciding with transition to the new regime (TRC, 1998: 1 (2) 68). To the ‘victims’ of human rights violations, this narrative of truth and reconciliation offers the hope of deliverance from their traumatic experiences, and to the ‘perpetrators’, the narrative is a warning that contains, even although it does not enact, the possibility of retribution.” (Moon, 2006:265)

8.1.2 Findings 2:

Some basic findings that emerged from the second objective, which involves demonstrating how Critical Discourse Analysis (CDA) can help unpack the understanding of the South African transition from apartheid to majority rule. Beginning with Fairclough,

Our findings reveal that despite the eclectic application of CDA in this research, the most fundamental version of CDA that we found much more relevant is the dialectical-relational approach of Norman Fairclough. In the body of this work, we have variously shown how we applied it to the South African situation and all we are doing in this section is to demonstrate prescriptively how it can be applied.

This Norman Fairclough’s model of CDA consists of three inter-related processes of analysis which are further tied to three inter-related dimensions of discourse. Namely;

1. The object of analysis (including verbal, visual or verbal and visual texts).
2. The processes by means of which the object is produced and received (writing/speaking/designing and reading/listening/viewing) by human subjects.
3. The socio-historical conditions which govern these processes.

Furthermore, to Fairclough, each of these dimensions requires a different kind of analysis1 text analysis (description), 2 processing analysis (interpretation), 3 social analysis (explanation). Fairclough's (1995:98) Janks(1997:329). Structurally, our analysis is basically that of Fairclough.

The primary aim here is to demonstrate not just how we applied it in this thesis, but also how other upcoming researchers should apply it.

Step one- The first step is a textual analysis which is descriptive. The object of analysis could be visual, verbal or textual or even a combination of all or some of them. At this stage, the researcher should completely detach himself, gather all the information available including, audio and video materials and subject them to indiscriminate rigorous study and gain sufficient understanding of all the nuances involved and present them descriptively. This is precisely what we did to the seven volumes of the truth and reconciliation commission report. It was quite laborious because it was a huge document and this bit took about two years to achieve for a full grasp to be possible.

Step two- The second step is the stage of processing and making rational links and connection between emerging facts and narratives. This is the stage of interpretations. It is at this stage that meaningfulness is made out of the emerging facts. The reading of the documents here needs to go beyond the surface to a broader dimension that transcends the text. It is a movement that goes from sight to insight. This is the stage where we found that there were dominant and minor themes that animates the nation-building process in SA. This was the stage when we listed them all and began to eliminate some of them that could be subsumed under other broader ones. We eliminated inconsequential facts, we examined the diachronic and synchronic nature of these concepts, and we looked at the pattern of arguments and the dominant narratives and overall objectives of the process. Finally, after reducing the concepts to a concise number, we observed the pattern of alliances and merging of the concepts. We allowed the elements to throw up themselves freely without emasculating them. We did not suppress any fact but understood them in the light of the dominant narratives. We noticed the tension between the elements and the emergence of the paradoxes in couplets with the identification of the criteria justifying their fusing. We noticed the pattern of deconstruction in which absolutist principles were made to give way to relative ones in the formation of the paradoxes. It was then ready to move to the third stage of the research.

Step three- This is the point when researchers should build flesh around the emerging theoretical principles and paradoxes. It is the point where we needed to show that the principles were not arbitrary derived but inherently buried within the analysed documents. It is to show that there are empirical facts in the body of the original documents that demonstrates and justify the claims and assertions that emerged as theories and principles upon which the peace process was hinged. This is the stage that

Fairclough calls social analysis. It is where the socio-historical conditions which govern these processes are espoused. In this thesis, this was where we demonstrated for instance that there is evidence in the document which supports such claims as “healing without forgetting” by citing series of instances where confession had opened up wounds of the heart and people have declared that they can never forget. Yet they are urged to forgive in the interest of overall societal peace and stability.

However, the above analysis is a demonstration of how the Fairclough’s model of CDA was applied and can be applied in practical terms. Other subsequent elements in this section are fragments of findings on how different elements of CDA contributes to the overall objective of the methodology of this research.

Hence, CDA generally, provided a coherent theoretical framework for understanding conflict analysis in apartheid South Africa. This was comprehensively espoused in the chapter on methodology. In this chapter, it was revealed that CDA aims at making transparent the connections between discourse practices, social practices, and social structures. These are the kind of connections that might be opaque to the layperson. Fairclough, (1993:135)

Similarly, it was also revealed that the unapparent theoretical relationship between the underlying philosophical theories of Agamben and the emerging paradoxes as they reflect in the ensuing narrative was critical to the resolution of the South African apartheid conflict. Furthermore, it also emerged that though CDA is quite diverse yet dwells on some four major themes, which includes **Discourse, Critique, Power** and **Ideology**, which were all relevantly espoused in the South African situation in South Africa.

