

# MAKING RHETORICAL HISTORY IN A TIME OF TRANSITION: THE OCCASION, CONSTITUTION, AND REPRESENTATION OF SOUTH AFRICAN RECONCILIATION

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*South Africa's turn to reconciliation did not begin with the formation of the Truth and Reconciliation Commission. This essay examines the role of reconciliation in South Africa's transition from apartheid to constitutional democracy. It contends that reconciliation is a mode of rhetorical history-making, a complex set of inventional practices that both open time for speech and employ speech to make time. Viewed closely, this middle voice of reconciliation illustrates precise ways that institutions and citizens can craft the potential for future dialogue from within historical justifications for violence.*

Negotiated revolutions make time for speech. Revolutionary negotiations use speech to make time. In South Africa's transition from apartheid to constitutional democracy, reconciliation was held out as a means of making both speech and time. In 1994, following almost a decade of secret and public talks, all of which took place in the midst of horrific bloodshed, South Africa emerged from the darkness of apartheid to confront the heavy burden of its history. Between a violent past and democratic future, the "postamble" of South Africa's interim constitution addressed this weight directly: "The pursuit of national unity, the well-being of all South African citizens and peace require reconciliation between the people of South Africa and the reconstruction of society." The product of negotiations that were initiated under the banner of reconciliation, this mandate gave way to legislation that authorized the formation of South Africa's Truth and Reconciliation Commission (TRC). Led by Archbishop Desmond Tutu, a man who preached reconciliation well before there was a realistic chance of ending apartheid, this quasi-institutional body was charged with the task of helping South Africa to heal the wounds of apartheid.

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In all of its forms, South African reconciliation has generated substantial interest and significant controversy. What is the nature or substance of reconciliation? Did it play a meaningful role in the South African transition? Was reconciliation a constitutive element of a “peaceful transition,” noble garb for a distasteful compromise, or a tactic designed to preserve white power?<sup>1</sup>

There are no easy answers to these questions. For one, there is vast and deep disagreement over how to define reconciliation in South Africa. Theologians, philosophers, and political scientists continue to debate whether reconciliation is a divine ministry, dialogic process, or state of affairs. Anthropologists and sociologists disagree as to whether reconciliation is an intrinsic feature of Southern African culture or a noxious byproduct of colonization. While the Western media have frequently equated reconciliation with the work of the TRC, the commission itself conducted inconclusive debates as to what it was doing and why. Is reconciliation an interpersonal encounter between victim and perpetrator, a corporate effort to enable civil society, or a form of post-apartheid justice? Could it be all three? Charles Villa-Vicencio, former director of research for the TRC, contends that South African reconciliation has many faces and voices. If so, the study of reconciliation brings us into a labyrinth in which reference is far from certain, a puzzle that obliges us to concede that we may not know what reconciliation *is*.<sup>2</sup>

For those who find definitional disputes tedious, normative inquiry into how reconciliation shaped the South African transition confronts an equally challenging problem: What is the best way to evaluate the development and result of a transition? This is an old problem, one that concerned Plato’s Socrates when he described the “instant” as the moment in time that is “no time at all” but which contains the potential (infinite) for “unity’s” change from becoming to being. Transitions, events that tear at the law of non-contradiction—a conceptual lynchpin of causal reasoning and so much human judgment—appear at the “limit of time.” Kenneth Burke’s depiction of dialectical transformation teaches a similar lesson, underscoring Marx’s claim that transitions entail a play of ideal talk and pragmatic confusion.<sup>3</sup> Reasoning from the South African case, Piet Miering, a theologian at the University of Pretoria, has argued that transitions take shape in “middle time.” Between beginning and end, setting the norms of political life into a “constant flux,” transitions are temporal events that both motivate and inhibit human action.<sup>4</sup> If so, this insight helps explain the recurring controversy over whether critical study has a tendency to conflate the causes and outcomes of political transitions. The problem is reminiscent of Rousseau’s puzzlement as to whether an act of governance must precede the formation of government. David Howarth and Donald Horowitz, for instance, have each argued that when attempting to assess the mechanics of “a change from one kind of (political) regime to another,” appeals to such goods as collective interest, constitutionalism, justice, and natural rights may indicate that theorists have presupposed precisely that which they seek to explain.<sup>5</sup>

In South Africa, the theoretical ambiguity that attends inquiry into the “middle time” of transition represents a practical problem of history. Intertwined with the question of what counts as “real” reconciliation, it is difficult to assess how reconciliation has shaped South Africa’s turn from apartheid to democracy. Did the African National Congress’ (ANC) commitment to “multi-racial democracy” set a place for reconciliation at the bargaining table even as the concept was used in the 1980s to justify civil disobedience and struggle? Did fears of retribution and political exclusion compel the National Party (NP) to hide its demand for amnesty within a call for reconciliation? Johnny De Lange, currently a minister of Parliament on the ANC side of the aisle, has argued bluntly that the mandate for reconciliation in the 1993 interim constitution was necessary to the degree that “without this specific compromise, there would have been no settlement, no interim constitution, no elections, no democracy, and a possible continuation of the conflicts of the past.”<sup>6</sup> Others disagree, claiming that reconciliation was less a product of necessary compromise than a strategic attempt by the NP to slow democratization in a manner that preserved its own economic power base. There is also substantial debate over how reconciliation shaped the form of the transition and whether it produced a political dispensation that ignored the needs of those who suffered under apartheid.<sup>7</sup>

Read together, these controversies suggest that reconciliation was a precondition, modality, and goal of the South African transition.<sup>8</sup> If so, Lawrence Schlemmer, a noted South African political scientist, offered sound advice when he claimed that the “muddled reality” of contemporary South African politics obliges critics to hear the “definitions and consciousness” that have endowed the transition with its variable and various meanings.<sup>9</sup> As it forgoes temporarily the “big questions” of whether reconciliation affords justice, causes democratization, or lends itself to the resolution of other local and international conflicts, such an approach may face the charge of irrelevance. It is a worthwhile gamble. Theoretical artifice has covered over important connections between theological and political interpretations of South African reconciliation. It has also cemented the false impression that reconciliation began with the formation of the TRC and concluded when the commission handed over its final report. In fact, the history of South African reconciliation is old and ongoing. It is a history in which institutions, publics, and individuals have used rhetorical argumentation to define, perform, and debate the value of reconciliation.

This essay advances two arguments about reconciliation and its role in the South African transition. It first considers the ways in which South Africans have defined the nature or meaning of reconciliation. Between 1985 and 1998, reconciliation appeared on the South African sociopolitical landscape as a theological imperative, constitutional mandate, and norm of political representation. At each turn, it was held to be a process of communication. More precisely, I contend that reconciliation took shape as its proponents used argumentation to defend the proposition

that citizens could overcome violence and realize concrete political change if they were willing to practice a kind of communication. As reconciliation was held to be a trope of resistance, compromise, and deliberation, the form and substance of this communication about communication varied. It has appeared as a call to name the experience of oppression, a procedure of negotiation dedicated to the rhetorical invention of a constitution, and a “campaign of persuasion” designed to facilitate public deliberation.<sup>10</sup> In all cases, however, reconciliation involved both a call for and practice of communication. In South Africa, reconciliation connotes a rhetoric of rhetorical history-making. It appears in discourses that theorize and practice the power of discourse.

The second argument advanced in the essay is that these interpretations of reconciliation have served to structure rhetorically the temporality of South Africa’s transition from apartheid to constitutional democracy. Viewed over time, South African reconciliation is a communicative attempt to convert violence into a set of shared oppositions that can motivate and sustain dialogue. It is my contention that this conversion depends less on a Hegelian mediation than a process of rhetorical invention that creates “time for speech” by playing between past legacies of animosity and a future hope for peace. In the 1980s, the ministry of reconciliation was used to invent an *occasion* for a transition. It was a means of fashioning a “time within a time,” a *kairos* or moment of choice that contained the potential for radical but not revolutionary political action. Several years later, constitutional negotiators practiced reconciliation as a rhetorical form of *constitution*, a communicative procedure that bracketed the past in the name of a peaceful future. After the 1994 election of Nelson Mandela, reconciliation was explained by the TRC as a way of overcoming and remembering the past simultaneously. At the risk of forgetting and in the name of healing, reconciliation was held out as a way for individuals to enter into dialogue and forge norms of political *representation*.

For over a decade, reconciliation has funded controversy over how South Africans could employ speech to create a time of political change. This debate—moments when reconciliation has been defined, practiced, and contested—illustrates that reconciliation preceded, conditioned, and followed the transition from apartheid to democracy. Moreover, it shows that reconciliation is a mode of rhetorical history-making. Juxtaposed to the endless slaughter of civil war and the despair of incremental reform, reconciliation afforded South Africans the opportunity to define a time of transition and a chance to hold the transition open in the name of public deliberation. In this sense, the rhetorical study of reconciliation enhances our understanding of beginnings: those moments, according to Hannah Arendt, when the “miraculous” power of speech forges the human relationships that sustain collective action.<sup>11</sup> Put differently, the time of South African reconciliation is an example of how speech invents the potential for politics. Certainly, this potential is not without risk. There is something unsettling about calls for reconciliation in the

midst of oppression. Backed by a peculiar sort of faith, reconciliation may demand that individuals forgo their disagreements in the name of divine grace, institutional stability, or legal duty. Such sacrifices can deter the hard choices needed to remake norms of collective life. In South Africa, it may have energized a civil society in which the promise of a symbolic peace defers (endlessly) the problem of material inequality. Still, it is important to recognize that the South African transition could have been so much different, so much worse. At a very basic level, I believe that we benefit as we take the time to consider why it was not.

Before proceeding, I want to speak briefly to the issues of scope and method. This essay is not a complete history of the South African transition. Many voices are missing, a number of important issues left to the side—collective guilt, memory, narrative. These exclusions are not unrelated to the fact that this essay consciously ends where many other considerations of reconciliation have begun. Here, I examine how reconciliation appeared in a 1985 theological debate, the negotiations that produced the 1993 interim constitution, and the TRC's first attempts to translate its legal mandate into public support. To these very different "texts," the essay brings both a diachronic and synchronic perspective. On one side, my reading proceeds through a selective narrative of how reconciliation has been communicatively defined and practiced over time. Such an approach illustrates the development of reconciliation within the details of a sociopolitical transformation that is itself not well known. On the other, the essay pauses to assess the ways in which reconciliation served "in the moment" to spur and complicate human interaction. This work sheds light on the pattern of invention by which reconciliation creates both a time of political action and the action of political time. Suggested by Walter Benjamin, a rhetorical philosopher deeply concerned with the interplay of time and language, such analysis entails inquiry into how reconciliation develops through a middle voice, speech that performs the very concept that it endeavors to explain.<sup>12</sup> Put differently, the essay plots how advocates of reconciliation defined the force of time, the ways in which reconciliation created temporal frames in order to forge the potential for communication from within threats of violence, and how this invention aimed to create norms of judgment as to where South Africa has come from and where it should go. In these terms, the essay investigates reconciliation through the lens of rhetorical history.<sup>13</sup> It is a modest attempt to illumine a set of speech acts that arguably constitute a beginning.

### **"A ROSE IN THE CROSS OF THE PRESENT:" THE (THEOLOGICAL) OCCASION OF SOUTH AFRICAN RECONCILIATION**

Negotiated revolutions begin with expressions of faith. Measured by official decree, the South African system of apartheid ("apartness") was installed between 1948 and 1950. However, Hendrick Verwoerd's racist social engineering program grew

directly from a colonizing logic that called for “a self-governing white Community, supported by *well-treated* and *justly-governed* black labour from Cape Town to Zambesi.”<sup>14</sup> Many of South Africa’s Dutch settlers took this vision to be an expression of God’s will. Backed by a powerful mythology of destiny, apartheid fueled “white domination, not leadership, not guidance, but control, supremacy,” and lent the Dutch Reformed Church substantial influence in the halls of government.<sup>15</sup> While this theology was maintained through state-sponsored violence; economic, territorial, and social segregation; political exclusion and censorship; labor exploitation; and anti-communism, its legitimacy was hotly contested by South African religious organizations, many of which claimed that the power of apartheid rested on heresy. In fact, this criticism became a vital element of the fight against apartheid. As the church was thrust into the center of the struggle, religious leaders considered how the people of South Africa could end the “unjust rule” of apartheid. Caught between the desire for revolution and the despair of incremental change, many of these voices advocated reconciliation.

