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Focus

“A society emerging from a regime marked by grave and serious violations of human rights faces the complex challenge of how best to deal with the past.”

(www.truthcommission.org)

The South African Truth and Reconciliation Commission:

<http://www.doj.gov.za/trc/>

The Truth and Reconciliation Commission for Sierra Leone:

<http://www.sierra-leone.org/trc.html>

A Truth and Reconciliation Commission:

- focuses on the past
- covers a broad range of abuses over a certain period of time
- has a specific time limit, which concludes by giving a written report
- is officially endorsed by the State to investigate the past

Willing Executioners or Innocent Victims?
Iraq society's path to recovery via a "Truth and Reconciliation Commission"

The fall of any regime not only raises questions about the next one to be established, but also allows new light to be shed on the past. The benefit of hindsight allows societies to attempt to come to terms with people's actions under the previous regime, and this in different ways – some try to remember and memorialise their difficult past, some try to forget it, and others “mis-remember” or reshape it. This issue is often raised, by studying how a society deals with memory of resistance, collaboration or complicity under the previous regime. In the past couple of decades, citizens of some countries decided to establish the so-called “Truth and Reconciliation Commissions” (TRC), in order to engage the long process leading to recovery.

The first TRC was created in Uganda in 1974, but the practice did not gain prominence until the mid-1980s. Since then, more than twenty Commissions have been created. The South African one, created in 1993, often regarded as the model of all successful commissions, gave the country moral authority and international standing. It was set up “by the Government of National Unity to help deal with what happened under apartheid.” It intends to persuade people, through public hearings, to reveal, not to forget the past, and thus imposed forgiveness as the foundation of South Africa's new society. For those guilty of politically motivated crimes, who told the whole truth, South Africa offered amnesty. Many other countries have then followed this new path towards national reconciliation. Such commissions have recently been established in Sierra Leone in 1999 and East Timor in 2000. A TRC can be briefly described as follows. “Truth commissions exist for a designated period of time, have a specific mandate, exhibit a variety of organizational arrangements, and adopt a range of processes and procedures, with the goal of producing and disseminating a final report, including conclusions and recommendations. Ultimately, the goals of such commissions are to help to end and account for past abuses of authority, to promote national reconciliation and/or bolster a new political order or legitimize new policies” (*United States Institute For Peace*).

The recent ending of the brutal regime of Saddam Hussein raised the debate on the necessity of the creation of such a Commission in Iraq. The principal question is which crimes should be taken into consideration? Should it cover those committed during the First Gulf War against Iran, the Second against the United Nations (UN), United States-led intervention, or the Third against the Anglo-American Coalition? Should it also cover crimes committed against the Kurds, the Shiites, and the Sunnites? Furthermore, can Iraqi civil society, which appears to be deeply divided between the different ethnic groups cited above, enter a TRC-style process? It also raises the question of who would lead it. Such a Commission would need the leadership of someone with unquestionable moral standing. The South African TRC's credibility was carried by the outstanding moral stature of Nelson Mandela (who initiated it) and Archbishop Desmond Tutu (who chaired it). “An Iraqi TRC would need a credible figurehead – an Iraqi citizen of unquestioned moral standing” (*The Financial Times*, April 21st, 2003) Can Iraq put forward such a person?

A further question is on the timing of the TRC, whether it should be established in parallel with a criminal tribunal. It is clear that the former leaders of Saddam Hussein's regime will be tried. Views differ as to whether a TRC process should be held in conjunction with criminal trials or be held at a later stage. Past experiences provide diverging conclusions. In the Sierra Leonean case, both exist at the same time. However, in the Bosnian context, it has been argued that a TRC would undermine the legitimacy of the International Criminal Tribunal for the former Yugoslavia, by encroaching upon its function of upholding peace and justice. Some argue that while individual responsibility is judged by international or national courts, TRCs “deal with the frame of mind in people that led them to support nationalistic regimes” (*Los Angeles Times*, 10 September 2000). More generally, opponents to TRCs have strong arguments, among which the issue of the leniency of the Commission (compared to criminal prosecution), its capacity to initiate change, or its ability to deal fairly with the victims. Is Iraq ready to engage in a TRC-like process, and would it reap the stated benefits of a TRC at this stage?

Responsibility

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