Also, we found out that through CDA we were able to actualise the rigorous analysis of text and language that goes beyond explicit to implicit elements that give rise to interpretation and meaning that emerged from the reading and analysis of the original seven volumes of the TRC report. Some of the main themes that CDA addresses finds direct equivalences in the South African situation. This was carefully articulated in the section on the methodology, for instance, the theme of Social Problems manifest as racial segregation, while that of power relations as being discursive, captures the tension between apartheid and anti-apartheid forces. Again, the theme of discourse as constituting society and culture captures the entire history of social relations in South

Africa. While seeing discourse as ideological, gave credence to theoretical analysis. However, classifying discourse as historical captures the idea of migration and settlement to the extent that it gave room for the tracing down of inequality to the historical antecedents that preceded the Boar war in South Africa and the relinquishing of political authorities to the Boars by the British. Finally, the emerging narratives confirm that the connection between society and text is mediated. Hence discourse analysis is interpretative and explanatory and at the same time; discourse is a form of social action whose practical relevance is activated in Apartheid South Africa. (Fairclough and Wodak, 1997: 271-80)

Moreover, our findings in the use of CDA, in this research, further affirms that within the purview of the two major opposing kinds of knowledge; empirical knowledge (knowledge derived from experience) and logical knowledge (which is derived from logical analysis)” Delanty (1997:29) We were able to operate effectively at the level of logical analysis using CDA to gather the information that was required for this analysis.

It was also found out that because CDA deals with how meaning is constructed, and power functions in society” Willig (2008) we were able to identify the dominant narratives and construct the couplets that animate the mediation process in apartheid SA in a manner that captures meaningfulness and power relations between the apartheid and anti-apartheid forces on the basis on which interpretation was concretely made.

It was equally discovered that because CDA is “concerned with studying and analysing written and spoken texts to **reveal the discursive sources of power, dominance, inequality and bias**, as well as examining how these discursive sources are maintained and reproduced within specific social, political and historical contexts”. Dijk (1998a), We successfully applied this in the analysis of the written text in the seven volumes of the TRC of South Africa. However, we were able to isolate the dominant themes and arrive at the discursive source of power that lies with the cruel apartheid system in actualising dominance, inequality and bias as well as how these discursive sources which appeared in couplets of paradoxes are actualised within the transition from minority rule to majority rule.

Our finding also revealed that through the objective of CDA at making transparent the connections between discourse practices, social practices, and social structures, Fairclough, (1993:135) we were able to show that the unapparent theoretical relationship between the underlying philosophical theories of Agamben and the emerging paradoxes as they reflect in the ensuing narrative that brought peace back to South Africa.

We equally discovered how Wodak and Meyer 's model of CDA provided a general structural pattern for this research as demonstrated in their diagram in which they clearly outlined the four major segments of CDA, starting from the Discourse text, which is where the primary text and documents are vigorously studied and dissected. The next stage is where they are subjected to rigorous hermeneutic interpretations and analysis. The next stage involves the building of theories, concepts, principles and paradoxical formations which are transported to the next stage of operationalisation where they are concretely applied. In the case of South Africa, the Text and videos analysed were the proceedings of the TRC as contained in the seven volumes report. The discourse produced dominant themes that were subjected to interpretations at the 2nd stage, this produced some kind of theories or paradoxes at the third stage and the final stage of operationalisation is where we examined how in concrete terms these paradoxes manifest themselves in the process of returning peace to South Africa. Wodak, R. and Meyer, M.,(2009:24).

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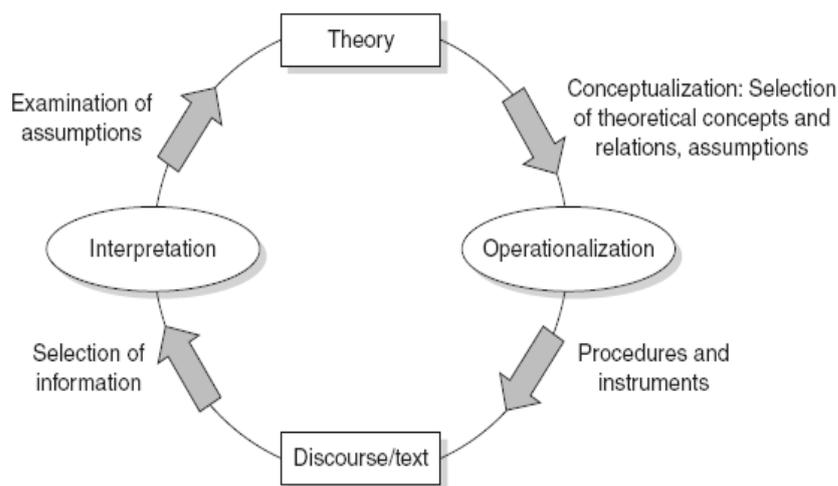