Religious opposition to systematic racism evolved slowly in South Africa. For many years, churches could do no better than preach the evils of discrimination to segregated congregations.<sup>16</sup> Following the 1960 Sharpeville massacre, the World Council of Churches convened the Cottesloe Consultation and urged the government to grant citizenship to all members of all racial groups. Later in the decade, reconciliation became an increasingly important element in the religious challenge to apartheid. At the center of religious and civil opposition to apartheid, Desmond Tutu played a key role in this development. A figure of influence and controversy, Tutu’s defense of reconciliation draws from traditional Anglican doctrine and *ubuntu* theology. Connoting humanity, *ubuntu* is the plural form of a word—*bantu*—that “identifies a similar linguistic bond between African speakers.” This mutuality has figured prominently in Tutu’s public writings and sermons: “We say that a human being is a human being because he belongs to a community, and harmony is the essence of that community. So *ubuntu* actually demands that you forgive, because resentment and anger and desire for revenge undermine harmony.”<sup>17</sup> According to Michael Battle, one of the archbishop’s former students, this vision allowed Tutu to cast “the predicament of race not as a contradiction but as a paradox in which each race defines the other, and the result is the beginning of reconciliation.”<sup>18</sup> In short, Tutu’s theology of reconciliation begins with a critique of human identity. Faced with a state that invoked the Bible to define, classify, and divide racial and ethnic backgrounds, Tutu argued that South Africans were bound by a common sense of “personhood” and “a delicate network of interdependence.” Aspiring to find unity from within difference, Tutu holds that reconciliation undercuts the adversarial logic of racial identity with a language of identification. As God creates us in his image, he also gives of himself. This “divine outpouring” (*kenosis*) is a form of love that teaches the value of human vulnerability. Thus, as individuals

confess their offenses and renounce the power to author or dominate others, they return God's gaze and "restore a loving exchange in which oppressive racial classifications can be broken."<sup>19</sup> Made simple, reconciliation is a return to the healing faith of the Word.

In the 1980s, South African theologians and church leaders devoted substantial attention to the question of whether and how the ministry of reconciliation could reduce political violence, energize collective resistance, and contribute to the end of apartheid. First published in 1985, *The Kairos Document* claimed that citizens could employ a prophetic theology to challenge the legitimacy of the state and energize the anti-apartheid movement. This call for action was backed by a complex argument about the occasion of reconciliation. More precisely, the declared potential of prophetic theology turned on the definitional claim that reconciliation begins when individuals endeavor to name a time of transition. Here, I argue that this act of naming is a mode of rhetorical invention in which individuals employ a "middle voice" to articulate their experience of oppression in a manner that creates a "time within a time," a messianic moment in which law is rendered inoperative and the power of collective action is sustained (paradoxically) by confessions of weakness. In other words, the occasion of reconciliation is a now-time (*jetztzeit*) that recovers the law's violent history and refuses its hypocritical promise of future happiness. Equally, it is the productive moment of ontological insecurity that comes with the divine gift of a language that trades the certainty of human identity for the faith of identification. Evident in *The Kairos Document*, reconciliation marks a potential for history-making. The lingering question, however, is whether this potential is underwritten by a faith that precludes its actualization.

In 1985, Tutu was installed as the Bishop of Johannesburg. It was a year when the possibility of reconciliation seemed all but out of reach. Viewed from either side of the racial divide, the country had become "ungovernable."<sup>20</sup> In July, President P. W. Botha declared a state of emergency and stepped up the government's "total onslaught" against all opposition forces. The African National Congress (ANC) responded by escalating the activities of its armed branch, *Umkhonto we Sizwe* (Spear of the Nation).<sup>21</sup> Although victories were few, the resistance did undermine the government's popular support. Pressured by business leaders and a group of politicians that had begun secret meetings with members of the ANC leadership, Botha signaled a willingness to pursue reforms. As violence escalated, it became clear that Botha had neither a plan nor a desire to end apartheid. The crisis worsened. The state of emergency was extended. Filling the leadership vacuum that resulted when the government imprisoned many opposition leaders, the South African Council of Churches declared that the state was a "tyrannical regime."<sup>22</sup> Fearful that sympathetic churches and citizens of South Africa did not know how to act on this belief and convinced that the country faced a pivotal moment, a small group of theologians met in Soweto to debate the future of the struggle. Addressed

to government and church leaders, activists, and members of the public, their findings were published in the short tract entitled *The Kairos Document*.<sup>23</sup> Read widely, the text generated substantial controversy. Where some readers saw a furtive appeal to Marxist-style revolution embedded in its call for civil disobedience, others discerned an important vision of how citizens could work toward the end of apartheid. In either case, the discussion generated by the document had much to do with how it sustained a critique of both apartheid and anti-apartheid opposition with a careful argument about the occasion and potential of reconciliation.

*The Kairos Document* took shape in three lines of argument: a declaration of crisis, a critique of State and Church, and a “prophetic theology.” In the first, “The Moment of Truth,” the authors announced their purpose: “the signs of the times” evidence a contradiction that invites action against apartheid. In the midst of a long-standing “silence” about the injustice of apartheid and its violent ways, the theologians claimed, “Now is the Kairos or moment of truth not only for apartheid but for the Church and all other faiths and religions” (1). It is a “favorable time in which God issues a challenge to decisive action” (1). Thus, as a transgression of God’s law, the existence of apartheid constituted a *status confessionis*—a confessional situation—in which every South African needed to discover the betrayal of the state, concede their role in the creation and perpetuation of apartheid, and work to bring about its demise. In the words of the authors, “It is a dangerous time because if this opportunity is missed, and allowed to pass by, the loss for the Church, for the Gospel and for all the people of South Africa will be immeasurable” (1). Beyond debate, the moment was a divine call, an “objective” sign in which the Word of God marked an unbearable contradiction and the necessity of choice without compromise.

In its second line of argument, *The Kairos Document* delineated the specific contradictions facing all South Africans. Initially, the authors accused the government of “misusing theological concepts and biblical texts for its own political purposes” (3). Precisely, they challenged the state’s reading of Romans 13: 1–7, the New Testament passage that calls on individuals to “obey the governing authorities” that are appointed by God and who serve in his name. The *Kairos* theologians held that this call did not grant the architects of apartheid an “absolute and divine authority” (4). As Paul wrote his letter to the Romans in order to address “a community that had its own particular problems in relation to the state at that time and in those circumstances” (11), it was not applicable to the situation in South Africa. From this “contextual theology,” the authors found the government guilty of using theology to justify violence. As a usurpation of God’s Word, dependent on a language of obedience that defied justification, they claimed that “state theology is not only heretical, it’s blasphemous” (8). The state is a false prophet. Through an evil body of law, it silences opposition and fractures the covenant of divine justice (7).

The South African religious community fared little better in *The Kairos Document*. Based on their “superficial and counterproductive” appeals to reconciliation,



unnamed churches are condemned for their failure to represent the spiritual and political interests of South Africans (9). Specifically, the document charged that “mainstream” calls for reconciliation preached a tolerance for evil and perpetuated sin. Cast as further proof that South Africans faced a moment of choice, the authors contended that in the present situation, “one side is right and the other wrong.” Reconciliation could not mean negotiation or compromise. Tolerance beckoned false peace, the perpetuation of evil, and “a total betrayal of all that the Christian faith has ever meant” (10). As the “dominant” South African theology defined reconciliation in terms of personal guilt, it turned a blind eye to structural injustice and bolstered the state’s claim that it expressed God’s will (12–14).

Apartheid theology rendered justice violent. Religious opposition to the state privatized this contradiction at the expense of political change. In its third line of argument, *The Kairos Document* used these claims to justify a turn to “prophetic theology.” To undermine the moral and political fabric of apartheid, the authors claimed, critics of apartheid had an obligation to “know what is happening, analyze what is happening (social analysis) and then interpret what is happening in light of the gospel” (17). In the name of mobilizing dissent, this interpretive work was intended to recover the lost and denigrated experiences of South African citizens. According to the authors, “effective struggle” begins in “our experience of oppression and tyranny, our experience of conflict, crisis and struggle, our experience of trying to be Christians in this situation” (17). Moreover, social analysis revealed that apartheid was a form of tyrannical oppression, not a race war. The state’s espoused promise of legal equality was betrayed by its historical commitment to violence (22). This contradiction, the divorce of law from justice, was proof that the South African “regime has no moral legitimacy.” It was also taken as an explanation of why God was not neutral in the struggle. A false master that pitted oppressed against oppressor, the state was an enemy of God and the people of South Africa. Still, this “offence against God” was not an “excuse for hatred” (24). Instead, *The Kairos Document* argued that the experience of suffering could be used to reestablish humanity’s relationship with God. Precisely, it claimed that this work entailed an act of naming:

The evil forces we speak of in baptism must be named. We know that these evil forces are in South Africa today. The unity and sharing we profess in our communion services or masses must be named. It is the solidarity of the people inviting all to join in the struggle for God’s peace in South Africa. The repentance we preach must be named. It is repentance for our share of the guilt for the suffering and oppression in our country (29).

Opposed to the silencing forces of the state and private forms of contrition, the fight against apartheid could be energized by speech. As citizens identified evil and

confessed their role in its creation, they would discover the basis for collective action from within a sense of shared guilt. How? By what means would confession empower those who had been victimized?

Against guilt and violence, confession named a past transgression and established a future faith in God's word. This work promised a "double-justice" to those who had suffered at the hands of the state. At first, *kairos* marked a time of choice that demanded action without compromise. However, it was also defined as a moment when the integrity of the human word was suspect; just action could not be measured by either social or individual standards. In the time *provided*, the integrity of both was doubtful. Instead, the theologians argued that, "At this stage, like Jesus, we must expose this false peace, confront our oppressors and be prepared for the dissension that will follow" (11). Opposed to a "cheap" substitute, real reconciliation took inspiration from the "burden of the cross" (18). It began in testimony that recalled an experience of suffering and confessed the offenses that each individual had inflicted upon others. This speech "does no[t] separate the individual from the social or one's private life from one's public life" (16). To the contrary, the theologians held that reconciliation was a means of creating relationships between human beings and between humans and God. The double form of this renewal was held out as the bar of justice. As individuals conceded their transgressions in the name of forgiveness and renounced their certain power over the word (of God), they found their voice and the grounds of collective action. In such speech, the potential for a better life had to be built in the present.

We must begin to plan for the future now but above all we must heed God's call to action to secure God's future for ourselves in South Africa. There is hope. There is hope for all of us. But the road is going to be very hard and very painful. The conflict and the struggle will intensify in the months and years ahead. That is now inevitable—because of the intransigence of the oppressor. But God is with us. We can only learn to become the instruments of his peace even unto death. We must participate in the cross of Christ if we are to have the hope of participating in his resurrection (26).

According to Charles Villa-Vicencio, a theologian who helped draft *The Kairos Document*, this claim was addressed to church leaders and citizens who inhabited the "edges of civil society."<sup>24</sup> Its reception, however, was not uniform. Many praised the text's attempt to energize the vocabulary of political resistance. Others panned the document, deriding it as politically dangerous and theologically suspect.<sup>25</sup> The condemnations were grounded in two objections. First, *The Kairos Document* had little to say about how the Church could make an effective contribution to the struggle against apartheid. It did not explain the form of the opposition that it advocated. Second, the tract seemed to rest on a contradiction. While encouraging all citizens to confess their transgressions, it also claimed that "no reconciliation is

possible in South Africa without justice, without the total dismantling of apartheid” (10). More clearly, the authors appeared to condition the power of forgiveness on the future actions of the state.

Human beings must also be willing to forgive one another at all times even seventy times seven times. But forgiveness will not become a *reality* with all its healing *effects* until the offender repents. Thus in South Africa forgiveness will not become an *experienced reality* until the apartheid regime shows *signs\_of* repentance” (34, emphasis added).

Does this call make reconciliation contingent on revolution? Arguably, it does not.<sup>26</sup> As the position distinguished the faithful *attitude* of reconciliation from its *outcome*, reconciliation could both precede and follow the demise of apartheid. If so, the occasion of reconciliation was a moment of rhetorical invention in which citizens discerned the potential for collective action from within the midst of violence. A period of urgency and opportunity, this moment is a present that stands in opposition to both the past and future. In the face of conflict and systemic injustice, institutional and human norms of progress are suspect. As the covenant breaks, all times revert to God. The result is a present, a point of *stasis* in which individuals can move neither forward nor backward. Lacking a coherent relationship to ourselves, others, or God, the time is an anxious one. It is a period of ontological frustration in which the need to act is imposed, sensed, and hindered. In *The Kairos Document*, the potential of this time appears as both a process and product of communication. Equally unacceptable, the perpetuation of apartheid and violent revolution demanded a *turn* to the language of faith. Through confession and the naming of offenses, individuals concede past mistakes. This naming process instills into the confessor a sense of vulnerability. It is a source of both despair and hope, marking the breakdown and importance of human interaction. Put differently, the negativity of confession is productive to the degree that it motivates individuals to build relations with other humans and with God. Evident in both *The Kairos Document* and Desmond Tutu’s *ubuntu* theology, this speech work is modeled on God’s love. A kind of *ethos*, it is an outpouring of self for the Other.<sup>27</sup> It is also the basis for effective opposition to apartheid. As the state denigrates justice, it contradicts its own theological premise and reduces its legitimacy. In this way, the occasion of reconciliation is a time within the times, a faith in God’s word that crafts the path to the future out of a painful past.