FIGURE 1.3 Empirical research as a circular process

Diagram adapted from Wodak, R. and Meyer, M.,(2009:24). *Critical discourse analysis: History, agenda, theory and methodology*. Na.

We also found out that with the use of CDA, we were able to streamline and identify the main subject matter of this research among competing discourses of societal peace and stability through the identification, collation and preparation of the main documents, which is The seven volumes of the TRC reports for analysis. Hence we were able to choose a discourse plane that makes the work unique and outstanding making it different from previous researches and as such, demonstrating why it is worth researching. Wodak and Meyer (2009:52)

8.1.3 Findings 3:

Our findings in this research as it relates to the third objective which is to the effect that Agamben’s theory of exclusive inclusion of the *Homo Sacer* can be usefully applied to the rhetoric and narratives that ultimately provided a coherent explanation for the complementary and contradictory narratives that together account for the transition from apartheid to democracy in South Africa includes the fact that;

It should be expressly stated that our interest is not in Agamben’s *Homo Sacer* per se, but in its relevance and application to the ideas and concepts that emerge in the process of dismantling apartheid. We argued extensively in this thesis that some of the principles of Agamben, finds a parallel in these ideas and provides a plausible explanation for the turn of events that brought peace back to South Africa after about 48years of fierce ethnic rivalry and animosity. The particulars are as follows;

We found out that Agamben identified a societal conflict with an originary violence in which any given modern society as a catalyst for societal reformation, and sustainability. Just as it is violence that produced the ban placed on the citizen in the polis which subsequently led to the emergence of the *Homo Sacer*, in the same light, it is the violence of apartheid and its condemnation, that led to its transformational ideas that formed the bedrock upon which the South African peace process was based.

We also found in Agamben, what Foucault calls “decisive abandonment of the traditional approach to the problem of power”(Peter,2014:327). Hence Agamben’s solutions to the originary violence were the “ban” which is a none conventional

approach in which the full citizen who has the two elements of bios and zoe was stripped of one of them to give way to the emergence of the Homo Sacer. A similar fate befell the ideas at the base of the South African peace process. Hence, unconventional approach to societal conflict and above all, that of justice was adopted. It is called “Truth and Reconciliation Process”, The ideas underlying this process emerged in couplets as in bios and zoe. However, just as in Agamben, unconventional stripping of the ideas emerged from complete state to incomplete one as it was with “truth with justice” losing the justice bit and becoming just “truth without justice” in a realm equivalent to that of the Homo Sacer.

We also discovered that in the relationship between the Sovereign and the subjects, is defined by the state of emergency, which involves the use of unconventional laws. It is a situation where conventional laws were abandoned for emergency laws in exceptional circumstance which is not normal but replaces the rules as if it is normal. This manifestation made it possible for the unorthodox, incomplete ideas that emerged in the South African situation to thrive. For instance, the convention would have been to have “peace on the basis of reconciliation”, but emergency rule turned this to “peace without reconciliation” and the same narrative happened with all the seven paradoxical ideas of peace in South Africa These new unconventional ideas carried on as if they were typical in the drive towards societal peace.

The political relationship between the sovereign and the subject in an emergency/conflict situation dissolves into bare life which is the “originary political element which is at the threshold of articulation between nature and nurture, zoe⁻ and bios” Peter(2014:330). This fact as observed characterises the South African Peace process; the new narrative is characterised by “bare idea” which is ordinary, flexible idea that is incomplete and indecisive and not very consequential as it is with bare-life. It also marked the Threshold of articulation defined by some thin midway between the ideas that are neither of the two extremes. This manifests in South Africa for instance “truth without justice” falls within the realm that is strictly” not of justice, nor is it of injustice” because “truth without justice is not the same as truth with no justice at all,” the same narrative affects all the others in the bracket. Hence “healing without forgetting” is not the same as healing with complete remembrance” It only presupposed that there are those permitted to be remembered and those to forget.

We also found out that just as it is “not the city but rather the camp that is the fundamental biopolitical paradigm of the West” (Peter,2014:330). So also it affirms that stable political structure does not have to be based on the macrocosm but on the microcosm, which is why conformed ideas could not yield peace, but deformed ones did in South Africa. Hence, the narratives show that the holistic idea such as “confession with remorse” is within the macrocosm while “confession without remorse” is within the microcosm and this is one of the resolution ideas in South Africa.

Peter, (2014:331) says Affirms that ‘in the conclusion of Homo Sacer, that Only a politics that will have learned to take the fundamental biopolitical fracture of the West into account will be able to stop this oscillation and to put an end to the civil war that divides the peoples and the cities of the earth? (p. 180) The same is true of South Africa. It is only a political principle or narrative that have learned to take the mid-way compromising idea in which absolute ideas are fractured and fragmented to give way to relative and manipulative ideas that could capitulate apartheid and put an end to the endless uprising and tension that perpetually created disunity among South Africans.

Similarly, we also discovered that Agamben (1998:47) maintained that “every interpretation of homo sacer is complicated by virtue of having to concentrate on traits that seem, at first glance, to be contradictory. This exactly is the same fate befalling the ideas at the base of the South African peace process. The ideas truly seem quite complicated by virtue of the fact that at first glance, the resolution ideas seem contradictory, until they are fully unpacked. For instance “amnesty without forgiveness” or “Unification without harmony” or “tolerance without friendship” “peace without reconciliation” all seem to make no sense at first glance until espoused.

We also discover that the major characteristic of the Homo Sacer also applies accurately to the ideas underlying peace in the RSA. For instance, Agamben (1995:46-47 says, “The sacred man is the one whom the people have judged on account of a crime. It is not permitted to sacrifice this man, yet he who kills him will not be condemned for homicide; in the first tribunitian law, in fact, it is noted that "if someone kills the one who is sacred according to the plebiscite, it will not be considered homicide." This is why it is customary for a bad or impure man to be called sacred. ... since while it confirms the sacredness of a person, it authorizes (or, more precisely,

renders unpunishable) his killing ... The contradiction is even more pronounced when one considers that the person whom anyone could kill with impunity was nevertheless not to be put to death according to ritual practices. In what, then, does the sacredness of the sacred man consist? And what does the expression *sacer esto* ("May he be sacred"), ...if it implies at once the *impune occidi* ("being killed with impunity") and an exclusion from sacrifice? ...I am not unaware that it appears strange [*mirum videri*] to some people that while it is forbidden to violate any sacred thing whatsoever, it is permitted to kill the sacred man." Whatever the value of the interpretation that Macrobius felt obliged to offer at this point, it is certain that sacredness appeared problematic enough to him to merit an explanation.

In the same vein, The "sacred idea" in the case of the RSA are those seemingly incomplete and contradictory narratives that have been judged to be underlying peaceful resolution and societal stability in the RSA. They are the seven contradictory paradoxes of peace and conflict resolution that emerged in the course of trying to bring an end to apartheid. It is not permitted to validly refute or reject and denounce (sacrifice) these ideas on the basis of rational consistency and logicity. However, he who (kills) or refutes and denounce the ideas on the grounds of inconsistency or contradictions if taken just on face value would not be criticised or condemned for (homicide) intellectual bankruptcy of lack of criticality. Hence just as it is "customary for a bad or impure man to be called sacred" in the case of the RSA, it is the incomplete, adulterated, half-measure idea that is called "sacred". Hence "peace on the basis of reconciliation" is not "sacred". The "sacred idea" is "peace without reconciliation" and the same applies to all the other six couplets. Just as with Agamben who "confirms the sacredness of a person, it authorises (or, more precisely, renders unpunishable) his killing", the same way as it is with the sacredness of the ideas of resolution in the RSA, its rejection based on face value is not considered, heretic or intellectually dubious. Hence, The contradiction is even more pronounced when one considers that the "idea" whom anyone could reject (kill) unquestionably from mere appearance, was nevertheless allowed to be rejected when subjected to rigorous analysis. (according to ritual practices)

The most essential element to emanate from this analysis is the fact of "exclusion that presupposes inclusion" "the ban" that excludes the man in Agamben from the Polis took him outside the protection of the Sovereign, into some unwitting divine protection.