At a turning point in the fight against apartheid, *The Kairos Document* defined reconciliation as a communicative process that could begin a time of transition. Initially, the need for reconciliation appeared when human beings confronted a moment of choice, a time in which there was “not much time.”<sup>28</sup> According to the theologians, this instant developed from the law’s false appropriation of God’s

Word. It was a point when a state of emergency had allowed the law to foreclose on the ability of individuals to endow expression with content. Against this law—a form of oppression that erased history and sacrificed present meaning to sustain the promise of future happiness—*The Kairos Document* called on the victims of apartheid to name their experiences in a manner that demonstrated the contradiction between law and justice. In his important work on Pauline theology, Giorgio Agamben characterizes this work as a shift from doing what the law says to saying what the law does. It is a topological turn in which individuals name themselves “as they are not.” With the naming of experience, the oppressed *are not* simply oppressed. They are capable of collective action. This revelation renders the law “inoperative” by inventing the potential for politics. The law’s divine façade is challenged by speech that cannot be contained by a state of emergency. This speech is addressed to the contingent in-between of human relationships and opposed to outright revolution. Its “messianic” power rests on what is normally considered to be weakness. The call to name the experience of oppression is partly a call to confession, a form of speech in which the certainty of human identity—the appropriation of God’s Word—is supplanted by the faith of identification.<sup>29</sup> In turn, this speech-action opens a present moment in which the task of (re)authoring law takes shape in a process of collective interaction that both discovers and moves between past and future. Performed in the middle voice, as confession that both enacts and explains the contingency of human interaction, reconciliation appears as a rhetorical call to make history. In *The Kairos Document*, it was an opportunity to define and enter into the beginning of apartheid’s end. The difficulty, however, was whether citizens could render practical this communicative faith in the word. Between revolution and accommodation, *The Kairos Document* did not specify how the communicative faith of reconciliation could initiate and sustain a secular process of constitution-building.

### **MAKING A MIDDLE GROUND: RECONCILIATION IN A TIME OF CONSTITUTION-BUILDING**

By 1986, South Africa’s moment of choice was both apparent and hidden from view. Shortly after the publication of *The Kairos Document*, the state of emergency was extended indefinitely. As the government intensified its repression, P. W. Botha nonetheless “authorized” secret meetings between his security forces and select members of the ANC. In different quarters, the opposition continued its fight. In May, the ANC National Executive Committee issued *From Ungovernability to People’s Power*. “We have reached a point of no return,” the manifesto claimed. “The historic conditions necessary to ensure the collapse of the apartheid system have taken shape in greater measure than ever before in our history. But much still needs to be done to destroy it once and for all.”<sup>30</sup> Just eight years after this call to meet the

state's "total strategy" with "total resistance," South Africa's political parties emerged from negotiations with a democratic constitution. What role did reconciliation play in the development and performance of this transition?

During the negotiations that brought South Africa from apartheid to constitutional democracy, reconciliation sparked both dialogue and controversy. Here, I do not contend that reconciliation caused the "negotiated revolution." Instead, I argue that the stage for the South African transition was set by negotiations in which reconciliation was defined as a process, procedure, and product of constitution. By "constitution," I mean both an action and an object. On one side, supporters and opponents of apartheid appealed to and practiced reconciliation as a generative or *constitutive* form of communication. On the other, reconciliation was geared toward and contained in the *constitution*, that "governing" text which functions as a terminological calculus and coordination of human relations.<sup>31</sup> In short, reconciliation figured a time of constitution. In the face of (endless) violence, it (a) opened a moment for "talks about talk" and (b) justified the decision of warring parties to set aside historical animosity in order to negotiate the end of apartheid. As they attempted to figure time, these events both reflected and altered the interpretation of reconciliation presented in *The Kairos Document*. Like the theologians, negotiators found in reconciliation a means to create the basis for understanding in the midst of conflict. In distinction, constitutional negotiators defined reconciliation largely in terms of amnesty. Much more the need to forget the past than the need to forgive, reconciliation was a form of invention that required negotiators to bracket history. If so, the constitutive time of reconciliation may have brokered compromise at the cost of political representation.

### TALKS ABOUT TALKS: THE RECONCILIATION OF FEAR AND ANIMOSITY

The negotiated end of apartheid was not fated. There was a situation that demanded choice. By the late 1980s, apartheid was in profound crisis. War-weary, nearly bankrupt, and isolated, the state's untenable doctrine of white supremacy was being sustained largely by violence. The country had become ungovernable. To some, the end of apartheid signaled an unacceptable loss of power. Worse, it portended a revolutionary Black Nationalism bent on "throwing whites into the sea." These views left the Botha government with few options. It could increase repression, fight the opposition, and endeavor to prop up a system that could no longer support itself. Or, it could initiate reforms in the hope of controlling their pace and scope. On the other side of the divide, the ANC had its own problems. The 1955 *Freedom Charter* committed the ANC to replacing apartheid with a "non-racial democracy." As the state of emergency continued, this goal was overshadowed by the need for armed struggle.<sup>32</sup> However, the ANC did not have the forces to win. As troubling, it was far from clear what would remain of the country in the wake of a protracted civil war.

Viewed over the long haul, violence appeared to both sustain and weaken the hope for political change.

Between an increasingly porous white *laager* and the ANC's vacillating commitment to revolution, South Africa's negotiated transition to democracy began in secret. After several "unofficial" meetings with exiled ANC leaders, Nelson Mandela was quietly moved from Robben Island Prison to Cape Town in 1986. Living in a house assigned to the assistant warden of Victor Verster Prison, Mandela met with Minister of Justice Kobie Coetsee. The pair also toured Cape Town, taking trips to reacquaint Mandela with his country. After 25 years in prison, the future president went unrecognized as he walked the beaches and footpaths of the Cape. At several of these meetings, Mandela declined offers of freedom that were conditioned on his renunciation of violence. After continued informal discussion, a meeting was scheduled between Botha and Mandela. The "Old Crocodile" would meet the man whom he could live neither with nor without. Prior to the 1989 meeting, Mandela sent a letter to his jailer. In it, he conceded, "I am acting on my own initiative," without the prior knowledge or approval of the ANC. Then pledging his allegiance to the ANC, he argued that meaningful negotiations would occur only after the government released political prisoners and repealed the ban on all opposition movements. The position walked a fine line: Mandela claimed loyalty to the ANC, but saw a need to break from its ranks. Why?

[M]y intervention is influenced by purely domestic issues, by the civil strife and ruin into which the country is now sliding. I am disturbed, as many other South Africans no doubt are, by the spectre of a South Africa split into two hostile camps; blacks on one side . . . and whites on the other, slaughtering one another; by acute tensions which are building up dangerously in practically every sphere of our lives, a situation which, in turn, preshadows more violent clashes in the days ahead. This is the crisis that has freed me to act.<sup>33</sup>

The moment was little different from the one identified by the *Kairos* theologians. For his part, Mandela claimed that the ANC had "no vested interest in violence." But, he argued, the armed struggle would continue until the "government shows its willingness to surrender the monopoly of political power, and to negotiate directly and in good faith with the acknowledged black leaders." A key pivot, this claim tied a cease-fire to the government's willingness to negotiate the terms of a nonracial democracy. More directly, Mandela claimed that a negotiated settlement would require preliminary meetings dedicated to the discussion of two issues:

[F]irstly, the demand for a majority rule in a unitary state; secondly, the concern of white South Africa over this demand, as well as the insistence of the whites on structural guarantees that majority rule will not mean domination of the white minority by

blacks. The most crucial task which will face the government and the ANC will be to reconcile these two positions. Such reconciliation will be achieved only if both parties are willing to compromise.<sup>34</sup>

Here, reconciliation refers to the unification of two ideas that appear to be incommensurable. But, this problem of logic was equally a dilemma of history, a contradiction borne of historical animosity and fear of the future. To Mandela, the naming of this division marked the starting point of dialogue, an attempt to overcome the past through interaction backed by a spirit of compromise.<sup>35</sup>

The ANC approved Mandela's overture to Botha in the *Harare Declaration*.<sup>36</sup> Issued in August, the *Declaration* held that it was possible to "end apartheid through negotiations" if the government acted to create a proper "climate." The document called on the Botha government to lift its ban on "proscribed and restricted organizations," remove its troops from the townships, and end the "state of emergency." These actions, the ANC claimed, would "produce the conditions in which free discussions can take place." However, the momentum for reform was slowed by P. W. Botha's sudden and controversial resignation. In September, F. W. De Klerk was elected president. Before the election, De Klerk argued publicly that South Africa faced a time of choice. In his inaugural address, he went further, defining the need for change through a language of reconciliation:

There is but one way to peace, to justice for all: That is the way of reconciliation; of together seeking mutually acceptable solutions; of together discussing what the new South Africa should look like; of constitutional negotiation with a view to a permanent understanding. . . . The time has come for unity within our diversity to take form.<sup>37</sup>

In December, Mandela wrote a letter to De Klerk in which he quoted part of this exhortation back to the new president. Further, he argued that reconciliation was a "situation where opponents, and even enemies for that matter, would sink their differences and lay down their arms for the purpose of working out a peaceful solution, where the injustices and grievances of the past would be buried and forgotten, and a fresh start made."<sup>38</sup> The ambiguity of this position would become important. On one side, recalling the terms of *The Kairos Document*, it reenforced the ANC's claim that true reform could not begin without the "dismantling of apartheid and all measures used to enforce it." On the other, its call to transcend the past hinted that an ANC-led government might not prosecute apartheid leaders for their crimes. At any rate, as prod or implicit promise of amnesty, this claim offered De Klerk a choice: demonstrate a will to negotiate or face an escalation of the conflict.

On February 2, 1990, De Klerk responded. In a speech that marked what one commentator called the "final, irreversible turning point in South Africa's history,"

the president did and did not ask Parliament to support negotiations for a “new South Africa.” In the face of “growing violence,” De Klerk claimed, “there is no time left for advancing all manner of new conditions that will delay the negotiating process.” Defying public expectation, De Klerk lifted the ban on the ANC and the South African Communist Party, and promised to release a substantial number of political prisoners, protect freedom of expression, and relax the state of emergency. He also indicated that arrangements were being made for the unconditional release of Nelson Mandela. These steps, De Klerk argued, represented the government’s “good faith” toward talks that would bring to South Africa a “new, democratic constitution; universal franchise; no domination; equality before an independent judiciary; the protection of minorities as well as of individual rights.” A step further, De Klerk maintained that his initiatives left the opposition without a valid justification for continuing its campaign of violence.<sup>39</sup>

Nine days later, upon his release from prison, Nelson Mandela seemed to contest De Klerk’s claim. Addressing an enormous crowd in Cape Town, Mandela announced that apartheid had “no future” and that it “would be ended by our own mass action.” According to journalist Patti Waldmeir, Mandela’s call for mobilization set some white audiences on edge. To their ear, Mandela’s brief discussion of a negotiated settlement was overshadowed by his embrace of the people’s struggle against the “white monopoly on political power.”<sup>40</sup> While Mandela did not write the speech, it was perhaps not a time for accommodation. Two days later, speaking in Soweto, Mandela recast his position, reiterating the reconciliation problem that he had identified in his earlier correspondence with De Klerk.

A number of obstacles to the creation of a non-racial democratic South Africa remain and need to be tackled. The fears of whites about their rights and place in a South Africa they do not control exclusively are an obstacle we must understand and address. I stated in 1964 that I and the ANC are as opposed to black domination as we are to white domination. We must accept however that our statements and declarations alone will not be sufficient to allay the fears of white South Africans. We must clearly demonstrate our goodwill to our white compatriots and convince them by our conduct and arguments that a South Africa without apartheid will be a better home for all.<sup>41</sup>

To some degree, this claim reciprocated De Klerk’s concession that the National Party had to do more than just announce its commitment to change. The talk had to perform action. With both sides proclaiming their good faith and preaching reconciliation, the question became how to begin.