(includes him as a target for political assassination, and by that token, unwittingly excluding him from divine, annihilation) Makes him vulnerable to attacks and puts him, or exposes him to the danger of being killed by anyone, legitimately, but at the same time, confers on him, some forms of impurity that immunises or excludes him from divine sacrifice. We discovered that within the RSA, this translates into the fact that the exclusion that allows the resolution ideas to be rejected on the face value without contradictions disallows it from being rejected within the critical analysis. Also, the very ideas that were rejected in their perfect forms were by the same token included in their imperfect forms. For instance, a peace that excludes reconciliation, in order to achieve peace, has already within it, fragmented or modulated form or traits of reconciliation. Without which peace in its entirety would have been unattainable. The same geometry of analysis was discovered operating within all the emerging paradoxes.

However, for clarity, we have evolved a couple of concepts that were active in the research and had parallels in Agamben, as well as the ideas that underlie the South African peace process as follows;

The Application of Agamben's Theory to the Ideas that were At the Base of The Peace Initiative in Apartheid South Africa At A Glance- The red and blue colour coding was to differentiate Agamben's ideas from its application on to the ideas in South Africa.

In Agamben's Polis (society)- Here, the individual in the society under a sovereign ruler is purely a Homo Sapiens or a citizen. He is a combination of 2 traits-Bios (social aspect) and Zoe (biological aspect) With these two in him; he is a complete, perfect personality. He was stripped of his

The basis of the Conflict resolution idea in South Africa- Here the binary fusion of the complementary ideas at the base of the peace process in apartheid South Africa is a pure and perfect complete idea which we could just name "Peaceful Idea" It is a combination of 2 perfectly such as "peace with reconciliation" or "truth with Justice."

The Zone of transition- The dialectics of tension and conflict in the polis led to a sovereign ban of the Homo-Sapiens, and he was sent into exile. Before then, He was stripped of his bios and left with just the zoe. Hence he becomes incomplete and imperfect. He is only zoe without bios.

The Zone of the transition of the ideas- The deconstruction and reductionist process led to the transformation in which one half of the couplet was stripped of its completeness and perfection such that “peace with reconciliation” became “peace without reconciliation” and “truth with justice” became truth without justice.”

Outside the polis in exile- The Homo- Sapiens now in exile became Homo- Sacer- meaning the Sacred One- The Sacred one is one that can be killed with impunity but cannot be sacrificed in a religious circumstance. He is only zoe without bios.

When the idea has been deconstructed- The Perfect peace idea having been deconstructed became Idea- Sacer- meaning the Sacred idea- The Sacred idea is one that can be killed or denied or jettisoned on a face value that is devoid of rigorous criticality but cannot be rejected or thrown overboard when subjected to rigorous theoretical analysis. Eg. Peace without reconciliation can be rejected as senseless and inconsistent when considered on the face value but would be seen as pregnant with meaning when further subjected to rigorous analysis.

Features and implications of Agamben’s Philosophy-

- Homo Sacer- is the Sacred man Life caught in the sovereign ban is regarded as sacred that is Homo Sacer can be killed but not sacrificed.
- Bare-life is a worthless, incomplete and imperfect life of impurity and partiality such as a life with zoe only but without bios
- The zone of indistinction between sacrifice and homicide- a death which is neither sacrifice nor homicide
- Also, The original political relation is the ban (the state of exception as a zone of indistinction between sacrifice and homicide- a death which is neither sacrifice nor homicide
- Also, The original political relation is the ban (the state of exception as a zone of indistinction between outside and inside, exclusion and inclusion). Excluded but inclusive

Features and implications of the ideas-

- Homo Sacer- “Sacred man” translates to “Idea –Sacer,” i.e. “Sacred idea.”

- Bare-life Translates to “Bare- ideas,” i.e. an imperfect idea such as peace without reconciliation is “bare-idea” as it is an impotent and incomplete idea that does not have the full capacity to obliterate any major upset
- Excluded but inclusive The homo sacer ‘is in a continuous relationship with the power that banished him precisely insofar as he is at every instant is exposed to an unconditional threat of death’ which is why it is excluded but included in some altered fragmented form.
- Life caught in the sovereign ban is regarded as sacred that is Homo Sacer can be killed but not sacrificed. Hence, in the same manner, the Idea Sacer can be killed but not sacrificed: For instance, how can you talk about peace without reconciliation when common sense has it that, there can never be peace without reconciliation because it is the peace that leads to reconciliation. Hence, the ideas can be attacked and killed for appearing incompatible with common sense at the layman’s level, but it cannot be jettisoned under rigorous theoretical analysis or intellectually ritualised thought system that is philosophically and analytically based. Hence, the sacredness of the idea means that the ideas cannot be sacrificed .jettisoned, repudiated or annihilated on a platter of the rigorous intellectually ritualised circuit for being illogical, irrational or inconsistent without one being guilty of intellectual bankruptcy and lack of criticality.
- Whereas on the other hand, the “Idea Sacer” can be thrown out, repudiated and annihilated for being inconsistent and incongruence with common sense expectation and logicity.
- The zone of indistinction between sacrifice and homicide – refers to death, which is neither sacrifice nor homicide. However, when related to ideas, it is the zone that falls midway in between the excluded extremes. For instance truth without justice does not mean truth with injustice; it only means that it falls within the moderation line that is not full-scale justice neither is it outright injustice
- Also, The original political relation is the ban (the state of exception as a zone of indistinction between outside and inside, This is the zone that lies between the complete and perfect idea and the imperfect idea such as Truth with justice and truth without justice

- Again, The zone of in-distinction between sacrifice and homicide Just as we shall have truth without justice lying between a zone that is neither of truth nor of falsehood and again, neither of justice nor of injustice

8,2 Contribution to Knowledge

- The peculiar use of CDA as an instrument of critical examination, to decipher, evaluate, analyse, interpret and extrapolate information in such a systemic and systematic manner, that threw up all the crisscrossing rhetoric that animates the peace and nation-building mechanism, buried implicitly and explicitly between and within the TRC report of SA, is an original contribution to knowledge.
- Emergence and identification of the dominant themes in line with the ensuing narratives that animate the mediation processes is an original contribution to knowledge.
- Discovering of and how the seven paradoxes at the base of the peace process in South Africa emerged and fuses in couplets that ultimately de-fuses the South African apartheid conflict, is an original contribution to knowledge.
- The identification of broad implication and uniformity in the way the seven paradoxes ultimately actualises itself in a consistent pattern where absolutist ideas, seemed to have been deconstructed to allow for relativism in the interpretation and implementation of every element that animates the nation-building process is an original contribution to knowledge.
- The interpretation, application and adaptation of Agamben's philosophy of exclusive inclusion of the homo sacer into the realm of ideas in interpreting the dynamics that took place in the founding of the political and nation-building in Apartheid South Africa is an original contribution to knowledge.
- The discovery of the seven complementary couplets and their transition to paradoxes that were at the base of the successful transition from dictatorship to democracy as outlined in the accompanying diagram is an original contribution to knowledge.

8.3 Conclusions of Thesis

From the preceding, it is reasonable to conclude that the Transition of Apartheid South Africa from being a society deeply engulfed with an intractable racial conflict for about

48years to being a democratic society whose intractable conflict eventually and effectively ended in 2005 is a significant stride in international relations mainly because it was unexpected.

Another major factor that could have contributed to the so-called South African Miracle may not be unconnected with the fact that the process was based on principles that were sophisticated and theoretically rigorousness. There were indications of influences of scholars such as Derrida, Foucault, Agamben, Habermas, Heidegger, or even some hybrid of German idealism or some postmodernists scholars.

An extensive review of relevant literature reveals that this South African success story in 1994/1995 may not have been totally unrelated to what conflict experts call “the ripeness theory” in international relations. It is a theory that suggests that the success of the intervention in age-long conflicts cannot be divorced from the fact that the time for peace was naturally ripe. It is often argued that if intervention comes too late or too early, peace will remain elusive. Bercovitch (2003,2004)

There is sufficient evidence to suggest that the lack of direct external involvement in the mediation process, which was entirely home-grown could have significantly contributed to the success of the mediation process. Prominent among such scholars who made this claim includes, Guelke (2005) who maintained that “the absence of international involvement, in the negotiations that brought about peace to South Africa’s political settlement has been touted by some of the participants as one of the ingredients of the success of the process” (Guelke, 2005:188)

Pieces of evidence from the rigorous study of the TRC report reveals that the emerging narratives seem to tie the success of the South African peace process to the quality and qualification of the personnel, as well as the openness, sincerity and all-inclusive democratic manner in which the members of the truth and reconciliation committee were selected. That accounted for the trust and confidence that the people reposed on the commission TRCR, (1998: vol.1)

The articulation and emergence of the complementary and contradictory paradoxical couplets upon which the peace process was hatched, clearly undermines the principle of perfection but rather endorses the idea of incompleteness, defectiveness,

imperfection, compromise as the only authentic and realistic element that could lead to lasting peace in Apartheid South Africa. Hence peace could not be achieved until such relatively absolute ideas such as peace on the basis of complete, true and genuine reconciliation was deconstructed to produce such defective element as “peace without reconciliation” others are “healing without forgetting”, “tolerance without friendship”, unification without harmony”, confession without remorse”, Amnesty without forgiveness”, and “truth without justice”.