The bulk of 1990 was given over to preliminary meetings called the “talks about talks.” At first, progress was rapid. In May, the ANC and the National Party signed the *Groote Schuur Minute*. This agreement addressed several obstacles that blocked



the start of full negotiations. On one side, the NP feared that majority rule would bring criminal and civil action against the leaders and supporters of apartheid. What was the incentive to negotiate for a prison or death sentence? On the other side, many opposition leaders were either in prison, exile, or hiding. How could negotiations begin if the key voices were unable to get to the table? In response, the *Minute* announced that “temporary immunity from prosecution of political offences committed before today, will be considered on an urgent basis for members of the National Executive Committee and selected other members of the ANC.” The government also agreed to expedite the release of political prisoners and allow the return of ANC officials from “inside and outside South Africa.”<sup>42</sup>

In August, the *Pretoria Minute* clarified and strengthened these pledges. The ANC announced that it was “suspending all armed actions with immediate effect.” While the NP wanted a full renunciation of violence and a pledge that the ANC would not retain a domestic weapons cache, the ANC claimed that it would refrain from violence only as negotiations showed progress. While the disagreement was a sign of problems to come, the *Pretoria Minute* did reflect a mutual willingness to open negotiations over a new constitution. In part, this spirit was tied to the NP’s and ANC’s ability to resolve the conditions for amnesty and indemnity. Formed after the *Groote Schuur Minute*, a working group had agreed to amnesty provisions for those participating in the constitutional negotiations. With a firm cutoff date and a rather ambiguous definition of which political offenses were eligible for immunity, the amnesty agreement was given legislative form and passed in the 1990 Indemnity Act.

If the South African transition can be characterized as a negotiated revolution, then it is difficult to overstate the importance of the “talks about talks.” The process of interaction that led to the early agreements created a “climate” for future negotiations. The talks began in a time of violence and mutual suspicion. They produced, according to Willem De Klerk, a “political ecology” of political discourse. In part, this means that the “talks about talks” erected the deliberative scaffolding for a transition to democracy.<sup>43</sup> They established the common ground needed to sustain later negotiations over how to reconstitute the political norms of South African society and afforded each side the chance to observe and recognize the interests of the other. In large measure, this potential for dialogue rested on the ability of negotiators to translate early calls for reconciliation into practical policy initiatives. Thus, addressed to a shared history of fear and animosity, reconciliation came to embody amnesty, a (silencing) relief from the past that opened a moment for talk about the future.<sup>44</sup> Alleviating fears of retribution and demonstrating a kind of forgiveness, negotiations over amnesty created a moment in which all sides could enter into substantive talks over how to design a new constitution. In the words of Patti Waldmeir, the talks sought a “meeting in a middle.”<sup>45</sup> This is not to say that disagreement was absent from the discourses. Rather, it means that the “talks about

talks” were an attempt to generate agreement with difference in a manner that did not simply mediate the latter into the former. Foreshadowing the turn to substantive negotiations, controversy was a lit mus test of whether the two sides had established norms of interaction that could sustain the move from past to future.

### A CONSTITUTION OF RECONCILIATION

A kind of reconciliation, the “talks about talks” opened a moment for constitution-building. In March 1991, the ANC issued an architecture for the transition: *Constitutional Principles and Structures for a Democratic South Africa*. Shortly thereafter, F. W. De Klerk proposed a peace summit. Because the organization believed that it was inappropriate for the NP to be both a player in the negotiating process and its referee, the ANC was insulted by the invitation. In April, it threatened to abandon all talks if the NP did not alter its negotiating strategy and withdraw state security forces from the townships. In the end, De Klerk’s summit occurred without the ANC. At the meeting, representatives from the South African Council of Churches advocated that a task force brainstorm measures to control violence. This proposal led to a second summit. Shortly thereafter, the major players signed the National Peace Accord, a document that imposed “codes of conduct” on the negotiators and their security forces.<sup>46</sup> Backed by this agreement, the first meeting of the Convention for a Democratic South Africa (CODESA I) took place in December. Working groups were appointed and charged with the task of negotiating both the “definition and shape of new, democratic constitutional principles,” and the procedures that would be used to write a permanent constitution.<sup>47</sup> Still, the National Peace Accord and CODESA I did not yield much substantive progress. They were important because they carried the spirit of the “talks about talks” into a process of negotiation that relied heavily on compromise and “sufficient consensus.”<sup>48</sup> Concerned that fear and violence could easily undermine trust and “mutual respect,” reconciliation remained an important and controversial part of the drive to create the “climate of understanding” needed to write a new constitution.

In 1992, the pivotal year in the turn from apartheid, negotiations for a new constitution were threatened by brinkmanship, escalating violence, and deep controversy over how to define and implement democracy. After CODESA I, negotiators continued to whittle at the “constitutional mountain.” In March, President De Klerk called a whites-only referendum. Bolstered by the outcome—68 percent of the voters professed support for reform—De Klerk pressed the ANC for guarantees that would protect white power during and after the transition. This issue had been simmering for some time. The NP argued that the constitutional convention, not an elected parliament, should write the new constitution. It also wanted the document to be approved by 75 percent of the assembly that was charged with its writing. The ANC balked, claiming that the proposal was motivated by a groundless fear of black

domination and amounted to a “minority veto” that would render free elections meaningless. Deadlock ensued. Scheduled for May 16, CODESA II was little more than a formality. A month later, the situation worsened as the ANC claimed that the government had helped Inkatha forces to slaughter 39 residents of Boipatong. The ANC withdrew from all negotiations. On June 26, 1992, Nelson Mandela called for national mass action: strikes, protests, and demonstrations. Some argued that Mandela was attempting to plot a middle ground between unproductive negotiations and open revolt. To others, mass action was either a lever to compel government concessions or the prelude to civil war.<sup>49</sup>

What of reconciliation now? In a letter sent to President De Klerk, Mandela addressed this precise question: “Our country is on the brink of disaster,” he began. He accused the NP of playing both sides of the fence, sponsoring violence and then shunting the blame onto the ANC. What’s more, Mandela recalled his 1989 letter to P. W. Botha in which he observed that the need for majority rule had to be reconciled with the government’s fear of black domination. In this matter, Mandela maintained, the NP was distorting the problem to serve its own interests.

There can be no movement forward as long as you [De Klerk] seek to reconcile the two issues I have outlined through any form of minority veto. Such solutions may well address white concerns, but they are guaranteed to leave majority concerns frustrated. This is a recipe for in-built instability and makes peace unrealisable. For as long as the NP government insists on a minority veto in whatever form, the negotiations deadlock will remain unresolved.<sup>50</sup>

De Klerk’s insistence on a minority veto was being read as a continuation of the state’s commitment to violence and racial oppression. According to Mandela, the resumption of negotiations required “confession and repentance.” In the “talks about talks,” appeals to reconciliation had supported the development of formal procedures that could secure the conditions for dialogue. Here, Mandela defined reconciliation as a process intended to resolve the substantive contradictions that separated the ANC’s and NP’s visions of constitutional democracy. Backed by the threat of returning the country to a state of ungovernability, Mandela’s call echoed the *Kairos* theologians’ view that reconciliation could not come at the expense of equity and justice.

On July 2, De Klerk responded. He argued that mass action was being driven by a Marxist desire for insurrection and would “lead to further violence and delay the search for democratic solutions.” More credibly, De Klerk rebutted Mandela’s characterization of the NP’s demands. He maintained that while the government was committed to universal suffrage and majority decision-making, the ANC’s vision of democracy was naïve.<sup>51</sup> To De Klerk, the ANC was engaged in “extremely coercive negotiating tactics.” Perhaps sensing Mandela’s brinkmanship, the president recast Mandela’s appeal for reconciliation by juxtaposing its call for repentance with the

charge that ANC negotiators had forsworn “compromise on a give-and-take basis” for a view of the transition that ignored that a “fundamental feature of modern democratic states is the extent to which all citizens enjoy meaningful participation and fair representation in government institutions.” Thus, De Klerk declared, the government would resume negotiations only when the ANC was willing to accept that CODESA would draft an interim constitution that would then be approved by an elected constitutional assembly. As before, ratification would require a 70 or 75 percent majority approval.<sup>52</sup>

As De Klerk and Mandela debated whether reconciliation entailed confession, concession, or compromise, other leaders met to discuss the possibility of a summit. On September 26, the parties gathered to sign a Record of Understanding.<sup>53</sup> It contained three important provisions: the interim constitution would be written by a single representative body; the NP would not have a minority veto power over the process or its outcome; after the elections, the country would be run by a transitional government that would write the full and final constitution. The agreement was a victory for the ANC.<sup>54</sup> To recoup a bit of prestige, the NP argued that amnesty should be granted to all those who had committed violence in the name of apartheid. Rejected outright by the ANC, this proposal threatened to throw the talks back into deadlock. To the surprise of nearly everyone, it was a voice of revolution that proposed a way to reconcile the dispute. In November, Joe Slovo, the former chair of the South African Communist Party (SACP), wrote an influential essay entitled, “Negotiations: What Room for Compromise?” Long despised by the NP, Slovo called on ANC leaders to rethink the negotiating process and recognize that “a degree of compromise will be unavoidable.” True, Slovo argued, the ANC could not accept a minority veto or an endless interim government. Majority rule had to become a reality. But, the ANC was not dealing with a “defeated enemy.” If it were not going to abandon negotiations in favor of a war that it might not win, the NP’s concerns about life after the transition had to be addressed in a substantive way. To this end, Slovo argued that the interim constitution should include “sunset clauses” that would compel power-sharing in the first years of the transition. As important, Slovo argued that the ANC could accept an amnesty agreement if “those seeking to benefit will disclose in full those activities for which they require an amnesty.”<sup>55</sup>

The gist of Slovo’s position was eventually incorporated into the ANC’s *Negotiations: A Strategic Perspective*. In it, the ANC conceded that negotiations had to continue. To this end, the statement plotted a schedule for the talks and hinted that amnesty could play some role in a “negotiated settlement.”<sup>56</sup> On November 26, De Klerk responded with a timeline for negotiations and elections. In the name of “reconciliation and reconstruction,” he lent his support to the creation of a Government of National Unity and abandoned the call for a minority veto power. Instead, De Klerk called simply for “dispute resolution mechanisms to prevent simple majorities from riding roughshod over minorities.”<sup>57</sup> It was time to write the new constitution.

In April 1993, just ten days before the assassination of Chris Hani, the CODESA structure was replaced by the Multi-Party Negotiating Process (MPNP). Helped by Mandela's and Tutu's appeals for calm, the negotiations continued while the nation mourned the popular secretary general of the SACP. Complete with a Public Participation Programme, the negotiations placed a heavy emphasis on "rational discourse" and dispute resolution.<sup>58</sup> The goal of this "compromise politics" was an interim constitution and the architecture for the Government of National Unity (GNU). Throughout the MPNP, negotiators grappled with the amnesty issue.<sup>59</sup> In 1992, the government had passed the Further Indemnity Acts. Consistent with the findings of the Goldstone Commission, the ANC objected to these statutes on the grounds that they did not compel amnesty applicants to detail the nature or motive of their crimes. In the middle of the talks, the NP reiterated its call for a general amnesty. While many opposed this proposal, claiming that indemnity was unjust if it came at the expense of truth, there is now something of a consensus that a total rejection of the NP's demands would have collapsed the negotiations and "prevented the adoption of the constitution."<sup>60</sup> In the spirit of Joe Slovo's proposal, ANC negotiators proposed that the interim constitution include a reconciliation provision that offered amnesty to those who were willing to disclose their crimes. Deliberations over this idea were hasty and contentious, showing that there was substantial disagreement over whether reconciliation meant confession or compromise. Near the end of the talks, a vague plan was hastily approved by the Negotiating Council and written as a postamble to the constitution.<sup>61</sup> While the country was being run by the Transitional Executive Council, last-minute deals were cut to ensure that all political parties would participate in the vote. That Mandela would win the presidency was a foregone conclusion. On May 9, 1994, the former prisoner took his oath of office. At his side, F. W. De Klerk and the ANC's Thabo Mbeki were installed as executive deputy presidents. As it had been at the start, the negotiations for a new constitution ended with a call for reconciliation.