There is evidence in this research to support the assertion that solutions to societal peace do not lie exclusively in complementarities and perfection. They could exist in mutually exclusive contradictory narratives, especially if they are deeply entrenched within a rigorous theoretical analysis.

In the analysis of the above couplets, we discovered that the fundamental underlying narrative that consistently cut across these emerging narratives include the fact that ethics and morality took precedence over legality. Scholars such as Gounden, V., & Solomon, H.: (2001), Avruch, K. and Vejarano, B 2001,.2002) including Desmond Tutu in TRCR: (1998) suggests that the very choice of Truth Commission over War Crime Tribunal, as was the case in Nuremberg was a choice between compromise and justice. Moreover, the peculiar case of South Africa dictated that it was the best option given the balance of powers at that time. Even the analysis of the emerging couplets such as that of “truth without justice”, “confession without remorse” and “amnesty without forgiveness” as they manifest in the ensuing narratives seem to give credence to this fact that ethics and morality are more potent instruments of nation-building and societal stability than strict legalism.

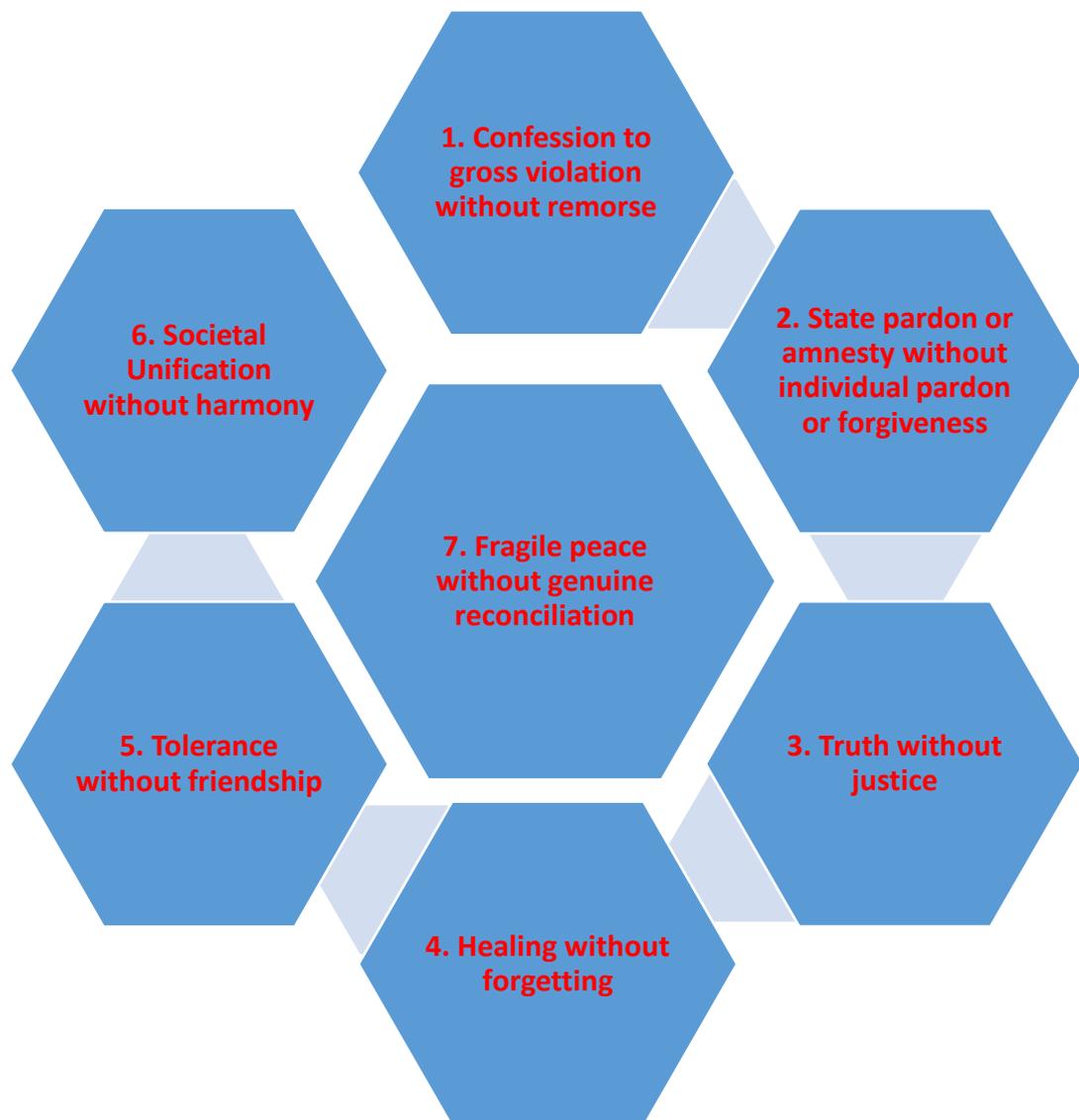
There were also evidences to conclude that the principles of moderation, of compromises, of relativist ideas over and above absolute ideas, were substantial in the attainment of societal peace and nation-building in the RSA.