### **RHETORIC, RECONCILIATION, AND THE CONSTITUTION OF TRANSITION**

South Africa's shift from apartheid to a democratically elected Government of National Unity did not produce reconciliation. Instead, it is more accurate to say that negotiating parties defined and practiced reconciliation as a modality of constitution. Implicitly and explicitly, negotiators used reconciliation to define modes of communication that could help historical enemies create the time for radical political change and stave off the risks of revolutionary violence. At first, reconciliation buttressed a *process* of constitution. In the mid-1980s, South Africa's future appeared bleak. Coupled with the ANC's commitment to armed opposition, the state's inability to govern promised only violence and chaos. In secret and informal meetings, the idea of reconciliation was used to define the stalemate and plot alternatives. Sent from

prison, Mandela's letters to Botha and De Klerk used reconciliation to invent a situation in which violence was a shared reason to talk. Negotiations were possible if all parties were willing to speak the unspoken, the tension between white fear and non-racial democracy. Thus, reconciliation rhetorically constituted a referent for interaction, a bridge between incommensurable views of South Africa's past and future. Second, reconciliation appeared during the transition as a *procedure* of constitution. During the "talks about talks," negotiators engaged in interaction that closely resembles what Jurgen Habermas calls "formal-pragmatic discourse."<sup>62</sup> Concerned to move from a condition of mutual animosity to deliberation over the substance of constitutional reform, negotiations began by creating a climate for discussion and norms of debate. A key component of this work was the amnesty agreement brokered during the "talks about talks." Here, all parties agreed to "forget" past offenses in order to create a present-time when interaction and communication could occur without the fear of reprisal or retribution. In 1992, Mandela's call for mass action demonstrated the fragility of this provisional present and laid bare the issue of whether reconciliation was simply a formal way of stabilizing discussion or a means of resolving substantive disagreements. Finally, reconciliation was a *product* of constitution. Throughout the MPNP, negotiators argued over how the new constitution and the Government of National Unity could ensure peace and civility. Much of the debate centered on the still festering issue of whether democratic pluralism would crush Afrikaner political power. A product of compromise more than repentance, the interim constitution's mandate for reconciliation was touted as a solution to this problem. Addressed explicitly to the future of South Africa, the postamble defined the hope of democracy through a spirit of *ubuntu* and mutual accommodation.

In a transition surrounded by violence, reconciliation marked an effort to define a time of constitution. In South Africa, the process, procedure, and product of constitution-building entailed a rhetorical attempt to bracket the past atrocities of apartheid in the name of dialogue that could transcend a future of endless violence. While nothing short of remarkable, this approach carried substantial risks. The equivocation of reconciliation and amnesty supported a negotiated revolution in which history was temporarily (temporally) forgotten. By bracketing the past in the name of a future peace, the ANC appeared to let the NP off the hook, allowing for a transition that transferred political rule without changing the economic balance of power. However, this popular assessment may well trivialize how negotiators had to work in the middle of a complex situation. While unable to govern, the NP had resources but not the legitimacy needed to fight an extended civil war. The ANC had popular support but not the requisite forces. Combined with the ANC's public commitment to the creation of a multiracial democracy, compromise may well have been the only option.<sup>63</sup> If so, the relevant question is whether the conciliatory form of the negotiations that ended apartheid served to compromise the substance of South Africa's new democracy. Indeed, there was an important incongruity between the

interim constitution's definition of justice and the postamble's mandate for reconciliation. Endowed with new rights, how could a citizen secure justice for the past when it was the forgetting of that past which made those rights possible? Recalling *The Kairos Document*, the interim constitution's call for reconciliation also seemed to weave (again) a divine standard of justice into the fabric of the state. In the first problem, the possibility of justice is reduced to an abstract future that devalues the past experience of citizens. In the second, justice is a timeless authority that resolves individual difference through an appeal to a higher power. In either case, there is some indication that the "new beginning" of reconciliation worked at the expense of representative politics.

### **SPEAKING OF THE PAST'S FUTURE: THE TRC AND THE "REPRESENTATION" OF RECONCILIATION**

In a time of constitution-building, old enemies appealed to reconciliation as a means of creating dialogue. Pragmatically, as amnesty opened the door to talk, this entailed a need to forget. After the election, the country puzzled over the interim constitution's ambiguous mandate for reconciliation. The past returned. Apartheid was not over. Reconciliation could not mean amnesia. Without devolving to victimization or persecution, it needed to be the hope of voices long silenced, the assurance that perpetrators of violence would confront the human costs of their actions, and a means of reconstruction. In the name of justice and political stability, reconciliation became the problem of whether and how South Africans could speak of the past in order to make the future.

In the wake of the 1994 election, reconciliation became a central feature of the South African transition. Here, I consider just two related aspects of this development. First, I examine how the interim constitution's postamble defined reconciliation as a political imaginary that enabled the constitution itself and contributed to the reconstruction of civil society. Second, I trace the ways in which the Truth and Reconciliation Commission publicly defended its legislative charge to facilitate reconciliation. In the face of substantial opposition, disputes that the commission took to be proof of its value, the TRC held that testimony, confession, and forgiveness would provide citizens with a chance to remember and transcend the past simultaneously. More precisely, through what Wilmot James has dubbed a "campaign of persuasion," the commission claimed that reconciliation was an opportunity for citizens to speak and a conduit for debate over what norms of political accountability and justice should underpin the new dispensation. Thus, tied to the postamble's call for reconciliation, I claim that the TRC's interpretation of reconciliation created an indefinite time of transition, an open period of deliberative reconstruction. Against the institutional equation of reconciliation=amnesty, a calculus that risked setting history aside, the TRC became a performer and sponsor of public argumentation.

This exercise, according to the commission, meant that reconciliation was a form of political representation. However, this view of deliberative reconstruction may well have trivialized the commission's own work and left it vulnerable to the charge that it was ignoring the material needs of those whom it claimed to serve.

South Africa's Truth and Reconciliation Commission was legislated into existence. Controversial from the start, the Promotion of Unity and National Reconciliation Act was Parliament's interpretation of the interim constitution's mandate for reconciliation. Debate over the bill was contentious. Why did the constitution call for reconciliation? How would it work? What good would it bring to the citizens of South Africa? A close reading of the constitution's entire postamble underscores the significance of these questions. For clarity's sake, it is best to consider the reconciliation provision in sections.<sup>64</sup> It begins:

This constitution provides a historic bridge between the past of a deeply divided society, characterized by strife, conflict, untold suffering and injustice, and a future grounded on the recognition of human rights, democracy, and peaceful coexistence and development opportunities for all South Africans, irrespective of colour, race, class, belief or sex.

With a burden of closure, a postamble requires a perspective that can encapsulate the motive and purpose of the constitution that it sums. To this end, the opening of the preamble moves back and forth between a constitutional and extra-constitutional voice. It is within and without the text to which it refers. This movement sustains a substantive argument: the constitution is a bridge between two points and times. Equated with a divided society, the past is marked by evil. The future is a democracy that has recovered and protects the necessities of life. In the middle, the constitution is a gateway, a present moment that contains the possibility of choice. As the postamble continues, the terms of the choice become clearer:

The pursuit of national unity, the well-being of all South African citizens and peace require reconciliation between the people of South Africa and the reconstruction of society. The adoption of this constitution lays the secure foundation for the people of South Africa to transcend the divisions and strife of the past, which generated gross violations of human rights, the transgression of humanitarian principles in violent conflicts and a legacy of hatred, fear, guilt and revenge. These can now be addressed on the basis that there is a need for understanding not for vengeance, a need for reparation but not retaliation, a need for ubuntu but not victimization.

The future is not fated. In its body, the postamble is a call for action. The bridge must be used, if not built. There is a toll, however. The possibility of democracy is conditional on a process of reconciliation and reconstruction. Why? As a reflection



of the negotiating process that produced the constitution, the postamble's characterization of the past is a tacit warrant for reconciliation. More directly, hate, fear, revenge, and guilt tear at the fabric of democracy. Read under the sign of *ubuntu*, each deprives citizens of voice and confounds collective interaction. As such, reconciliation is a means of breaking the spell of the past. However, this justification introduces two paradoxes into the case for reconciliation. First, the past is a referent for action even as that past must be abandoned. History must be preserved and buried. Second, the postamble renders the constitution a necessary but not sufficient condition for democracy. In other words, the substance of constitutional democracy now rests on a procedure of reconciliation that is itself non-constitutional. As a bridge, the constitution is not a self-moving structure. The path from past to future must be forged through acts of reconciliation that remember and transcend the past simultaneously.

In order to advance such reconciliation and reconstruction, amnesty shall be granted in all respect of acts, omissions and offences associated with political objectives and committed in the course of the conflicts of the past. To this end, Parliament under this constitution shall adopt a law determining a firm cut-off date which shall be a date after 8 October 1990 and before 6 December 1993, and providing for the mechanisms, criteria and procedures, including tribunals, if any, through which such amnesty shall be dealt with at any time after the law has been passed.

Out of its call for action, the postamble turns to the mechanics of reconciliation. The mandate is reductive: reconciliation and reconstruction are defined as amnesty. Here, unlike the discussions that took place during the "talks about talks," amnesty is contingent on understanding the past—strife, conflict, suffering—in political terms. It requires a forensic investigation into what happened during apartheid and why. But, this idea is riddled with ambiguity. What counts as a "political act" deserving of amnesty? Given the postamble's explicit characterization, the past seems to be the antithesis of politics. As well, how should the inquiry proceed? In this matter, the postamble is and is not suprallegislative. It mandates a legislative act of Parliament but defers its precise content to those who represent the citizens of South Africa.

With this constitution and these commitments we, the people of South Africa, open a new chapter in the history of our country. Nkosi sikelel' iAfrika. God seen Suid-Afrika. Moreana boloka sechaba sa heso. May God bless our country. Mudzimu fhatutshedza Afrika. Hosi katekisa Afrika.

Employing several of South Africa's 11 officially recognized languages, this summation embodies the temporal ambiguity of the entire postamble and its complex relation to the rest of the constitution. By the claim here, the interim constitution

is anything but the end of history. Bound in time, it offers a beginning that moves from but does not negate the past. Recalling the opening of the postamble, this renders the idea that the constitution is a “historic bridge” into a pun. The constitution is both a bridge in history and a bridge for history. The opening of a new chapter requires the referent of old writing and the freedom to author a new direction.

In the postamble of South Africa’s interim constitution, reconciliation is an extra-constitutional mandate, a non-constitutional practice, and a constitutional norm. At the first level, reconciliation enables the constitution. It is an apparently voluntary action that allows citizens to fashion the future collectively. At a second level, reconciliation is a return to the past. It is an investigation, production, and disposition of history made in the name of reconstruction. Finally, reconciliation embodies the constitution’s concern for rights and justice. In the postamble, reconciliation is a political imaginary, an ideal of civic life dedicated to transcending the past through the formation of human relationships. The difficulty, of course, is that these conceptions of reconciliation are not necessarily consistent with one another. If reconciliation overcomes the past, what is the referent of justice? Is it a divine ideal, social construct, or political ideology? Does the mandate for reconciliation require the development of an administrative power that undermines the rights of citizens to choose how they will and will not interact with those who have done them harm?

It took over a year for Parliament to decide how best to fulfill the interim constitution’s call for reconciliation. Signed by President Mandela in July 1995, the Promotion of National Unity and Reconciliation Act (PNURA) mandated the formation of a Truth and Reconciliation Commission. The body was authorized to work for a mere 18 months. Composed of three committees—Human Rights, Amnesty, and Reparations—the commission’s brief was:

To provide for the investigation and establishment of as complete a picture as possible of the nature, causes and extent of gross violations of human rights committed during the period from 1 March 1960 to the cut-off date contemplated in the Constitution . . . the granting of amnesty to persons who make full disclosure of all the relevant facts relating to acts associated with a political objective committed in the course of the conflicts of the past during the said period; affording victims an opportunity to relate the violations they suffered; the taking of measures aimed at the granting of, reparation to, and the rehabilitation and restoration of the human and civil dignity of victims of violations of human rights; reporting to the Nation about such violations and victims . . .<sup>65</sup>

In the final weeks of 1995, President Mandela appointed Archbishop Tutu to lead the TRC. On South Africa’s national day of reconciliation, Tutu addressed the members of the commission for the first time. The TRC’s “delicate and critical task,” he began, was “helping our land and people to achieve genuine, real and not cheap and

spurious reconciliation.” What was the difference? Tutu replied that the TRC had to lead “a corporate nationwide process of healing through contrition, confession, and forgiveness.” The success of this work, Tutu claimed, rested first on the ability of “our people to come to terms with our dark past once and for all.” However, Tutu also claimed that the integrity of the reconciliation process depended on how well the TRC could cultivate its reputation. Each commissioner had to remember that reconciliation could never be imposed from above. The public would have to achieve what the TRC could only facilitate. What’s more, Tutu argued that the commission could not conduct a “witch hunt.” Amnesty applications had to be evaluated by the criteria set forth in the PNURA and not by any other “moral distinction.” Finally, Tutu concluded with a broad defense of the reconciliation process:

We have seen a miracle unfold before our very eyes and the world has marvelled as South Africans, all South Africans, have won this spectacular victory over injustice, oppression and evil. The miracle must endure. Freedom and justice must become realities for all our people and we have the privilege of helping to heal the hurts of the past, to transcend the alienations and the hostilities of that past so that we can close the door on that past and concentrate in the present and our glorious future.<sup>66</sup>

This view raised several questions. First, the explicit assumption of Tutu’s position—the history of apartheid is a history of evil—suggested to some that the TRC would be anything but impartial. How did the commission’s attitude toward apartheid prefigure its evaluation of amnesty applications? Second, like the constitution’s postamble, Tutu’s position held that reconciliation required both a discovery and transcendence of the past. Where was the line to be drawn? When was the past necessary? Under what conditions could it be left behind?

As the TRC set its hearing schedule, the ambiguities in Tutu’s case for reconciliation blossomed into concrete problems. First, plans for amnesty hearings seemed to conflict with the start of criminal proceedings against several notorious members of apartheid’s state security force. A problem of jurisdiction, trial advocates argued that the TRC did not have the power to trump charges that had been filed prior to its creation.<sup>67</sup> Second, it was increasingly unclear who was planning to apply for amnesty. In March 1995, the ANC issued a call in which it urged members to seek amnesty for any and all offenses committed in opposition to apartheid. Meanwhile, the key architects of apartheid, including P. W. Botha, signaled that they would not participate in the process. In August 1996, the South African media editorialized that the reports submitted by the NP and the ANC to the TRC failed to explain the scope and motive of past violence.<sup>68</sup> As the December application deadline approached, more jailed prisoners than political leaders had expressed a willingness to testify before the TRC’s amnesty committee. This fed fears that reconciliation was leaving history behind and allowing elite politicians to evade accountability. Third,

legal challenges slowed the start of the hearings. In South Africa's Constitutional Court, four applicants, including the widow of Stephen Biko, charged that the TRC's amnesty power violated the constitutional principle that guaranteed "every citizen shall have the right to have justiciable disputes settled by a court of law, or where appropriate, another independent or impartial forum."<sup>69</sup>

In July 1996, the Constitutional Court responded. In a wide-ranging and complex decision, the Court held that TRC-sponsored amnesty "effectively obliterates" the right of legal redress *and* that the commission's work was not unconstitutional. To reconcile this view of reconciliation, Justice Mahomed argued that past events are "shrouded in secrecy and not easily capable of objective demonstration and proof." Charges of wrongdoing likely would not survive the evidentiary "rigours of the law." Trials would further obfuscate the past, result in endless litigation, and do little to meet the needs of apartheid's victims. Thus, the Court reasoned that criminal and civil trials would neither benefit victims of apartheid nor bolster "the ethos of the new constitutional order."<sup>70</sup> Reconciliation served the interests of justice better than adversarial court proceedings. However sound, this judgment inflamed the TRC's critics. Opponents charged that the decision left the TRC unbridled, free to punish the ANC's past and present rivals.<sup>71</sup> In the blunt words of one critic, the TRC is "a sensationalist circus of horrors presided over by a weeping clown craving the centre stage spotlight."<sup>72</sup> As well, some commentators argued that the TRC would debase those who suffered under apartheid. By placing torturers on the same level as victims, and forcing individuals to relive the trauma of their experiences, the amnesty hearings promised to be anything but a forum for healing.<sup>73</sup>

In 1996, the TRC endeavored to explain and defend the legitimacy of its work. Rebutting its critics, the commission began by defining the "quasi-institutional" process of reconciliation. In the early going, Minister of Justice Dullah Omar campaigned vigorously for the TRC. In a widely circulated pamphlet, Omar emphasized that one of the TRC's primary goals was to "investigate, record and make known" the nature and scope of past human rights violations. A chance to "recognize the wounds of our people," the TRC hearings would afford citizens the opportunity to speak and reclaim the suppressed history of apartheid.<sup>74</sup> Echoing this view, Commissioner Pumla Gobodo-Madikizela reflected on the tangible benefits of the early testimony heard by the TRC's Human Rights Committee:

Within the framework of the Truth Commission public hearings, survivors and families of victims of past atrocities reclaimed their stories from Apartheid politicians, and from those who killed in the name of the struggle. This moment, a singular event that broke the silence for each witness who took the stand, was a remarkable historical event that reminded us of the trauma of this country. It was history unveiled. It was a chance to narrow the abyss that separated South African society from death squads and the Vlakplaas era, and those who fell victim to these methods. If the public

hearings were brutal, seemed heartless or bizarre, they forced the South African public to think about the past, to confront the pain, deep suffering, and sheer survival in the midst of it all.<sup>75</sup>

Against its critics, the TRC used claims like this one to argue that reconciliation was a means of enhancing the dignity of victims, facilitating the development of a “human rights culture,” and increasing political participation. What’s more, Alex Boraine, vice chair of the TRC, maintained that there was a direct connection between the “narrative truth” presented by victims and the rigor of the amnesty process. Faced with a public record of past atrocities, amnesty applicants could no longer rely on their “authority” to deny the pain and horror of apartheid.<sup>76</sup>

For those defending the TRC’s work, the recovery of history was a benchmark by which to measure the accuracy and candor of those seeking a dispensation for their crimes. Andre Du Toit, professor of politics at the University of Cape Town, supplemented this case when he claimed that the “loaded realism” of TRC critics had obscured the way in which testimony could fill in the “omissions” of South African history.<sup>77</sup> To Alex Boraine, “[T]he process of acquiring truth is almost as important as the establishing of the truth. This process of dialogue points to a promoting of transparency, democracy, and participation as a basis of affirming human dignity and integrity.”<sup>78</sup> Boraine’s suggestion marked “dialogical” truth-telling as the central element of reconciliation. In hearings before the Human Rights Committee, victims could use language to convert their private pain into public experience. In the context of amnesty hearings, offenders might concede their transgressions while facing their victims. Thus, according to Gobodo-Madikizela, the testimony process promised to expose a shared opposition between victim and offender in a manner that promoted dialogue. Given standing in the hearings, victims of apartheid would have the choice to forgive past offenses without forgetting their significance. In the early phases of the TRC’s work, Desmond Tutu claimed repeatedly that these “little-publicised acts of healing and reconciliation” were the building blocks of a new civil society.<sup>79</sup>

The TRC employed several lines of argument to define and justify its work to the South African public. To begin, the commission held that reconciliation was more than amnesty. As the past could not be forgotten, the TRC argued that reconciliation could promote healing to the degree that it allowed citizens to relate the human costs of apartheid. This position echoed the extra-constitutional voice of the interim constitution’s postamble; citizens had to walk the bridge between past and future. For the TRC, this temporal movement proceeded through communication. Reconciliation was a dialogic event, a process in which victims and perpetrators would use a shared conflict to forge common ground. Neither legal judgment nor consciousness-raising, reconciliation contained the potential for history-making. It was a means of facilitating public argument about the ways in which the past was

relevant to the future. As Kader Asmal put the matter, reconciliation was a public good, an occasion for South Africans to recover the “art of conversation” and relearn how to “exchange words.”<sup>80</sup> Recalling what Arendt described as the “in-between” of human relationships, the TRC’s campaign for reconciliation depended on argumentation that called on citizens to rhetorically invent and debate the terms of their political culture.

Proclaiming its faith in communication, the TRC was both a sponsor and performer of public argumentation. It held that reconciliation was a mode of deliberative reconstruction, a trope of political representation in which the end of the transition from apartheid could be declared only by those fated to live in its aftermath. While this position was a useful counterbalance to the institutional forgetting that occurred during the constitutional negotiations, it was not a panacea. In its early attempt at self-definition, the commission argued that it could begin but never complete the task of reconciliation. This rings true. The reparations arm of the commission did little in the early going to explain how symbolic reconstruction would contribute to the material reconstruction of a country that has one of the world’s largest rich/poor gaps.<sup>81</sup> More fundamentally, the TRC never made clear how the constitutive argumentation of reconciliation would translate into civil society. At times, the commission vacillated between a vision of reconciliation that domesticated the oppositions of history and one in which opposition was essential to the creation of dialogue. If not the latter, the TRC risked what the *Kairos* theologians had derided as “cheap reconciliation,” an abstract potential in which a future vision of harmony is used to defuse controversy over the relationship between forgiveness, civility, and justice. Certainly, reconciliation is never easy. To its credit, it is important to remember that the TRC never said it would be.

### **CONCLUSION: TIME OF MAGIC OR THE (RHETORICAL) MAGIC OF TIME?**

In the fading light of a late summer’s day, on a patio buffeted by the winds that sweep down Table Mountain and across Cape Town, I listened recently to a young South African artist describe the country’s turn from apartheid as a “magical event.” Without certain cause, the events of 1994, he allowed, brought “optimism” and the “world’s most progressive constitution” to a “patient” people. Several days later, at the first Robben Island *Mrhabulo* (informal sharing) Seminar, Govan Mbeki narrated a similar history. From the unforgettable pain of seeing comrades poisoned and burned alive by government officials, the 90-year-old former chair of the ANC, member of the MK High Command, and prisoner on Robben Island observed that it “took a lot” when the ANC called on its members to forgive in the name of reconciliation. But Mbeki noted that the machine gun was not the only way: “We could sit down and talk. Man can listen. And, when he does listen there is hope.” In this light, Mbeki implored those gathered in the cramped hearing hall to remember that

the enduring lesson of 1994 was that the past must be vigilantly brought to the present and that “people must work hard for their future.”<sup>82</sup>

Between the citizen and the elder statesman, there appears a beginning. It is a moment in which the veil between magic and talk is at its thinnest, an instant when the potential for dialogue is culled from pain and mistrust, a transition in which the talk of peace gathers strength from histories of violence. In this essay, I have endeavored to show that this beginning has much to do with a rhetorical practice of reconciliation. In South Africa, reconciliation did not cause the demise of apartheid any more than the negotiated revolution produced a “state” of reconciliation. Indeed, as I argued in the introduction, such unidirectional logics ignore the possibility that reconciliation preceded, conditioned, and followed the South African transition from apartheid to democracy. Over the last 15 years, reconciliation has appeared in South Africa as a practice in which individuals and institutions have used argumentation to defend the proposition that communication can fund political change that counts as neither incremental nor revolutionary. In *The Kairos Document*, the occasion of reconciliation was a time of action that opened when individuals confessed their experiences and used the faith of identification to oppose the law’s identity-based violence. In the negotiations that brought South Africa’s first free elections, reconciliation was a process, procedure, and product of constitution in which dialogue grew from an agreement to bracket the conflicts of the past. From its paradoxical mandate in the 1993 interim constitution, the TRC argued publicly that reconciliation was a means of moving between past and future, a dialogic effort to heal old wounds and cultivate the arts of deliberation and political representation.

Whether isolated or linked, these definitions and practices do not prove that reconciliation was necessary to end apartheid. What they do suggest is that reconciliation was a key element in making the “middle time” of South Africa’s transition. In the negotiated revolution, the problem of how to craft unity out of difference required a moment in which it was possible to recover historical experience, forget the distrust it bequeathed, and turn its violence into a shared opposition that could motivate dialogue. Here, I have argued that reconciliation served as a rhetorical means of creating and sustaining this complex movement between past, present, and future. Moreover, as it entails the invention of a time for action, the rhetorical history of reconciliation indicates that the South African transition developed in a middle voice, as an event that was enacted and explained simultaneously. In practical terms, across theological, constitutional, and political contexts, reconciliation helped to define and perform the South African transition. It allowed citizens and politicians to debate the question of how a transition should be initiated, implemented, and concluded. It revealed that transitions do involve beginnings, concrete choices about how we can forge relations with others in a manner that opens the potential for history-making.