It is interesting to note that what emerged from the complicated narratives involving the negation of absolutist principles only succeeded in producing an imperfect and uneasy peace. The result is that the sustainability of such peace in the nearest future would depend substantially on the delicate ability of the state and its apparatus to manage the unfinished businesses and unfolding contradictions that were either swept

under the carpets, ignored, suppressed or temporarily diffused in the interest of immediate societal peace and stability.

The diagram below is a summation of how the different aporias give rise the fragile peace without genuine reconciliation even though that was what was feasibly possible if any iota of peace was going to be achieved.

The original objective/goal of societal peace and nation-building in SA begins with;



8.4 Prescriptions based on Findings

These prescriptions are for nation-builders, conflict resolution experts, scholars, researchers, governmental technocrats, diplomats, political leaders and stakeholders of states and societies torn apart by age-long intractable conflicts.

These prescriptions are not ambitious to make outlandish claims of being blueprints that could turn the fortune of intractable conflicts around on the globe by making them tractable because of the limitation of the research. Although we initially set out in search of a new but most effective approach to intractable conflicts that could transcend the already existing not so effective third-party mediation. Interestingly what we eventually found out were principles that were effective in Apartheid South Africa, which may not be generalizable given the socio-cultural and historical peculiarities of SA.

This research also reveals that war crime tribunals based on the principles of retributive justice were becoming less fashionable and more ineffective than of Truth and Reconciliation Commissions that are founded on the principles of morality and restorative justice.

There is no doubt however that there are lessons to learn from the South African situation that could be contributory to the agenda of peace and nation building anywhere in the world as long as adaptation is made before adoption. Based on these, we, therefore, make the following recommendations for any society still under the yoke of intractable conflicts to borrow significantly from this South African experience as follows;

It is suggested that even though no specific timing is possible to recommend as the appropriate ripe time for intervention in a conflict, it must be recognised that too early or too late in intervention in a conflict may not yield a positive result. However, conflicts in which both the aggressor and aggressed seem tired of sustaining the momentum and the dynamics of the conflict have already outplayed itself, would most probably succumb to intervention much more quickly.

It is also recommended that ethical principles should supersede legal ones in the establishment of the mode of operation in conflict resolution, which is why truth commissions should be given priority over judicial tribunals.

The process of selecting participants and mediation personnel should be democratic and transparently inclusive with distinguished and accomplished individuals whose knowledge and charisma are highly saluted and accepted by the people.

It is also recommended that the resolution process should not be shrouded in secrecy, insincerity, or obscurity but should be made open and transparently done in public glare covered by both manual and electronic media. Hence, There must be transparency, honesty and sincerity of purpose involved within the triad of the mediator, mediated and the mediation.

It is also reasonable from this research to recommend that any such mediation process should be richly rigorous and theoretically based. Scholars and mediation experts must think outside the box in addressing the totality of the elements of the conflict to ensure there is a full understanding of even the unapparent and unexpressed as well as inexpressible tensions and elements of the conflict. This is why it is necessary to avoid stiffening full articulation of opposing elements and the willingness to accept both the complementary and contradictory narratives that may emerge in the process in order to achieve positive results.

Hence, the principles of sacrifice, non-retaliation, of compromise, of the blend of equity and equality must be carefully harnessed and allowed to fester.

Finally, it is prescribed that the following principles must be adopted and adapted where possible, and these are the principles of peace even if without reconciliation. Those of truth even if it is without justice, of amnesty even if it will be without forgiveness, of healing even though forgetting was difficult, of confession despite being unremorseful, of unification despite disharmony and finally of tolerance without friendship.

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