Has this potential been actualized? It does not dodge an argument to reply with a yes and a no. There was not an all-out civil war in South Africa. As the institutions of apartheid are slowly supplanted by the frequently messy deliberations of democratic life, it does not seem unreasonable to ask that critics of reconciliation speak directly to the question of how the transition might have been otherwise. As well, when measured against the difficult task of determining whether international war tribunals *deter* atrocities, not to mention the bureaucratic-judicial machinations that contributed to the slaughter in Rwanda and that appeared to help Augusto Pinochet to his feet on the tarmac at Santiago, it is not clear that the ground to dismiss the power of reconciliation is all that solid. As well, the comparative case may not be the most germane. Apartheid is not over in South Africa. The drive from Khayelitsha (a community created during the forced relocations of apartheid and often referred to as a township) to the center of Cape Town reveals a numbing disparity. Set on loose sand that supports almost no vegetation and that blows relentlessly and painfully during frequent windstorms, mile upon mile of small homes, fashioned with scraps of wood, recovered sheet metal, and paper, give way first to gated suburban estates replete with lush vegetation and gardens and then to modern high-rise office towers that both flaunt and hide their money. If it did shape the South African transition, it is not clear how reconciliation has addressed or engaged the material aftermath of apartheid. It can be argued credibly that the politics of reconciliation created “black rule” but preserved “white power.”<sup>83</sup> Setting aside the binary simplification, this problem of economic justice is compounded by basic questions over how the TRC might have better served victims of apartheid and more effectively persuaded its architects to reveal their crimes in exchange for amnesty.

These problems are ongoing, indicators that the South African transition continues to be the subject of intense dispute and negotiation. In an important way, they bring us from the time to the spaces of reconciliation. It is now time to step into the space of the hearing room in order to consider stories that betray deep pain and immense evil. To achieve a different sort of history-making, we need to listen to what does and does not happen in the official and unofficial fora of South African reconciliation. One of my purposes here, however, has been to suggest that our assessment of these spaces must develop in light of the time in which they were invented. We cannot do with the banal notion that reconciliation appeared out of thin air, a concept without deep roots or a practice that has not been thoughtfully contested on the South African landscape. The negotiated revolution made time for speech. The terms of this rhetorical transition must play some role in our assessments as to what this speech has made.



## NOTES

1. The issue of racial identity presents itself here. Of course, not all “whites” supported apartheid. The distinction also glosses important issues of ethnicity. According to Leonard Thompson, the original policies of apartheid delineated four races—White, African, Coloured, and Asian. The 1950 Population Registration Act “prescribed a race for every South African.” The category of White referred to Afrikaners and others of Caucasian–Northern European ancestry. Waldmeir argues that the category of Coloured marked light-skinned natives of the Cape (Khoi-khoi and San), Malay and Indian slaves, and individuals of “illicit relations between the races.” The category of African indicated an individual indigenous to Africa. In many instances, one finds that the term “black” is used to substitute for African.
2. Space limitations preclude even a cursory account of these debates. For differing accounts of the occasion, process, and state of reconciliation, and its relation to the problems of grace, confession, and forgiveness, consult Vincent Taylor, *Forgiveness and Reconciliation: A Study in New Testament Theology* (London: Macmillan, 1960); Robert Schreiter, *Reconciliation: Mission and Ministry in a Changing Social Order* (Maryknoll, Md.: Orbis Books, 1992); Harold Wells, “Theology for Reconciliation,” in *The Reconciliation of Peoples: Challenge to the Churches*, ed. G. Baum (Maryknoll, Md.: Orbis Books, 1997). Just as vast, philosophical literature on reconciliation frequently explores the Hegelian problem of how individuals and groups can derive unity from difference. On this matter consult Michael O. Hardimon, *Hegel’s Social Philosophy: The Project of Reconciliation* (Cambridge, U.K.: Cambridge University Press, 1994); G. W. F. Hegel, *On Christianity: Early Theological Writings*, trans. T. M. Knox (New York: Harper, 1948). Regarding the political and sociological debates, see Piet Meiring, “The *Baruti* versus the Lawyers: The Role of Religion in the TRC Process,” in *Looking Back, Reaching Forward: Reflections on the Truth and Reconciliation Commission of South Africa*, ed. Charles Villa-Vicencio and Wilhelm Verwoerd (Cape Town: UCT Press, 2000), 123–31; Donald W. Shriver Jr., *An Ethic for Enemies: Forgiveness in Politics* (Oxford, U.K.: Oxford University Press, 1995); Antjie Krog, *Country of My Skull: Guilt, Sorrow, and the Limits of Forgiveness in the New South Africa* (New York: Random House, 1999).
3. R. E. Allen, *Plato’s Parmenides: Translation and Analysis* (Minneapolis: University of Minnesota Press, 1983), 42, 265; Kenneth Burke, *A Grammar of Motives* (1945; rpt. Berkeley: University of California Press, 1969).
4. Piet Meiring, “*Baruti* versus Lawyers,” 127. See also Willem Van Vuuren, “Transition Politics and the Prospects of Democratic Consolidation in South Africa,” *Politikon* 22 (1995):9.
5. David Howarth, “Paradigms Gained? A Critique of Theories and Explanations of Democratic Transitions in South Africa,” in *South Africa in Transition*, ed. David Howarth and Aletta J. Norval (New York: St. Martin’s, 1998), 184; Donald L. Horowitz, *A Democratic South Africa?: Constitutional Engineering in a Divided Society* (Cape Town: Oxford University Press, 1991). This is an important rift in the field of Transition Studies. For a general overview of this branch of political science, see Guillermo O’Donnell, Philippe C. Schmitter, and Laurence Whitehead, eds., *Transitions from Authoritarian Rule*, vols. 1–4 (Baltimore: Johns Hopkins University Press, 1986). For work on the field as it pertains to South Africa, see Timothy D. Sisk, *Democratization in South Africa: The Elusive Social Contract* (Princeton, N.J.: Princeton University Press, 1995).
6. Johnny De Lange, “The Historical Context, Legal Origins, and Philosophical Foundation of the South African Truth and Reconciliation Commission,” in Villa-Vicencio and Verwoerd, ed., *Looking Back*, 22.

7. Wole Soyinka, *The Burden of Memory, the Muse of Forgiveness* (New York: Oxford University Press, 1999); Hein Marais, *South Africa: Limits to Change—The Political Economy of Transition* (London: Zed Books, 2001).
8. Explicit support for this view can be found in Jakes Gerwel, “National Reconciliation: Holy Grail or Secular Pact?” in Villa-Vicencio and Verwoerd, ed., *Looking Back*, 278. Also see F. W. De Klerk, *The Last Trek—A New Beginning: The Autobiography* (New York: Collier-MacMillan, 1998).
9. Quoted in Morris Szeftel, “Ethnicity and Democratization in South Africa,” *Review of African Political Economy* 60 (1994): 186.
10. As far as I know, Wilmot James first coined the term “campaign of persuasion.” It is apt and I shall not attempt to refine it. See Wilmot James, “Coexistence and Community,” in *The Healing of a Nation?*, ed. Alex Boraine (Cape Town: Justice in Transition, 1995), 83.
11. Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1958), 178–82; Hannah Arendt, *On Revolution* (New York: Viking Press, 1965), 225.
12. For detailed accounts of the middle voice see Hayden White, “Writing in the Middle Voice,” *Stanford Literature Review* 9 (1992): 179–87; Martin Jay, “Experience Without a Subject: Walter Benjamin and the Novel,” *New Formations* 20 (1993): 145–55; Walter Benjamin, “On Language as Such and on the Language of Man,” in *Walter Benjamin: Selected Writings, Volume 1, 1913–1926*, ed. Marcus Bullock and Michael W. Jennings (Cambridge, Mass.: Harvard University Press, 1996), 62–74.
13. David Zarefsky has argued recently that one important type of rhetorical history involves the study of “history as a series of rhetorical problems, situations that call for public persuasion to advance a cause or overcome an impasse” (David Zarefsky, “Four Senses of Rhetorical History,” in *Doing Rhetorical History: Concepts and Cases*, ed. Kathleen J. Turner (Tuscaloosa: University of Alabama Press, 1998), 19–32). In at least one of its varieties, my implicit contention here is that rhetorical history entails a practical philosophy of how language turns (tropologically) in relation to time. A range of work supports the view that persuasive discourse can structure the human experience of temporality. Among others, see Lloyd F. Bitzer, “The Rhetorical Situation,” *Philosophy and Rhetoric* 1 (1968): 1–14; Thomas S. Frentz, “Rhetorical Conversation, Time and Moral Action,” *Quarterly Journal of Speech* 71 (1985): 1–18; Thomas B. Farrell, “Knowledge In Time: Toward An Extension of Rhetorical Form,” in *Advances in Argumentation Theory and Research*, ed. J. Robert Cox and Charles Arthur Willard (Carbondale: Southern Illinois University Press, 1982), 123–53; Michel De Certeau, *The Writing of History*, trans. Tom Conley (New York: Columbia University Press, 1988).
14. Leonard Thompson, *A History of South Africa* (New Haven: Yale University Press, 1995), 144.
15. Verwoerd quoted in Kader Asmal, Louise Asmal, and Ronald Suresh Roberts, *Reconciliation Through Truth* (Cape Town: David Philip Publishing, 1996), 34. Also see Eugene Klaaren, “Creation and Apartheid: South African Theology since 1948,” in *Christianity in South Africa: A Political, Social and Cultural History*, ed. Richard Elphick and Rodney Davenport (Berkeley: University of California Press, 1997), 370–82. On the theology of nation-building see Allister Sparks, *The Mind of South Africa: The Story of the Rise and Fall of Apartheid* (London: Arrow Books, 1990); Leonard Thompson, *The Political Mythology of Apartheid* (New Haven: Yale University Press, 1985).
16. John De Gruchy, “Grappling with a Colonial Heritage: The English-speaking Churches under Imperialism and Apartheid,” in Elphick, ed., *Christianity in South Africa*, 160.
17. Tutu quoted in Michael Battle, *Reconciliation: The Ubuntu Theology of Desmond Tutu* (Cleveland: Pilgrim Press, 1997), 39; quoted in Patti Waldmeir, *Anatomy of a Miracle: The End of Apartheid and the Birth of New South Africa* (New York: Norton, 1997), 268.
18. Battle, *Reconciliation*, 33.

19. Quoted in Battle, *Reconciliation*, 35,78. Also see Desmond Tutu, "The Divine Imperative," in *The Rainbow People of God: The Making of a Peaceful Revolution*, ed. John Allen (New York: Doubleday, 1994),61.
20. The condition of "ungovernability" was a key motivation for reform. It was also an explicit aim of ANC resistance. See Waldmeir, *Anatomy*, 47, 70; African National Congress, National Executive Committee, *From Ungovernability to People's Power*, May 1986. Reprinted at URL: <http://www.anc.org.za/ancdocs/history/ungovern.html>.
21. John Hatchard and Peter Slinn, "The Path Towards a New Order in South Africa," *International Relations* 12 (1995): 1–26.
22. See Tristan Anne Borer, *Challenging the State: Churches As Political Actors in South Africa, 1980–1994* (Notre Dame: Notre Dame University Press,1998); Waldmeir, *Anatomy*, 54.
23. In this section, where only a page number follows a quotation,it refers to the following citation: The Kairos Theologians, *The Kairos Document: Challenge to the Church*, 2d ed. (Grand Rapids, Mich.: William Eerdmans Publishing, 1986). For background on the premises of *The Kairos Document* see Robert McAfee Brown, ed., *Kairos: Three Prophetic Challenges to the Church* (Grand Rapids, Mich.: William Eerdmans Publishing, 1990); Klaus Nurnberger, ed., *The Cost of Reconciliation in South Africa: NIR Reader Number One* (Cape Town: Methodist Publishing House,1988).
24. I am grateful to Professor Villa-Vicencio for taking time to share his insights on the document. Given the churches' important role in the resistance movement,the document received serious and widespread consideration. While the South African Council of Churches did not adopt *The Kairos Document*, the organization lent its public support to its call. See Borer, *Challenging*, 121; John De Gruchy, *Democracy and the State—IDASA Occasional Paper #5* (Cape Town:IDASA,n.d.),7.
25. See Peter Beyerhaus, *The Kairos Document: Challenge or Danger to the Church?* (Cape Town:Gospel Defence League,1987), 20; Anthony Balcomb, *Third Way Theology: Reconciliation, Revolution, and Reform in the South African Church during the 1980s*(Pietermaritzburg: Cluster Publications,1993).
26. This ambiguity was central to the debate that followed the publication of the document. Tristan Borer has argued that Desmond Tutu's reluctance to support the *Kairos* theologians stemmed from his belief that the "the Kairos document's discussion of reconciliation is not fair to the biblical position" (quoted in Borer, *Challenging*, 244).
27. I have developed this notion of *ethos* elsewhere. See Erik Doxtader, "Characters in the Middle of Public Life: Consensus, Dissent, and *Ethos*," *Philosophy and Rhetoric* 33 (2000):336–69.
28. Based on both a series of seminars delivered in the fall of 1999 at the University of California, Berkeley, and a set of conversations;I am indebted to Giorgio Agamben for his views on *kairos* and the dynamics of messianic time.
29. The key point is not that confession fiats harmony. Rather, it is an opportunity to supplant a desire to negate the Other with the concession that one is bound to one's enemy by an opposition. This acknowledgement of a shared difference is the potential for dialogue,not its culmination. For two very important essays on how the language of confession affords opportunities for individuals to invent the basis for dialogue, see Benjamin C. Sax, "Active Individuality and the Language of Confession: The Figure of the Beautiful Soul in the *Lehrjahe* and the *Phanomenologie*," *Journal of the History of Philosophy* 21 (1983):437–66; J. M. Bernstein, "Confession and Forgiveness: Hegel's Poetics of Action," in *Beyond Representation: Philosophy and Poetic Imagination*, ed. Richard Eldridge (Cambridge, U.K.: Cambridge University Press,1996),34–65.
30. African National Congress, *Ungovernability to People's Power*.
31. There is an important literature on the rhetorical operations of constitution-building. Variously, see Burke, *Grammar*, 322–76; James Tully, *Strange Multiplicity: Constitutionalism in an Age of Diversity*

- (Cambridge, U.K.: Cambridge University Press, 1995); James Jasinski, "A Constitutive Framework for Rhetorical Historiography: Toward an Understanding of the Discursive (Re)constitution of the 'Constitution' in *The Federalist Papers*," in Turner, ed., *Doing Rhetorical History: Concepts and Cases*, 72–94.
32. African National Congress, *The Freedom Charter*, June 26, 1955. Reprinted at URL: <http://www.anc.org.za/ancdocs/history/charter.html>; African National Congress, Arusha Conference Statement, *The Illegitimacy of the Apartheid Regime, the Right to Struggle Against It, and the Status of the African National Congress*, 1987. Reprinted at URL: <http://www.anc.org.za/ancdocs/history/acrime.html>.
  33. Nelson Mandela, *The Mandela Document*, July 5, 1987. Reprinted at URL: <http://www.anc.org.za/ancdocs/history/mandela/doc890705.html>.
  34. Mandela, *Mandela Document*.
  35. Waldmeir claims that Mandela was quite committed to a policy of reconciliation from the beginning of the talks and that he used reconciliation to create the basis for an "honorable peace" that would not run roughshod over the needs of white South Africans (*Anatomy*, 96–105). Also see Gerwell, "National Reconciliation," 278.
  36. OAU Ad-hoc Committee on Southern Africa on the Question of South Africa, *Harare Declaration*, August 21, 1989. Reprinted at URL: <http://www.anc.org.za/ancdocs/history/transition/harare.html>.
  37. F. W. De Klerk, "Inaugural Address," *Cape Argus*, late edition, September 20, 1989, 1.
  38. Nelson Mandela, *A Document to Create Climate of Understanding—Letter to F. W. De Klerk*, December 12, 1989. Reprinted at URL: <http://www.anc.org.za/ancdocs/history/mandela/nm891212.html>.
  39. F. W. De Klerk, "Address to Parliament," February 2, 1990. Reprinted in Willem De Klerk, *F. W. De Klerk: The Man and His Time* (Parklands, RSA: Jonathon Ball, 1991), 34–46.
  40. Nelson Mandela, *Address to Rally in Cape Town on His Release from Prison*, February 11, 1990. Reprinted at URL: <http://www.anc.org.za/ancdocs/history/mandela/1990/release.html>.
  41. Nelson Mandela, *Address to Rally in Soweto*, February 13, 1990. Reprinted at URL: <http://www.anc.org.za/ancdocs/history/mandela/1990/sp900213.html>.
  42. *The Groote Schuur Minute*, May 4, 1990. Reprinted at URL: <http://www.anc.org.za/ancdocs/history/transition/minutes.html>.
  43. Willem De Klerk, "The Process of Political Negotiation: 1990–1993," in *Birth of a Constitution*, ed. Bertus De Villiers (Capetown: Juta & Co., 1994), 1–11.
  44. Barbara Cassin, "Some Ancient Paradigms and How to Use Them Today," paper delivered at the *Truth in Politics Conference*, University of Cape Town, September 21, 1999.
  45. Waldmeir, *Anatomy*, 158.
  46. An important milestone, the agreement also created the Goldstone Commission, a body authorized to investigate the scope and causes of apartheid violence. See Peter Gastrow, *Bargaining for Peace: South Africa and the National Peace Accord* (Washington, D.C.: U.S. Institute of Peace Press, 1995), 114–54.
  47. Steven Friedman, ed. *The Long Journey: South Africa's Quest for a Negotiated Settlement* (Johannesburg: Ravan Press, 1993); Mervyn Bennun, "Understanding the Nightmare: Politics and Violence in South Africa," in *Negotiating Justice: A New Constitution for South Africa*, ed. Mervyn Bennun and Malyn D. D. Newitt (Exeter: University of Exeter Press, 1995), 26–61.
  48. Hassen Ebrahim, *The Soul of a Nation: Constitution-Making in South Africa* (Cape Town: Oxford University Press, 1998); Gastrow, *Bargaining*, 131; W. De Klerk, "Process," in De Villiers, ed., *Birth of a Constitution*, 9.

49. Mark Hammill, "Crossing the Rubicon: South Africa's Post-Apartheid Political Process, 1990–1992," *International Relations* 12 (1994):9–37; Bertus De Villiers, "The Constitutional Principles: Content and Significance," in De Villiers, ed., *Birth of A Constitution*, 37–49; Waldmeir, 199.
50. Nelson Mandela, *Memorandum to F. W. De Klerk*, June 26, 1992. Reprinted at URL: <http://www.anc.org.za/ancdocs/history/mandela/memo920626.html>.
51. F. W. De Klerk, *Letter to Nelson Mandela from F. W. De Klerk, Annexure B*, July 2, 1992. Reprinted at URL: <http://www.anc.org.za/ancdocs/history/transition/lett2july.html>.
52. For Mandela's response, see Nelson Mandela, *Letter from Nelson Mandela to F. W. De Klerk*, July 9, 1992. Reprinted at URL: <http://www.anc.org.za/ancdocs/history/mandela/fwletter.html>.
53. *Record of Understanding*, September 26, 1992. Reprinted at URL: <http://www.anc.org.za/ancdocs/history/transition/record.html>.
54. Hatchard and Slinn, "Path," 8.
55. Joe Slovo, "Negotiations: What Room for Compromise," *African Communist* (Fall 1992):36–40.
56. African National Congress, National Working Committee, *Negotiations: A Strategic Perspective*, November 18, 1992. Reprinted at URL: <http://www.anc.org.za/ancdocs/history/transition/perpsect.html>.
57. F. W. De Klerk, *Statement by President F. W. De Klerk on the Timetable for Further Constitutional Reform*, November 26, 1992. Reprinted at URL: <http://www.anc.org.za/ancdocs/history/transition/timetable.html>.
58. Waldmeir, *Anatomy*, 226–27. De Villiers, among others, confirms that the MPNP proceeded with its work through a spirit of compromise and consensus ("Constitutional Principles," 37). For an invaluable discussion of the development of the Bill of Rights, see Lourens Du Plessis and Hugh Corder, *Understanding South Africa's Transitional Bill of Rights* (Kenwyn: Juta, 1994).
59. Significant dispute occurred over the criteria by which amnesty would be granted and whether there was a difference between unjustly held political prisoners and perpetrators acting in the name of an illegitimate regime. Evidenced by the last-minute writing of the interim constitution's post-amble, negotiators failed to reach agreement on these matters. In fact, the most influential discussions of amnesty may well have occurred outside the negotiating process. There is a widespread perception that Kader Asmal was one of the first to tie the problem of amnesty to the need for a truth commission that could investigate the wounds of the past. See Kader Asmal, *Victims, Survivors and Citizens—Human Rights, Reparations, and Reconciliation* (Bellville: University of Western Cape, 1992). In 1993, following an investigation by the Motsuenyane Commission into violence in its camps, the ANC's National Executive Committee called for the creation of a truth commission that would investigate the extent and scope of human rights abuses "from all quarters." See African National Congress, *NEC Response to Motsuenyane Commission Report*, August 29, 1993. Reprinted at URL: <http://www.anc.org.za/ancdocs/pr/1993/pr0829.html>.
60. Kader Asmal, "Discussion on Priorities and Options," in *Dealing with the Past: Truth and Reconciliation in South Africa*, ed. Alex Boraine, Janet Levy, and Ronel Scheffer (Cape Town: IDASA, 1994), 138–41.
61. De Lange, "Historical Context," 14–22; Boraine, *Dealing*, 139.
62. A full defense of this idea must be deferred, as it requires a complete account of how "sufficient consensus" was used at both CODESA and the MPNP.
63. De Lange, "Historical Context," in *Looking Back*, 22; David Ginsburg, "The Democratization of South Africa: Transition Theory Tested," *Transformation* 29 (1996):95.

64. *Constitution of the Republic of South Africa, Act 2000 of 1993*. Reprinted in *Birth of a Constitution*, 329–421.
65. *Promotion of National Unity and Reconciliation Act, 1995*, July 26, 1995. Reprinted at URL: <http://www.truth.org.za/legal/act9534.html>.
66. Desmond Tutu, *Address to the First Gathering of the Truth and Reconciliation Commission*, December 16, 1995. Reprinted at URL: <http://www.truth.org.za/pr/1995/p951216a.htm>
67. Editorial, “The Third Force Goes Belly-Up,” *Mail and Guardian*, March 1, 1996. Reprinted at URL: <http://www.wn.apc.org/wmail/issues960301/news11.html>.
68. Editorial, “More Reconciliation Than Truth,” *Mail and Guardian*, August 23, 1996. Reprinted at URL: <http://www.wn.pc.org/wmail/issues/960823/news1.html>.
69. *AZAPO, Biko, Mxenge, Riberio v. The President of the Republic of South Africa, The Government of the Republic of South Africa, The Minister of Justice, The Minister of Safety and Security, The Chairperson of the Truth and Reconciliation Commission*, Case CCT 17/96. Decided July 25, 1996. Reprinted at URL: <http://www.truth.org.za/legal/azapo.htm>. For a discussion of the constitutional details of the case, see Peter Parker, “The Politics of Indemnities, Truth Telling and Reconciliation: Ending Apartheid without Forgetting,” *Human Rights Law Journal* 17 (April 30, 1996):1–13; Jeremy Sarkin, “The Trials and Tribulations of South Africa’s Truth and Reconciliation Commission,” *South African Journal on Human Rights* 12 (1996):617–40.
70. In its first years of operation, the TRC developed a consistent rebuttal to those who argued for criminal trials over reconciliation. For an account of this argumentation see Asmal, Asmal, and Roberts, *Reconciliation Through Truth*, 74–76.
71. Moria Levy, “Toxic Waste of History,” *Democracy in Action* 8 (April 1994): 18–20.
72. Ma Mncwango, “Address to the National Assembly on the Report of the Truth and Reconciliation Commission,” February 25, 1999. Reprinted at URL: <http://www.ifp.org.za/250299sp.html>.
73. Alice Coetzee, “Voice of Grief,” *Democracy in Action* 8 (December 1994):19–
74. Dullah Omar, *Reconciliation*, n.d. (~1995). Reprinted at URL: <http://www.truth.org.za>.
75. Pumla Gobodo-Madikizela, *On Reconciliation and Reflecting on the Truth Commission*, December 1996. Reprinted at URL: <http://www.truth.org.za>.
76. Alex Boraine, *Can Truth Telling Promote Reconciliation?* March 1998. Reprinted at URL: <http://www.truth.org.za/reading/beyond.html>.
77. Andre Du Toit, “South African Response,” in Boraine, et al., ed., *Dealing with the Past*, 132.
78. Boraine, “Can Truth Telling.”
79. Desmond Tutu, “Letter to the Sunday Times.” December 4, 1996. Reprinted at URL: <http://www.truth.org.za>.
80. Asmal, Asmal, and Roberts, *Reconciliation Through Truth*, 47.
81. I have addressed this issue elsewhere. See Erik Doxtader, “The Materials of Transition: Reconciliation and Reparations in Contemporary South Africa,” in *Proceedings of the AFA/NCA Conference on Argumentation*, ed. Thomas Hollihan (Annandale, Va: National Communication Association, 1999).
82. Govan Mbeki, “Remarks at the First Mrhabulo Seminar,” Cape Town, March 23, 2000 (author’s transcription).
83. Ingrid Woolard, “The Extent of Poverty and Inequality,” in *Creating Action Space: The Challenge of Poverty and Democracy in South Africa*, ed. Conrad Barberton (Cape Town: David Philip Publishers, 1998), 13–39.